MUSLIM VEILING CONTROVERSIES IN EUROPE

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1 Introduction

Muslim women in Europe who wear Islamic head and face coverings encounter social and practical problems on a day to day basis while they go about their ordinary lives. The headscarf/hijab is a complex communicative symbol but some see it as ‘the’ symbol of the Islamisation of Europe. It has become the subject of political controversy and legal challenges in jurisdictions across the continent. Veiling issues can be analysed from a variety of perspectives, but the focus here is predominantly a legal one, aimed at presenting an overview of how the Muslim veiling issue is developing across Europe. In particular, it examines the wearing of the Islamic headscarf/hijab and variants thereof. Developments on the veiling issue continue to take place across a number of European states, and it is not possible to cover the details of all of them here. Rather the aim is to comment on what appear to have been the most significant national and pan-European legal developments and proposals during 2006–2008. Section 2 briefly

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2 Another symbol of this has become the spread of new mosques, some on a massive scale. These have engendered significant political disputes in, for example, Germany (over 180 mosques planned) and Italy. See Boyes, R., “Mosques are ‘land grab, not a place of prayer’”, The Times (UK), 6 December 2008; Owen, R., “Muslims ‘not welcome’ at interfaith prayer centre in Genoa”, The Times (UK), 6 August 2008.

3 Using ‘veiling’ in a wide sense to include provisions concerning different forms of veiling, as well as clothing and religious symbols.


5 For developments see http://www.islamophobia-watch.com/islamophobia-watch/category/hijab. As of 7 January 2008 it had 550 entries relating to hijab.

6 Given the time frame, it has been necessary in some cases to rely on materials from the Internet and in the news media. For helpful sources see Seidle, L., “Comparative research and analysis country profiles, Belgium, Canada, Denmark, Germany, Netherlands, Sweden, United Kingdom and USA” and Fourot, A.-C. on “France”, www.accommodements.qc.ca/documentation/rapports/rapport-2–seidle-leslie.pdf
considers Muslim veiling in general. Section 3 examines how veiling cases have been considered by national courts and international human rights bodies, concentrating on developments between 2006 and 2008. For comparative purposes there is some reference to non-Muslim cases that raise analogous issues. Section 4 notes the role of the margin of appreciation in explaining different legal and human rights outcomes. Section 5 locates the important themes in the debates on veiling, and locates them within broader contemporary political and philosophical debates. Section 6 contains some concluding comments.

2 Muslim Veiling

The wearing of the Islamic headscarf/hijab can be seen as part of an individual’s expression of cultural or religious identity. Some Muslim girls and women clearly regard wearing the hijab as part of their individual and group identity. In the leading case of Şahin v. Turkey, the Grand Chamber of the European Court of Human Rights noted that, “[t]hose in favour of the headscarf-hijab see wearing it as a duty and/or form of expression linked to religious identity…” Philosophical justifications for freedom of religion in terms of self-development, self-determination, and individual autonomy may parallel those for freedom of expression. However, there is arguably a weaker philosophical argument for its contributing to the democratic process.


