

Turkey's Headscarf Legislation: The Negative Impact on EU Accession

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Brief Analysis

In February 2008, Turkey's ruling Justice and Development Party (AKP) passed two constitutional amendments that intend to lift the ban on Islamic headscarves on college campuses. Although it is still unclear how the legislation will be implemented, the new laws are likely to have a negative impact on how the European Union sees Turkey. Turkish prime minister Recep Tayyip Erdogan states that the amendments protect individual and religious freedom -- two rights that are guaranteed under the EU's common legislative body. However, as the controversy surrounding the issue continues, the legal ambiguity created by the case could alienate Europe, making Turkey's EU accession bid even more difficult.

The Headscarf in Turkey and the EU

In Turkey, wearing the traditional headscarf, or basortusu, has never been the real issue; it is the Islamic headscarf, or turban -- a contemporary garment that emerged in Egypt in the 1980s, and is tied firmly to cover all of the hair and neck -- which is at the center of the debate. Turkey officially banned the turban from universities in 1982 to signal politically that the country was not taking the route of Ayatollah Khomeini's Iran, where all females are required to cover. This move reinforced Turkey's secular nature at a time when several popular leaders were using the headscarf issue as a form of political protest.

The legal status and debate over the headscarf in the EU is of a different nature. Attitudes toward the headscarf in part depend on the historical presence of Muslim students within the educational system. Countries such as Belgium, France, Germany, Austria, Sweden, Denmark, the Netherlands, and the United Kingdom, where the majority of Muslim immigrants arrived in the 1960s and are now host to second and third generation European-born Muslims, all have had to deal with this issue. Others, such as Italy and Spain, will face it in the near future, since Muslim immigration reached these countries much later than in northern Europe.

In France, new legislation was passed in 2004 regarding the principle of secularism in schools, banning symbols or clothes ostensibly manifesting religious beliefs. The Islamic headscarf, the Jewish skullcap, and Christian crosses of excessive size are prohibited in primary and secondary schools. However, headscarves are not banned from university or college campuses.

In Germany, several regional governments have banned teachers from wearing headscarves since 2003, while continuing to allow the display of Christian and Jewish symbols. Despite this legislation, when particular cases have been brought in front of the Federal Constitutional Court, individuals have been granted the right to wear the headscarf because the Court established that the unequal treatment of religiously motivated clothing was not in accordance with the Federal Constitution.

In the rest of the EU, there is no headscarf ban, and individual schools generally have the right to establish their own dress codes. With some exceptions, most schools in the Netherlands, Sweden, the United Kingdom, Denmark, Austria, and the Belgium's Flemish-speaking communities allow the headscarf.

Impact on Turkey's EU Membership

The AKP's constitutional amendments will most likely provide further arguments for German and French opposition to Turkish accession into the EU. Although there are differences among EU member states regarding the headscarf, France and Germany -- currently the only two states with legal headscarf bans -- are also the most influential EU members opposed to Turkey's accession, with France making a public case to this end.

The legislation could also compromise the balance between religious freedom and other individual freedoms. According to a recent poll published in the Turkish daily Zaman, over 10 percent of women who cover their heads were asked to do so by their families or husbands. The legislation's failure to specifically address a woman's right not to wear the headscarf would violate the European standard that the individual's freedom be protected in such circumstances.


What is more, the EU's understanding of religious freedom goes hand in hand with the protection of minorities. The Turkish legislation could threaten these protections in two ways. First, because of the traditional discrimination against women, they have been conceptualized as a minority group in the EU, and the protection of their rights as such is particularly relevant in the headscarf debate. Second, in European countries where wearing the headscarf in public is allowed, the law is intended to protect the rights of Muslim minorities. In Turkey, however, the constitutional amendments will further enhance the rights of the Muslim majority at a time when, according to the European Commission, explicit measures for the protection of non-Muslim minorities are still deficient.

Finally, if the practice of wearing full-face veils entered Turkey's educational and civil service institutions, this would cause further alienation. The AKP's two constitutional amendments do not explicitly ban niqabs, burkas, or chadors -- types of cover that usually include full-face veils -- and in almost every European state, wearing these types of garments is seriously limited and raises strong disapproval. Even in those countries where no ban on the headscarf exists --

including the United Kingdom, the Netherlands, and Sweden -- concerns with face veils are nevertheless quite strong.

Headscarf: Islamic and Political Symbol

Erdogan stated in Madrid on January 25 that the headscarf can be considered a political symbol. If Turkey's leaders continue to instill religious garments with political meaning, it will only make it more difficult to accommodate Turkey within the secular traditions of the EU. The EU will most likely deal with the issue of political Islam as most European countries dealt with the political interference of Christianity in the past; that is, by keeping religion strictly out of politics.

Antonia Ruiz Jimenez, a visiting fellow in The Washington Institute's [Turkish Research Program \(templateI02.php?SID=12&newActiveSubNav=Turkish%20Research%20Program&activeSubNavLink=templateI02.php%3FSID%3D12&newActiveNav=researchPrograms\)](#), is an adjunct professor at the Pablo de Olavide University in Spain. Financial support for this investigation was provided by the UPO Foreign Relations Office. 

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