

The Effects of Headscarf Bans

Muslim Women in the German Labour Market

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20 July 2021

Utrecht University, The Netherlands

Bachelor Thesis for the purpose of obtaining the degree

Bachelor of Science Philosophy, Politics and Economics

Word count (excl. references and appendix): 12900



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Abstract

This bachelor thesis combines economic and political insights to determine what the effects of headscarf bans on Muslim women in the German labour market are. Previous literature has neglected this focus on effects, focusing instead on normative and philosophical debates. Politicians and employers, therefore, lack crucial information when making decisions about headscarf bans. To attempt and fill part of this gap this research integrates several theories to understand underlying mechanisms: Esser's integration model, Pitkin's concept of representation, Becker's taste-based discrimination and Allport's contact hypotheses.

This research builds on information collected from government outlets, existing academic literature and expert interviews. The analysis begins by establishing the legal framework in which headscarf bans are created and implemented in Germany. Relevant actors and their power are then analysed and a lack of representation of Muslim women is found. The final part of the analysis builds on this information and explores the mechanisms leading to different types of effects.

The findings are that headscarf bans ultimately lead to a worse financial situation for Muslim women and a hindrance to their integration into the overall German society. These effects are a cumulation of several intermediate effects including overall lower employment of Muslim women, in particular in visible and high-status positions, an increase in anti-Muslim sentiments and discrimination in other areas of life.

1. Introduction

The discussion around headscarves is ongoing in Germany. It flares up whenever a new case is being judged by a German or European court but even outside of these instances it never quite disappears. Just last year, the Federal Labour Court ruled in favour of a woman who was denied work as a teacher due to her headscarf, and the debate sparked once again (Kopftuchverbot 2020). The public discourse and academic literature are mainly dominated by arguments about religious freedom, women's rights and clashing cultures. An angle that is much less examined is the actual effects of headscarf bans on Muslim women in the labour market. These effects are often vaguely mentioned but the mechanisms behind them tend not to be examined in more detail. Politicians and employers deciding about the creation and the implementation of headscarf bans subsequently lack this crucial information. Especially those making their decisions aiming to change the situation of Muslim women in some way must be aware of the actual consequences.

This bachelor thesis will attempt to fill part of this gap. It analyses the laws affecting headscarves and the institutions deciding over them. The discovered information, as well as economic and political theories, are then used to determine what types of effect headscarf bans have on the situation of Muslim women in the German labour market. Several intermediate effects are found and explained by Pitkin's concept of representation, Becker's taste-based discrimination and Allport's contact hypotheses. These theories further explain how these intermediate effects cumulate in an overall worse financial position

of Muslim women and a hindrance of their integration. Esser's model is used to conceptualise integration and fully explain how it is affected.

The question this research aims to answer is "*What is the effect of headscarf bans on Muslim women in the German labour market?*". To achieve this goal the research is split into three sections, led by sub-questions, which build on each other.

1. *What are the laws affecting headscarf bans?* The first section establishes the relevant legal framework. This serves to contextualise the later analysis of effects. The situations in which headscarf bans can exist will be distinguished into three domains: Public office, religious organisations and private companies. The legal situation in each of those domains will be analysed by determining which laws are prohibiting and which are allowing headscarf bans.
2. *Which institutions have power over headscarf bans?* This section contains an analysis of the institutions involved in creating and implementing headscarf bans as well as reacting to them. It begins with an analysis of the formal and informal organisations involved in the creation, with particular emphasis on the extent to which they represent Muslim women. Secondly, the courses of action that affected Muslim women can take if they wish to oppose a ban will be analysed by discussing the actors involved. The actor analysis conducted here brings an understanding of the power dynamics which cause headscarf bans to come into and remain in existence.
3. *What types of effects are caused by a headscarf ban?* Determining the different effects involves discussing the effect of the found political representation and power dynamics displayed by headscarf bans as well as going beyond that. The outlined theories will be applied to explain the mechanisms leading to intermediate and ultimate effects.

This research will focus on the economic effect while avoiding philosophical normative debates about legitimacy and cultural values. Extensive philosophical debates are already commonplace given that headscarf bans affect many issues that are of much importance to the German government and people: Multiculturalism, religious freedom, feminism, equal opportunities and particularly integration. This research avoids this satiated debate and aims to provide a new and different angle by focusing on the economic effects. The importance of the topics affected by headscarf bans results in the importance of decisions about them. To make informed decisions, especially in the political sphere, their context and consequences have to be understood. Therefore, the legal and political framework in which bans are created as well as their economic impact play an important part. This research seeks to provide clarity about them regarding the area most affected by headscarf bans: Muslim women in the labour market. To increase this paper's value for decision-makers its focus lies on their current rather than the historical situation.

