First they came for Muslim women....

The latest European Union attacks

Advocate General's Opinion in Joined Cases C-804/18

IX v WABE e.V and C-341/19 MH Müller Handels GmbH v MJ

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The opinion of the Advocate General of Court of Justice of the European Union on these joined cases is yet another example of how anti-discrimination law is being subverted to serve a runaway right-wing narrative of Muslim exclusion.

Following on from and consistent with the Achbita judgment in 2017, it rides a cart and horses through the fundamental protections afforded under the ECHR's freedom of religion statute and in doing so seeks to entrench in law the subordinate status of the Muslim community and their faith throughout the Union.

The decision argues,

> … that as part of a policy of political, philosophical or religious neutrality pursued by an employer, in its relations with its customers**, is not incompatible with the wearing, by its employees, of religious signs, whether visible or not, that are small in scale** (in other words, discreet) and which are not noticeable at first glance.

The Advocate General goes on to state:

> The Advocate General notes that if the prohibition on wearing any visible sign of political, philosophical or religious beliefs in the workplace is permissible, the employer is also at liberty, **within the context of the freedom to conduct a business, to prohibit only the wearing of conspicuous, large-scale signs**.
>
> The Advocate General concludes that an internal rule of a private undertaking which prohibits, in the context of a policy of neutrality, only the wearing of conspicuous, large-scale signs of political, philosophical or religious beliefs in the workplace can be justified.

The advocate General frames his opinion in the context of a policy of neutrality, and states employers may allow discreet religious or political symbols (necklace with cross, pins etc), but ban large conspicuous ones – and specifically identifies the hijab.

It should be noted that while the opinion explicitly identifies the hijab and was in fact issued in relation to employment cases involving employees who wear the hijab, if adopted as law it will impact upon other communities, for example turbans for Sikh communities or the Kippah/ Tzitzit for the Jewish community.

The distinction between large and small symbols has been manufactured to allow the creation of a two-tier legal system, in which minorities are targeted while the majority can continue expressing their faith/views without penalty. It will not have escaped the Advocate General's attention that majority communities in Europe do not wear large religious symbols; so-called large symbols are normally associated with non-Christian/non-European traditions. The advocate general's legal sleight of hand allows the status quo to be maintained while penalising the minoritized/ migrants/outsiders for not 'assimilating' by holding on to their religious beliefs and practice.

We are under no illusions that this opinion has been influenced by the growing disapproval in sections of European society of the presence of minorities and Muslims, and their religious values/practices, particularly in public life.

If this opinion is adopted by the courts, its consequence will be to exclude Muslim women from the labour market and entrench their positions on the margins of society.

As with the Achbita ruling, the latest opinion makes no attempt to understand in isolation the belief of many Muslim women that the wearing of a headscarf in certain circumstances is an obligatory requirement of Islamic law and as such not an option in the manner of other religious symbols that denote adherence to other faiths.

Even if this were not the case, the failure to protect an essential part of religious belief and expression would in any common sense application of Article 9 of the ECHR article amount to an infringement of a person's right to practise her/his religion.

The Advocate General's opinion legalises discrimination against Muslim women whom this ruling will overwhelmingly impact and sends the dangerous message that they can legitimately be treated according to a different standard.

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