

# POLICE INTERACTION WITH MUSLIMS – LEGAL AND PRACTICAL ASPECTS

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**Abstract.** *Due to the geopolitical changes in the world, police officers have to understand culture and religion of Muslims which will promote a more secure environment and self-confidence about the legal and practical aspects of interaction with Muslims in Latvia. However, the most police officers have insufficient knowledge of Islam regarding law enforcement in dealing with Muslims. Muslims, who have arrived in the last decade, have had a negative experience with police in their country of origin, so, in some cases, immigrants may be afraid of police officers and refuse to cooperate with them.*

**Keywords:** *Islam, Muslims, human rights, police, crimes.*

## Introduction

The first decade of the 21<sup>st</sup> century is characterized by the concept of "globalization". Humanity has never experienced such a great diversity of cultures in the history of the world and at the same time such a strong awareness that we all share a single world. As a result of globalization, the world has faced the worst consequences of this inevitable process, that is, terrorism. Terrorism, considered ten years ago as a problem for individual countries or regions, has become an extremely serious threat to international security and has become one of the main objectives of international politics. Terrorism, often described as the whole war against everybody, is most often associated with representatives of Islamic believers. Islamic fundamentalists, jihad, or war against nonbelievers, and the countless names of radical Islamic groups are routinely mentioned in the media, even the concept of "Islamophobia" which denotes the fear of Islam and Islamic believers, has emerged.

The aim of the article is to characterize police interactions with Muslims by exploring the legal and practical goals.

Tasks of the article:

- 1) to find out the peculiarities of communication with Muslims;
- 2) to describe the regulatory framework;
- 3) to identify key issues and offer solutions to these problems.

Methods used: descriptive, comparative, and analytical.

In the context of increased tensions caused by the terrorist threat in the EU, the national courts tried to determine when it was acceptable to ban the wearing of certain types of clothing. These cases revealed that the introduction of such prohibitions would risk disproportionately affecting and discriminating against Muslim women who choose to wear certain clothing as a manifestation of their religious affiliation or belief. When considering the possibility of introducing such prohibitions, the fundamental rights and the principle of proportionality must be respected from the outset.

Each country, in the course of its historical development, develops its own cultural environment, customs and community-based behavioural norms in the public space. There is a pronounced influence of Christianity in Latvia that does not cover the face, as well as folklore, beliefs and life-stories do not cover faces in the entire person's everyday life. By covering the face, some of the information received in the communication disappears, thus communication between the members of the society may deteriorate and the integration of immigrants in the Latvian society will not be facilitated. A person whose face is completely covered up can be perceived as having something to hide, i.e., can be perceived as a threat because it hides its identity from the public. At the meeting of August 22, 2017, the Cabinet of Ministers supported the further progress of the draft law "The Restrictions of Face Covering up" in the Parliament (Saeima) (1). Latvia is not the first country in which it intends to introduce a restriction on face covering in public places. The ban on wearing face clothing at the national level has been introduced in France, Belgium, Bulgaria, Egypt, the Netherlands, as well as in separate regions of Switzerland, Spain and Italy (Lombardy, Barcelona, and Novara) (8). Currently, several countries in Europe are considering introducing such a restriction.

In assessing the prohibition on the admissibility of the restriction of human rights, its compliance with the norms of the Constitution (Satversme) of the Republic of Latvia and generally accepted human rights norms, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, must be assessed, taking into account the case-law of the European Court of Human Rights. From the point of view of human rights, the constraint of the draft law, the most violates the right of Islamic women to freedom of religion. Face covering (niqab or burka) is by its very nature a religious symbol, and its wearing is foreseen in the dogmas of the religion. Such clothing indicates the woman's religious beliefs and affiliation with the religion which is a part of a set of traditions and ceremonies.

Article 99 of the Constitution provides that everyone has the right to freedom of thought, conscience, and religion. However, the right to religious freedom is not absolute and may be restricted (1).

Article 116 of the Constitution provides for the possibility of restricting the expression of religious beliefs in order to protect the rights of other people, the democratic state system, public security, prosperity and morals. "The Constitution does not provide an explanation for the notion of "expression of religious beliefs ", while Article 9 of the Human Rights Convention and Section 18 of the Covenant (2) state that the expression of religious beliefs includes the pursuit of cults, the fulfilment of religious and ritual ceremonies and the preaching of dogmas." (4)

Taking into account Article 116 of the Constitution, wearing of a religious symbol - burka or niqab - in public places may be limited based on the grounds set out in the article and in compliance with the principle of proportionality.

