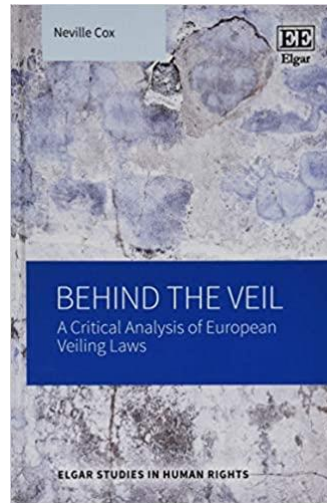


Book Reviews

Neville Cox. *Behind the Veil: A Critical Analysis of European Veiling Laws*. Cheltenham: Edward Elgar Publishing, 2019. Pp. viii+279. Hardbound. ISBN: 978 1 78897 084 6.

Behind the Veil: a Critical Analysis of European Veiling Laws is an important and informative book on the thorny subject of veiling laws in Europe. As Cox expresses at the onset, the book pursues a threefold line of enquiry: 1) critically analyzing the merits of the arguments both from European “national governments and in popular rhetoric” supporting legal prohibition of veiling in particular contexts; 2) assessing the disconnect between “real motivations’ behind such laws and the official rationales on which these laws are based”; and 3) considering whether the enactment of anti-veiling laws “represent[s] legitimate interferences with the rights of those women, who, for a variety of reasons, . . . wear a particular kind of veil” (p. 1).



The book consists of an introduction and seven chapters, which comprise three distinct sections with three interrelated themes. In section one (chapters 2 and 3), Cox deals with two foundational issues, namely the motivations for wearing an Islamic veil by Muslim women, and the rights involved when they do so or are prohibited from doing so. Chapter 2, “Rationales for Veiling and the Meaning of the Veil,” critically challenges the assumptions that the veil carries some kind of “*inherent*, singular meanings” and that there are “singular motivations” behind veiling. Cox considers this to be a risky approach because it ascribes “decontextualized” meanings to the veil. He outlines diverse explanations for veiling from the perspective of Muslim women who

wear some kind of Islamic clothing for a variety of reasons. The explanations cover a wide range of reasons from simple personal piety, observing laws of modesty, and clothing in accordance with different schools of laws; cultural and political reasons that often entail veiling by coercion; or reawakening of Muslim identity in the face of hegemonic forces of Westernization. The chapter ends with an interesting section on some personal reasons for veiling indicating that some Muslim women choose to veil as a symbolic means for sending ideological messages such as “Liberation from Fashion Pressures,” or “Counter-objectification” of women’s bodies in the Western consumerist culture. In certain contexts, in Muslim societies wearing a veil has been an empowering and rather equalizing force in women’s professional lives. Cox reiterates that “there is no single inherent meaning attributable to the veil because different wearers have different nuanced reasons for doing so” (p. 17) and that “other than the connection to God, . . . the veil does not carry any *inherent*¹ meanings” for a devout woman (p. 49). Therefore, without a meaningful and impartial engagement with the reality of religious commitment, no understanding of why the veil is worn will be possible. Otherwise, approaching the issue from a secular perspective will result in a “decontextualized and distorted vision of the meaning of the veil” which in turn supports un-veiling laws that not only interfere with the rights of devout Muslim women but also have profound disruptive impacts on psychological and conscience levels. Chapter 3, “Veiling and Rights,” unveils the complexities around multiple human rights involved. Cox argues that in the rights-based secular Europe where any law which is not compliant with human rights is morally condemned, “the onus is on a state that wishes to enact an anti-veiling law to show that what it is doing is not merely socially beneficial [as they often justify so] but it is also acceptable from a human rights perspective” (p. 51). First he explores the nature of three key rights involved in the veiling, namely, the rights to freedom of expression, privacy, and freedom of religion. Then he shows “how an anti-veiling law represents a disruption of *all* of these rights” (p. 52). Cox adopts the text of the European Convention on Human Rights and the jurisprudence of the European Court of Human Rights (ECHR) as authoritative referents in his argumentations. He contends that the ECHR’s approaches to the notion of a “right to veil” and its justification for restricting rights are deficient in several ways. By examining some key legal cases, which are recurrent throughout the book, he presents arguments offered by states in support of their anti-veiling positions.