By integrating disciplinary insights from economics and political science, context and consequences can be thoroughly analysed. Economic theories are a natural fit to explore effects in the labour market since it is a central part of the economy. Their rational choice approach provides a valuable tool to not only theorise about behaviour but also build a clear model of the integration of Muslim women. The integration of political science enables this research to analyse the creation and implementation of headscarf bans and ground them in the German context in particular. It also allows an analysis of the direct effects of the particularities of this creation and implementation. Thanks to these additions the findings can transcend those of a purely economic analysis. Because this research aims to empirically determine the effects of bans rather than making normative judgments about them, philosophy is excluded. Furthermore, the focus lies on the experiences of Muslim women in today's context rather than the origin of said context. Analysing the origin of this context would not yield additional insights into the mechanisms happening today and risks drawing attention away from them. For this reason,

history as a discipline is put aside. Both of these exclusions increase this research's value for decision-makers seeking impartial and contemporary information.

It must also be clarified what this research refers to when it uses the terms “headscarf bans” and “headscarves” in general. This study will focus on bans regarding headscarves that do not cover the face, commonly referred to with the umbrella term *hijab*. The reason is that veils that cover the face, referred to as *burqa* and *niqab*, are discussed in a different capacity (Istizada 2019). Discussions about potential “burqa” bans focus on public spaces rather than workplaces in particular which makes their effect on the labour market less direct. While workplaces in public service would likely underly the same rules as public spaces, this is not the case for positions in private companies. Bans regarding hijabs are predominately internal and implemented by the organisations in which they apply (Mediendienst Integration n.d.; Weaver 2018).

The main reason for this study's focus is however the very low number of fully veiled women living in Germany, estimated at under a hundred (Oltermann 2016). Hijabs, on the other hand, are worn by approximately 38% of Muslim women in Germany which results in over a million women being affected by bans targeting them (Pfündel, Stichs and Tanis 2021). These bans have a significantly bigger influence on Muslim women's situation and examining their effects specifically is, therefore, more vital. Accordingly, the term “headscarf” refers in this research to Muslim head coverings which do not veil the face. Another reason for this decision is that a lot of literature does not clarify what type of headscarf they are referring to. Due to the relative commonness of hijabs and the nature of the headscarf bans discussed, they are likely to be the ones addressed. By following the same vocabulary, this paper stays in line with other research into the topic.

This bachelor thesis starts with an account of the relevant state of the art. Following that, the theoretical framework will provide an overview of the theories and their integration which will be used in the later analysis. Then, the research methods of this paper will be outlined and explained. Once this information is established, the analysis will begin. This paper will move on to answering the previously explained three sub-questions, one by one. Firstly, the legal framework will be established. Secondly, the institutions and power dynamics at play will be analysed. Thirdly, an analysis of the types of effects headscarf bans will follow. Rounding off this paper is a summarising conclusion with consideration of uses and future.

2. State of the Art

When considering the state of the art, two aspects have to be examined more closely: The research on the situation of Muslim women and the research on the effect of headscarf bans. The former provides a largely quantitative base understanding of the situation of Muslim women in Germany, independent of headscarf bans, in which the later-following analysis can be based. The latter gives an understanding of studies already conducted in the particular research area of this paper. This highlights, therefore, not only the relevance but also provides information about mechanisms that were already researched by others. Given the exploratory nature of this research, the findings of such studies can point towards previously overlooked effects.

Economic research provides an understanding of the economic and societal position of Muslim women in Germany. However, when looking for quantitative data about Muslim women, one is faced with the

problem that most studies do not measure Muslim women specifically and even less distinguish between veiled and unveiled women. While some studies do focus on Muslims (Open Society Foundations 2010, Kraal, Roosblad und Wrench 2010, Weichselbaumer 2016) most studies use wider categories, for instance regarding migration backgrounds. Similarly, studies that examine women in the labour market tend not to focus on Islam as a factor (Heineck 2004, Neumark 2004). Most useful in getting a current picture of the economic and social position of Muslim women in Germany is a report published by the Federal Agency of Migration and Refugees about Muslim life in Germany in 2020 (Pfündel, Stichs and Tanis 2021). Therefore, research which reviews those studies with a focus on Muslim women is necessary to draw conclusions from them. However, they make it apparent that Muslim women are significantly disadvantaged in the German labour market. They suffer from lower occupational status, a lower employment rate and higher rates of poverty due to lower hourly wages.

