The controversy over French attempt to make it illegal for women to wear burqas in public places reflects the tension between in some sense religious freedoms and an open society, but it may be better understood as an issue that lies at the intersection of national identities, universal rights and power. On the surface the debate seems relatively simple, opponents of the new law believe that the right to wear whatever you like, particularly if it is for religious reasons is a basic civil right. Imagine, this argument goes, if a law was passed barring Jewish men from wearing yarmulkes or Buddhist monks from wearing their distinctive vestments in public.

Supporters of the proposed law argue that burqas are different because they cover women’s faces thus undermining transparency and face to face relations which are essential for a free society. Supporters of the ban on the burqa have also argued that the burqa is somehow not consistent with French values. French President Nicholas Sarkozy has made it clear that he believes this and that “the burqa will not be welcome in the territory of the French Republic.” A good argument can be made for either position, but it seems like this is not the only real issue at stake.

There is obviously a component of fear and discomfort with Muslim immigrants that is at the heart of support for this ban, as well as the ban on, for example, building new minarets in Switzerland. Similarly, the notion of defining an article of clothing as not consistent with the values of a country seems, at least at first, to be offensive and perhaps even petty. Sarkozy’s remarks may, in fact, seem offensive, but they almost certainly reflect views held by many citizens of his country, not all of whom are bigots.

The issue implied by Sarkozy’s comments as well as arguments raised by other supporters of the ban is essentially that of how sovereign states and universal rights can coexist smoothly. While banning the burqas clearly strikes many as an abridgement of those rights, asserting that France cannot do this is equally clearly an limitation on French sovereignty. States, of course, do not have unlimited power over their own people, but if the line is drawn at things like laws of this nature, than states are left with even less sovereignty. The right to wear whatever you want probably should be a universally understood right, but it is certainly not viewed that way now. Nor does it seem to be the type of issue around which there is global consensus. Many countries, for example, have official religions which usually end up raising problems for religious minorities.

The burqa issue concerns religion more than just clothing; and the right to free expression of religious faith is, however, recognized by international conventions, onto which many countries, including France, have signed, as a universal freedom. A solid argument can be made that by signing on to this type of agreement, France loses its right to pass laws restricting women from wearing burqas in public. It should not be ignored, however, that
for the most part, in a global sense, the right of religious freedom is honored in the breech with France being far from the worst offender.

The tension between recognizing universal rights and retaining some semblance of national identity is acute in France precisely because it is one of the few countries that seriously wrestles with this problem. In many countries, members of religious minorities, or people who do not share the predominant or official views on matters of religious belief simply know to be discrete and avoid drawing attention to themselves. In these countries, the state is often complicit in this de facto religious repression. It is only in liberal countries like France therefore where this type of thing is an issue.

Nonetheless, the tension is real and in an abstract way raises the question as to why all of the world is still organized into states. For a country like France that is already integrated into the EU, such as it is, on most matters of trade, business and economy and NATO on matters of security, legislating over social domestic issues is one of the few areas where the state is still of primary, and relatively unchallenged relevance. The question of what makes France French, which is implied by comments by Sarkozy and other supporters of the ban, is thus a serious one. There may be disagreement on the answer, but the question itself is not prima facie offensive or irrelevant, nor is it easy to answer anymore.