¹ All italicized words in this text are by the author, Cox, as he meant emphasis.

Moreover, he criticizes the ECHR for its practice of excessive deference to a state policy which not only renders the application of human rights discourse incomplete, but it threatens its own future authority by simply conceding to what a state is doing (p. 96).

In the second section (chapters 4 and 5), the author appraises the legitimacy of states' justifications for their anti-veiling laws as to how they withstand from a general rational perspective and, in particular, against the international human rights laws. Providing several arguments used by different states such as France, Belgium, Austria, Denmark, etc., he focuses on two broad categories of justifications primarily related to societal concerns with the Islamic veil. One relates Muslim (face) veiling to some kind of terrorist threat that endangers national security. The other considers the veil as a symbol of oppression against Muslim women. Both of these Cox discredits. In chapter 4, he explores the nature, scope and context of European anti-veiling laws and demonstrates how they target "burqa," a specifically Islamic type of face covering, worn by a very few Muslim women in Europe. Given these facts, he considers the justification of such laws as protecting national security to be questionable particularly when considering the rise of right-wing political parties who seek the vote of the populist section of the people through disseminating their anti-immigrant policies and promoting assimilation agendas. After scrutinizing the nature of various security concerns expressed by the states—such as disguising identity and concealing explosives; the need for surveillance; radicalization and terrorism—he critiques them by showing how the laws are excessive and disproportionate to the existing realities of Muslims living in Europe. These laws will be ineffective and even counterproductive. Moreover, focusing on veils while ignoring greater threats to public order could be problematic. He asserts that although articles 8, 9, and 10 of the European Convention on Human Rights allow for restricting the rights, they do not afford "national governments unlimited authority to restrict rights simply by referencing potential national security concern." Moreover, it is notable that while article 4 of the International Covenant of Civil and Political Rights, permits states to derogate from their obligations under the Covenant in times of public emergency that threatens the nation, its article 18 excludes freedom of religion from this general principle (pp. 99-100). Cox suggests that "anti-veiling laws, grounded in concerns for national security, have the undoubted side-effect of reinforcing this now mainstreamed message about the *inherent* link between Islam and terrorism—a link that does *not exist*, and that leads, in practice, to suspicion and marginalization of a religious

minority in Europe” (p. 117). Chapter 5 deals with the symbolic meaning of veiling for European legislators and the public, namely, being a symbol of inequality and oppression of women. Based on this presumed symbolic meaning the proponents of anti-veiling laws justify its ban simply because it is a mechanism by which women are *oppressed* and their *right to equality* is denied. Therefore, this *inherent symbol of oppression* is profoundly morally repugnant in modern Europe and as such its ban is justified (p. 141). Cox exposes problems associated with this line of argument. For instance, he explains how this argument conflates the *concept* of oppression with a potential *mechanism* for oppression (p. 142). He emphasizes that the veil, as an item of clothing and as a piece of cloth, lacks any inherent oppressive meaning unless its wearing is either imposed or prohibited where the wearer’s consent is being overridden. While he makes it clear “that he is not advocating for the veil,” he presents the counterargument that “the veil can be an *empowering* thing for its wearer.” His enquiry in this chapter concludes that wearing the veil is not *inherently* repugnant to gender equality and as such an anti-veiling law can not be justified simply by reference to equality concerns (p. 141). Cox believes that the enactment of “such laws will not protect women, but it will, undoubtedly, appeal to those who eschew multiculturalism and oppose immigration and will enable them, the more easily, to isolate the Islamic other” (p. 183).