Political research provides a picture of Muslim women's representation in Germany. Here too, a significant problem is that most studies do not explicitly focus on Muslim women but rather on wider groups that they are a part of or that they largely overlap with. In recent years there have however been increasing studies into the political representation of Muslim women (Hossain, et al. 2016, Jenichen 2018). The clear result is that they are quantitatively underrepresented. While in recent elections Muslim politicians, including women, acquired positions even in parliament, their share is significantly lower than the share of Muslims in the German population.

The current literature and discussions about headscarf bans focus heavily on ethical, feminist and cultural implications. This focus in the public discourse is reflected in newspaper articles reporting on developments regarding headscarf bans (Siegmond 2020, Quell 2021). In academic research, little attention is paid to the impact they have on the directly affected group, Muslim women. However, there are still studies that do consider or even focus on impacts but they follow an overall different aim or country than this study (Abdelgadir and Fouka 2020). Especially in Turkey the debate about headscarf bans also includes considerations of the impact on women in the labour market as well as education and other aspects of public life (Leuenberger 2017, Guveli 2011). Studies like these can help form hypotheses about mechanisms in Germany. However, due to countries' different natures, for instance, in terms of dominant religion and history, their findings cannot be simply assumed to be the same in Germany. In Germany itself, there are some studies, for instance, Golesorkhi's (2017), which focuses on giving policy advice but also addresses employment consequences for Muslim women. In academic literature, a large focus lies on the different theories and mechanisms of discrimination. These are then directly applied to Muslim women or, more commonly, to an overarching disadvantaged group they are part of. Examples include Frigs (2010) and Peuker (2010), who focus on religious discrimination against Muslims independent of gender. Others are Rydgren (2004), Schmaus (2020) and Schneider et al (2014), who focus on ethnic discrimination. A study that combines these different findings does not yet exist. This research seeks to fill part of this gap.

3. Theoretical Framework

In the following section, the theories which will be used in this paper will be examined in three steps before their integration will be outlined. Given the potential for confusion, as of now, unless explicitly specified, "integration" can be assumed to refer to the integration of Muslim women rather than the integration of theories. Throughout this research, the integration of Muslim women has increasingly

emerged as an ultimate effect of headscarf bans. Therefore, the concept of integration used in this bachelor thesis will be established first. The mechanisms and intermediate effects resulting in this ultimate effect are explained by the remaining applied theories. These theories about political representation, discrimination and prejudice will be outlined in this framework as well. In the final part of this section, the linkage between these three theories and the different dimensions of integration will be explained.

The disciplinary insights on which this research builds have different focus points but are integrated to aim in the same direction. The economic theories used, namely by Esser, Becker and Allport, primarily bring insights into the underlying social mechanisms. Their contribution is also a conceptualisation of integration that is detailed enough to be comprehensively linked to individual theories and intermediate effects. The underlying assumption of rationality they share means that this research and its argumentation are based on the same foundation throughout. The political science part of this research also examines social mechanisms but links them to institutions. It provides the connection to institutions and the framework in which bans are implemented. Therefore, it contributes a clear grounding in the German context which the economic theories at times lack. Together these disciplinary insights enable a comprehensive analysis of the effects of headscarf bans grounded in their German context.

3.1.Integration Model

Since this research finds headscarf bans to strongly affect the integration of Muslim women, a clear concept of integration must be established. Theories of integration originated dominantly in the United States, spurred by mass migration in the 19th and early 20th centuries. Early models regarded integration as an unavoidable process resulting in the complete assimilation of the minority group. Later models increasingly took aspects like cultural differences and migrants' own choices into account (Koch 2018). The prominent name and theory in adapting these later theories to the German context are those of Hartmut Esser. Esser's integration model is by far the dominant model used not only in German migration and integration research but also for policy decisions in Germany (Koch 2018, Pfündel, Stichs and Tanis 2021). Since it is not only in line with similar studies but also offers a comprehensive framework about the integration process, it will be used in this research.