The mentioned laws directly or indirectly lay down conditions that prevent face covering up. The fulfilment of the conditions is guaranteed by the influence of the punishment imposed by the law, as well as the influence of the person's interest (that is, without fulfilling the relevant requirement, a person cannot expect the desired consequences), or, because of the extreme necessity, guaranteeing the relevant conditions can be achieved by power, for example, law "On Police " Section 13, Paragraph one, Clause 6 grants police officers the power to use force to stop intentionally wrongful resistance to their lawful requests.

The Ministry of Foreign Affairs (hereinafter - the MFA) has raised objections to the draft law of the Ministry of Justice (MoJ) which stipulates limitation of face covering. The MFA sees the annotation of the draft law "The Restrictions of Face Covering up" not provided with an explanation as to why no more lenient restriction has been chosen. Therefore, the MFA states that the absence of such an assessment in the annotation raises serious doubts as to whether the three-level proportionality test set out in the case-law of the European Court of Human Rights (ECtHR) has been taken into account in the drafting of the law. Similarly, in the text of the annotation for similar restrictions elsewhere in the world, MFA asks the MoJ to clarify that a ban on a narrower scope has been introduced in Bulgaria, Egypt and the Netherlands, namely the prohibition on wearing face-covering in the state institutions. In Estonia, it is not a matter of discussing the introduction of clothing that covers the full face, but the prohibition of narrower scope.

At the same time, according to the MFA, no convincing consideration has been given as to why the objectives of the draft law cannot be achieved

with narrower scope restrictions, such as the prohibition of wearing face-covering in the state and municipal institutions.

The Ministry of the Interior (hereinafter – the MoI) also objected, in its opinion it is necessary to supplement the regulation included in the draft law with new legal provisions on extending the scope of the limitation of the covering to places other than public places.

According to the MoI, it is necessary to broaden the scope of the legislation envisaged in the draft law, providing in the draft law a specific prohibition on the person to cover her face also when placed in the institutions restricting freedom of movement of different persons, including in the draft law a direct reference to the fact that such a prohibition should be included in other relevant field regulatory enactments.

In 2016, Latvia like other European countries sheltered asylum seekers from Asian and African countries. The roots of contemporary Islamic terrorism are sought out in Islamic history. The Holy War – Jihad is the duty of every Muslim.

In order to understand the essence of Jihad, it must be known that in the teachings of Islam there is the so-called House of Peace, or Dar al-Islam (the Muslim world), governed by divine laws, and the House of War or Dar al-harb (the rest of the world) where human laws rule. The mission of the Muslims is to implement jihad, until the whole world becomes Dar al-Islam. True peace will only be achieved when the Islamic Caliphate world will rule over the World. Thus, at present, Dar al-Islam (Islam) is in constant war with dar al-harb (the rest of the world). The aim of this fight is to slowly conquer the dar al-harb area and introduce Sharia law there. Therefore, it is in vain to hope for a peaceful coexistence of Islam with the Western world – the Qur'an forwards the jihad to the ultimate victory of Islam. (10)

In this context, the security authorities should take a serious look at the findings made publicly by Ahmed Robert Klimovich and Hamza Janis Lucins, the leaders of the Islamic Cultural Centre. Although they represent the part of the Muslims who do not terrorize and in isolation distort themselves from the ideology of radicals, the talk of the new Medina (transliterated as the Enlightened City), Caliphate and Latvia as Muslim land raises a legitimate concern that they are not only naive believers' fantasies, but rather concrete the goals that these Islamic converts would gladly see fit. It is not for nothing that the European security services believe that among the Muslims who have adopted Islam, extremism is even greater than among secularized, formal Muslims. Currently, most of Latvia's Muslims come from the former USSR – Tatarstan, Bashkortostan, Azerbaijan. Their religious understanding is peaceful – Islam is more of an honourable tradition for ancestors. These Muslims do not pose a threat to

society. The radical Muslims from North Africa, Afghanistan and the Middle East are completely different.

Islamic religion states that the believer has a duty to obey the law, so people should cooperate with police officers. Police officers need knowledge and understanding of Muslim traditions and lifestyle to use them when there is violence in the family.

The European Code of Police Ethics states that the general principles of action of the police officer in dealing with foreigners, incl. Muslims are to appreciate the situation, be responsive, fair, ready to use communication, and leadership skills. Be able to understand the social, cultural and social issues of society, to fulfil their tasks in a fair manner, based on the principles of impartiality and non-discrimination; respect for the fundamental rights of everyone to freedom, i.e. belief, conscience, religion, etc. act honestly and with respect for the community, especially against persons from vulnerable groups.

State Police Internal Regulations No. 36 "The Code of Ethics of the State Police" of September 19, 2014 stipulates that an official of the State Police (an employee), while performing their service (official) duties, ensures respect for the human rights of each person regardless of their nationality, race, gender, language, religion, sexual orientation, political or any other belief, age, education and social status. (6)

The third part of Section 3 of the Law on the Procedures for Holding the Detained Persons stipulates that the detained person must be introduced in the language which they understand (if necessary by inviting an interpreter), with the internal procedure of the Temporary Detention Place (hereinafter – TDP) and the list of permitted items in the cell.