The third section of the book (chapters 6 and 7) evaluates how these “alleged concerns” of gender oppression and inequality drive other justifications. The main feature of the anti-veiling rhetoric suggests that the Islamic veil, in general, and the full-face veil, in particular, is offensive to modern European societal values. As such, its threat to socio-cultural norms should be removed by requiring anyone (particularly the immigrants) to assimilate within the dominant majoritarian culture. Two broad societal values, according to Cox, are most regularly referenced. The first is *secularism* and the second is an *open society*. Through a detailed examination of these two “values,” he explores their practical reality within several European societies. He discusses various forms of secularism existing in Europe—from *passive secularism* to *combative* or *assertive* secularism. He also challenges the logic of a more recently constructed concern of the “open society” where people can supposedly live together effectively, *vivre ensemble*. He concludes that “the ludicrousness of the argument that European anti-veiling laws are necessary to protect an embedded societal vision from a real and imminent threat arising out of a garment worn by so few women, generates, I would suggest, an inescapable conclusion, namely

that these laws are not designed to have substantive impact in the face of substantive societal concerns. Rather they are symbolic strikes against a symbolic target” (p. 223). Chapter 7, “Veiling and the Rights of Others,” explains how some of the societal concerns, are re-casted in *rights* language. For instance, how the proposition which connected the veil to terrorism, becomes a proposition that it disturbs people’s *right* not to be intimidated. Or, even more problematic, according to the author, is that the proposition that the veil disturbs the process of living together in an open society becomes a proposition of a different kind that it offends against the *rights of others* to live in such a society. Cox opines that such newly constructed rights exist neither in the European Convention on Human Rights nor in the constitutions of European states and thus the European Court’s rulings, on occasions, on these justifications are problematic and questionable (p. 226). The author classifies the rights-based objections to veiling in three broad groups: “a. the right not to experience a negative reaction (typically offence or intimidation) to something with which one is presented; b. the right not to be influenced in one’s worldview as a result of someone else is wearing; c. the right to have societal interaction with other people and to require them to compromise on their clothing choices and their most deeply cherished beliefs in order to facilitate this interaction” (p. 227). Cox meticulously discusses these objections and examines several European Court’s anti-veiling rulings. He concludes that “the most remarkable thing about the efforts . . . to construct a ‘rights-based’ justification for anti-veiling laws is the fact that the rights relied on are not actually rights at all (p. 246). Moreover, the “rights of others” justification entails “allowing non-existent rights to trump the *actual rights* of veiling women” which defies any reasonable rights balancing act.

In the concluding chapter 8, Cox stresses the recurring themes discussed throughout the book; themes such as the minority practice of veiling, targeting a symbol, illusion of *inherent* pejorative meanings, and exclusive concern with the Muslim veil. He reiterates that justifications offered for anti-veiling laws do not warrant adequate grounds for such legislation nor do they actually explain the real reasons for the enactment of such laws by various European states. Cox offers his “speculative” suggestions as to what he believes are the *real* motivations, like the rise of majoritarianism and the right-wing politicians’ manipulation of populist sentiments. He states that these motivations “are manifestly *not* consistent with international human rights laws.” The key conclusion from his assessment reads, “Concern of [anti-veiling] laws is entirely symbolic; they are a symbolic strike against the symbolic

representation of a challenging ideological opponent” (p. 249). He clarifies that “loading a recognizable symbol of Islam with negative meaning and then symbolically striking at it through legislation gives secular Europe something against which to measure and reassert the rightness of *its* model” (p. 257). In sum, Cox demonstrates that the justifications and concerns offered as grounds for anti-veiling laws fail to correspond to, what he believes to be, the *real* motivations behind such laws.

Neville Cox is the Dean of Graduate Studies and Professor of Law at Trinity College Dublin, Ireland. His book, *Behind the Veil*, represents a high standard of a very well-researched, soundly organized, and vigorously argued scholarly work on a very complex topic. Reading of this book is particularly essential for scholars who work on the intersectionality of law and human rights, and in general for anyone who wants to grasp an understanding of the issue deeper than the media headlines and politicians’ slogans, regardless of whether one agrees with his conclusion or not. The book is not jargon-heavy, and the author provides a clear definition of terms whenever necessary. Although the focus of case studies is on Western Europe, Cox includes Bosnia, Lithuania and Turkey which altogether provides a more complete picture of this ongoing controversy. The book holds a great deal of cohesion, however, sometimes repetitions of points and lengthy footnotes slow down the reading, if not distracting the reader.

Behind the Veil bears an aptly double meaning title given its content. On one hand, it reveals what is behind the veil for its wearers and on the other hand, it unveils the European states’ hidden/real motivations behind the anti-veiling laws.

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