Esser distinguishes between four different dimensions of the integration process: cognitive or cultural integration, structural integration, social integration and identificational integration. Cognitive or cultural integration includes the acquisition of skills and knowledge, for instance, language skills. Structural integration comprises acquiring positions, in particular in the labour market. Indicators for the degree of structural integration include employment and occupational status. Social integration implies the building of social relationships in everyday life to people without a migration background. Indicators are here frequency of contact and membership in organisations. Lastly, identificational integration describes the emotional connectivity to the whole of society (Pfündel, Stichs and Tanis 2021).

In theorising how these different aspects are achieved, two aspects must be emphasised. Esser focuses on social mechanisms to explain the phenomenon of integration which is in line with the strategy of this paper (Little 2011). Secondly, his reasoning is built on rational choice theory. This is visible in his assumption of rational actors choosing the option with the highest utility (Esser 2010, 6). Therefore, the economic nature of Esser's model does not come primarily from his inclusion of the labour market as a dominant factor in integration but from his following of basic economic assumptions of rationality.

3.2.Representation Theory

To answer the second sub-question, the power dynamics of different actors involved in implementing headscarf bans will be analysed. Significant is here how much and what kind of influence the affected Muslim women have. In other words, it is important to determine the extent of their political representation. To do so, a coherent theory must be used. Hanna Pitkin's concept of representation (1967) is one of the most influential theories and provides a clear framework for this paper's analysis. She divides representation into four different dimensions. Firstly, formal representation involves the institutional position of representatives. This involves authorization and accountability. The authorisation aspect assesses how the representative obtained their position and subsequently from where they draw their legitimacy. Accountability refers to the options those represented have to punish representatives for not acting in their interest. Therefore, it describes the responsiveness of representatives to those they represent. Secondly, symbolic representation revolves around the meaning that a representative has for those represented and to what extent they are accepted by them. Thirdly, descriptive representation covers the extent to which a representative resembles those represented in terms of group characteristics. Finally, substantive representation encompasses how far representatives act in the interest of the represented (Dovi 2018, Donovan 2007).

While Pitkin's concept provides a solid basis, the development of the political sphere since its creation has to be taken into account. Informal representation has gained increasing importance and as will be later discussed, non-governmental Muslim representatives play a significant role (Donovan 2007). For that reason, in addition to Pitkin's original theory, the concept of self-authorized representatives will be particularly examined. Self-authorized representatives can also be referred to as informal representatives since they do not draw their authority and legitimacy from formal elections. Following the increasing variety of such groups, their sources of authorisation also differ. Some claim themselves to represent a certain group without input from said group's members, others collect votes of the members of their organisation. Mechanisms of accountability differ similarly across organisations (Urbinati 2008).

3.3.Discrimination and Prejudice Theories

To understand the direct effect of headscarf bans on employment Gary Becker's model of taste-based discrimination will be used. With his book "The Economics of Discrimination" Becker popularised the involvement of economists in discrimination studies (Becker 1973). He does not focus on the reason people may hold prejudiced attitudes or dislike a certain group but rather simply states that they have a "taste for discrimination". Instead, he focuses on reducing them to costs which employers or customers weigh when deciding their actions based on rational choice and utility-maximising behaviours. A discriminatory employer acts as if employing an outside group member incurs additional non-monetary psychological costs of production and a discriminatory customer acts as if the particular products or services cause them additional costs of consumption (Becker 1973). The first situation will be referred to as "employer taste" discrimination and the second as "customer taste" discrimination. Both lead to less employment or lower pay of discriminated-against people in order to minimise costs and avoid losses for the employer.

To analyse the wider-reaching ramifications of headscarf bans on the general situation of Muslim women Gordon Allport's contact hypothesis (1954) will be used. It indicates that contact between group members will reduce prejudice if four conditions are met. Firstly, in that situation, they have to be of equal status. Secondly, they have to work towards a common goal which, thirdly, requires intergroup cooperation. Finally, the contact has to be supported by authorities, law or custom. Allport theorises that

contact increases knowledge and thus disconfirms negative stereotypes. Since he developed the hypothesis, there has been a large number of studies to test it. A metastudy of hundreds of them found that the four conditions are not necessary for contact to reduce prejudice but do facilitate the process (Pettigrew, et al. 2011).