A person shall be detained and placed in the TDP in accordance with the following statutory regulations and within the following time limits:

In accordance with the procedures specified in the Criminal Procedure Law (hereinafter – CPL) for a commitment of a criminal offense for a period of up to 48 hours.

In accordance with the procedure established by the Latvian Administrative Violations Code (hereinafter – LAVC):

- administrative detainees for up to four hours;
- administratively arrested persons from 24 hours to 15 days and nights.

The person arrested and convicted in accordance with the procedure set out in the Law on the Procedures for Holding the Detained Persons (hereinafter - LPHDP) for performing procedural actions.

In accordance with the procedure prescribed by the Immigration Law, the State Police may detain persons for a maximum of three hours, and the State Border Guard for a maximum of 10 days and nights. To detain a

foreigner for more than 10 days and nights an official of the State Border Guard has the right only with the decision of the judge of the district (city) court (according to the actual place of the arrested third-country national).

Persons who are detained in accordance with the procedure provided for in the Immigration Law shall be accommodated separately from persons detained, arrested and convicted in a criminal procedure. (Article 4 part 5.1 of the LPHDP)

The persons (aliens) must additionally be provided with support and information in order to understand why they are being placed in TDP and decisions that are appropriate to the situation are taken.

To inform the person (alien) about their rights and to ascertain whether to inform the embassy or consulate about the location of the person (the alien) and the grounds for detention. (7)

TDP staff should do not speak offensively or roughly, offend the honour and dignity of a person, be arrogant, should be tolerant of other opinions and beliefs (Paragraph 9 of the State Police Internal Regulations No. 36 "State Police Ethics Code" of 19 September 2014).

In the context of the needs of Muslim culture or religion, to fulfil, as far as possible, reasonable requests for persons, to provide the requisite information with prayers, and to explain if religious needs cannot be realized because of the security requirements, resources or the investigation process. (7)

The TDP officer should provide the person (female) with the opportunity to meet immediately with a female TDP employee or another employee of the State Police Department who is responsible for controlling the living conditions in the TDP.

The TDP officer should observe welfare issues, especially for single mothers and foreigners (females). Realize and understand the potential negative consequences that a person (female) may have in the case of separation from a child, in particular, differentiating from the infant and other conditions. (7)

Temporary detention place may be visited by representatives of the diplomatic or consular mission.

Those foreigners, who are detained, arrested or convicted in a place of temporary detention according to the procedures of criminal proceedings, shall have the right to privately meet, without any restrictions, a representative of their diplomatic or consular mission. A representative of a diplomatic mission or consular post regarding the visit of a temporary detention place shall inform the relevant police department in advance. (3)

No correspondence with the correspondent of a person – a detained foreign citizen with his diplomatic or consular representation who is authorized to represent his or her interests – is not subject to control

(Section 15, Paragraph three of the Law on the Procedures for Holding under Arrest).

If there is violence in the family, the small children should not be separated from the family. The responsible person of the family (male) will talk to a police officer (male). Speaking with children should be in the presence of parents. When comforting a Muslim woman, do not touch her, do it verbally. If there is a language barrier, it is necessary to act in accordance with the procedure laid down in the regulatory enactments regarding the appointment of an interpreter to interview a suspect, victim or witness.

If the police officer will consult with Imam, he will work together and give explanations in answering questions about the reasons why violence in a particular family has occurred. This way you can avoid having problems separating family.

It should be made clear that violent customs are not supported by the authorities, but, given their place in society, they are being practised. This is not typical in Latvia. Generally, by doing so, individuals can integrate into society. While rejecting the customs, they are excluded from the society. Thus, the individual protecting his fundamental rights is punished not by the state but by the public.

An example is female genital mutilation (FGM): statistics show that in the world on average, 100 to 140 million women and girls are circumcised (9). This activity is most often banned in the country, but citizens ignore the ban and continue to use this cruel custom.

### **Conclusions and suggestions**

Understanding the concept and content of Sharia law plays an important role in the interpretation and application of international human rights instruments in Muslim countries. The explanation of the Sharia concept in sources results in a wide discrepancy which has not been highlighted by the elements of a particular concept, but a fundamental understanding of it.

Typically, most Muslim countries have added stipulations to articles regulating female status, religious freedom and criminal justice by joining internationally recognized human rights instruments.

Sharia states that a full-fledged right holder is only Muslim, and therefore police officers must know Sharia law in dealing with Muslims.

It is necessary from the public authorities and religious leaders to explain society the incompatibility of these customs with Islamic and secular norms. Society needs to promote the common goal of Islam and human rights.

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