

„Legal and political discourse surrounding the attire of Muslim women”

PhD dissertation by mgr Agnieszka Sobieska

The subject of this doctoral dissertation are the legal regulations and the political, social and cultural background aspects related to the widely understood outfit worn by women practising Islam.

The work consists of an introduction, an ending and three logically related chapters. In the introduction, I have specified the substantive and temporal scope of the work, as well as the research questions that I pose in the dissertation, which are as follows:

1. Does wearing a Muslim headscarf (hijāb) and covering your face result from the Koran?
2. Does the importance given to the garment worn by Muslim women today correspond to that of the beginning of Islam (7th century C.E.)?
3. Can the hijāb (headscarf) worn by Muslim women be considered a construct and a tool of a political nature?
4. What has a greater impact on the outfit of Muslim women: law or society?
5. Are the European legal regulations regarding the dress of a Muslim woman an acceptable limitation of expressing religion through clothing in public places?
6. Has one coherent strategy been adopted in European countries with regard to the bans on clothes worn by Muslim women?
7. Is the purpose of the European laws regarding the clothing of Muslim women to prohibit covering the face or to prohibit the wearing of Muslim clothing that covers the face?

The analysis of the issues of legal regulations in force in Muslim countries (Chapter II) and in European countries (Chapter III) has been preceded by the presentation of opinions on the covering of women in the sources of Muslim law and in the doctrine (Chapter I).

In Chapter I, I have discussed the requirements for a Muslim woman's clothing, as mentioned in the sources of Muslim law (Koran, Sunnah), Koranic commentaries (tafsir) and I have presented the opinions of selected Muslim theologians and law researchers. When it comes to Muslim attire, I have paid particular attention to the covering of the body, hair and face.

In Chapter II, I have presented the history of the phenomenon of the veiling and revealing of women's body and face, especially in the Middle East, and the implications brought by this phenomenon. In the same chapter I have also discussed the socio-political changes, in particular in the 19th, 20th and early 21st centuries, that took place in this area and which significantly influenced the legal regulations regarding the wearing of hijāb and the face veil (niqāb) by Muslim women. I have decided to raise this issue using the chronological criterion.

In Chapter III, I have analysed the legal regulations in force in selected European countries belonging to the European Union and the European Council, which concern both the presence of Muslim clothing in public space and limiting its visibility in the field of education and on the labour market in the public sector.

First of all, I have analysed the jurisprudence of the European Court of Human Rights (ECtHR) regarding the violation of Art. 9, art. 14 in conjunction with Art. 9 and Protocol No. 12 to the ECtHR. I have also discussed the jurisprudence of the Court of Justice of the European Union (CJEU), judgments issued on the basis of the International Covenant on Civil and Political Rights (ICCPR), as well as the jurisprudence of individual European countries. In this chapter, I have adopted a division into three main spheres of life and social activity, namely the presence of a headscarf and veil in the public space, the area of education and the labour market, limited to the public sector. I have divided the bans on expressing religion through clothing introduced by individual countries into: general bans, local bans, partial bans and local-partial bans.

The dissertation ends with the conclusion, in which I have presented the assumptions that constitute answers to the research questions posed in the work.

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