3.4.Integration of Theories

In the following, the four dimensions of Esser's model will be examined independently. The role of the previously explained theories for each dimension will be outlined. This section aims to display how each dimension of the integration of Muslim women is affected. For each dimension, the link to the relevant theories is outlined. In the analysis section of this paper, these theories will be explicitly applied and their implications in the context of headscarf bans will be clearly explained. This step will not be taken extensively here to avoid excessive repetitions throughout the paper. Instead, the focus lies on the ultimate effect on integration to demonstrate its linkage to the theories.

The first dimension, cognitive or cultural integration, will not be a focal point of this paper. It can be argued that employment leads to the acquisition of skills and knowledge and, therefore, increases cognitive integration. However, the role of employment for structural integration is much more significant and will, therefore, be examined in that context.

Structural integration can most clearly be linked to the effects of headscarf bans. Taste-based discrimination theory will help explain how headscarf bans lead to reduced employment of Muslim women, particularly in positions which are visible to others and carry high occupational status.

Social integration is also affected by headscarf bans as they lead to less contact between Muslim women and other members of society in a variety of ways. This makes the creation of everyday social relationships significantly more difficult. Additionally, as contact theory shows, this prevents the reduction in anti-muslim prejudice that could otherwise occur. This prejudice makes the building of social relationships furthermore difficult.

Finally, identification integration is also negatively affected by increasing anti-muslim prejudice as well as feelings of exclusion and rejection potentially caused by headscarf bans. The extent of representation that Muslim women have in the creation and implementation of headscarf bans, affects how well they consider themselves and their interests represented in society overall. It gives a clear picture of substantive representation in particular. A headscarf ban is generally not considered by Muslim women to be in their interest. This lack of substantive representation perceived at the implementation of a headscarf ban also draws attention to a lack of representation in other dimensions. Considering oneself underrepresented makes emotional connectivity to society more difficult.

4. Methods and Research Design

Since previous studies on the effects of headscarf bans are lacking, this research is exploratory. It aims to gain a new picture of underlying mechanisms and effects and explain them (Rich, et al. 2018, 69). A consequence of this is that this research focuses on determining effects and establishing explanations for them rather than quantitatively proving them. This bachelor thesis studies the effects of headscarf bans as fully as possible, in the political and economic context in which they occur while taking the

individual experiences and choices of Muslim women into account. Therefore, it is much more suited for a qualitative research design. As is common for qualitative research projects, the conceptual understanding displayed in the analysis was developed throughout this research (Rich, et al. 2018, 75-76). As partial effects were discovered, appropriate theories to explain them were determined and integrated into the theoretical framework.

In line with the qualitative nature of this research, the data collected prioritises depth over breadth (Rich, et al. 2018, 8). This is why in addition to secondary research „Elite interviews“ are conducted (Rich, et al. 2018, 320-328). They present an excellent way of examining mechanisms in much more detail compared to data collection methods like surveys. Their primary aim is to bring processes that are not sufficiently covered by academic literature to light. Three individuals who work with Muslim women and have professional experience with conflicts around headscarves in the labour market are interviewed. These particular interviewees were chosen based on the depth of their experience and immersion in the area of Muslim women's integration and conflicts surrounding their headscarves. The interviews are thorough, leading to a significantly increased understanding of the situation, even with fewer observations. To gain as many additional insights as possible, only some leading questions are prepared and the interview is conducted semi-structured. The leading questions and potential follow-up questions can be found in the Appendix. Interviews are conducted anonymously to encourage honest answers which are not adjusted to be in line with their organisation's position. All interviews were conducted over phone or video call in June and July of this year. Each interviewee gave their consent to the use of their answers and to the degree of anonymity in the following description.

The first two interviewees wear headscarves themselves and work in organisations that act as informal representative institutions for Muslim women and provide advice and training. The first interviewee founded and leads her organisation. The second is a project manager in the area of inter-religious dialogue focusing on discrimination against Muslims. They both provide a direct contact point for Muslim women and have acted as representatives in contact with politicians. These first two interviewees make valuable contributions to the understanding of the real-life experiences of Muslim women in different areas of life. Their engagement as informal representatives also makes them valuable sources of information about the power dynamics between institutions. To provide a differing point of view and counteract bias, the third interview was conducted with a non-Muslim government employee. She works for a municipality and provides social counselling to migrants, most of which are Muslim, intending to aid their integration. She is in direct contact with affected Muslim women and provides in-depth knowledge of possible courses of action in case of conflicts regarding headscarves in particular in employment.

In addition to the interviews, several governmental outlets are used as sources of information as they are direct and reliable. Since German laws demand transparency from its government, this information is publicly accessible, most of the time through governmental online channels or upon request. The Federal Agency for Civic Education¹ provides explanations of Germany's judicial system as well as overviews of high-publicity court cases regarding headscarves. Similarly, the official website of the European Union provides explanations of their institutions, for instance, the European Court of Justice (European Union n.d.). Labour courts as well as the Federal Constitutional Court² also provide explanations of their workings. The courts themselves also publish press briefings in which they describe and explain their ruling, for instance, the EuCJ's 2017 ruling allowing internal headscarf bans (Court of Justice of the European Union 2017). Laws are also accessible through the website of the federal parliament³

¹ Bundeszentrale für Politische Bildung

² Bundesverfassungsgericht

³ Bundestag

(Deutscher Bundestag 2020). The data gathered through these channels is mainly used to establish the legal framework but is also used to develop an understanding of the workings of relevant institutions.

Further secondary research is conducted using newspaper articles and existing academic literature. The newspapers provide further information about court cases and the social context in which they occur. Additionally, they are used to gain an impression about the debates and societal attitudes towards headscarves and Muslim women in the context of headscarf bans. Academic articles are utilised for several purposes. They offer a source of information about potential mechanisms and theories to explain them. They are also an important aspect of the analysis of the legal framework. The discussions on the values and contradictions of the relevant laws help gain an understanding of the relationships between laws and their implications for real-life situations. The analysis of relevant institutions also benefits from the use of academic articles since they provide valuable further insights into the workings of minority representation.

5. Analysis

With this fundamental information now established the analysis can begin. Each section follows a sub-question of the overarching research question. The first section builds the legal framework. The relevant laws and principles are explained and their conflicts discussed. The second section is dedicated to the institutions and power dynamics at play. It analyses the creation and implementation of headscarf bans as well as the reactions of Muslim women in the previously established legal framework. The final section will explore the different effects of headscarf bans. This includes not only the effects of the found power dynamics but also the effects of the implementation of headscarf bans on employment and wider society.

5.1. What Are the Laws Affecting Headscarf Bans?

To thoroughly analyse the effects of headscarves the framework in which they come to be must be understood. This legal framework is the context in which institutions decide over headscarf bans. As such, it provides a crucial building stone for their later analysis. For this reason, this section will lay out the laws which affect headscarf bans. The domains as well as their actors, relevant laws and conflicts are summarized in Figure 1. Firstly, the relevant civil rights outlined in the German constitution and their implications will be discussed since they play a significant role in all following laws. In regards to implementing or debating headscarves, there are three different overall legal scenarios or domains. All workplaces and employers fall into one of those domains. The first domain encompasses all public offices. Due to the principle of neutrality of the state, a specific conflict arises here. The second domain involves all religious communities. They take a special place in the German legal system since they have a right to self-determination. The third domain encompasses situations in which private citizens are implementing bans in their companies. This involves all workplaces which are not part of the state or a religious organisation. To understand these situations the General Equal Treatment Act, which is the primary law addressing them, will be analysed. Finally, the conflicts arising from contrary laws will be discussed as well as finishing remarks on the legal situation given.

Domains	Affected actors	Laws and Principles prohibiting bans	Laws and Principles supporting bans
Public office	Public employers (e.g. schools) and (potential) employees	The Basic Law (§ 4 “Freedom of faith and conscience”; § 3 “Equality before the law”; § 33 Abs. 3 “Equal citizenship and public service”)	The neutrality of the State
Religious organisations	Religious community employers and (potential) employees	The Basic Law (§ 4 “Freedom of faith and conscience”, § 3 “Equality before the law”)	The right to self-determination of religious communities
Private companies	All employers who are not part of the state or a religious community and (potential) employees	The Basic Law (§ 4 “Freedom of faith and conscience”, § 3 “Equality before the law”) The General Equal Treatment Act (AGG)	Only in particular exceptions: The General Equal Treatment Act (AGG)

Figure 1: The Legal Situation in the Three Domains

5.1.1. The Basic Law (“Grundgesetz”)

The Basic Law, Germany’s constitution, outlines the fundamental structure and essential values of the state and governs its interactions with its people (Deutscher Bundestag 2020). It guarantees a number of basic rights which the state is obligated to respect and protect. Overall, these rights can be divided into human rights, which everyone is entitled to, and civil rights, which only German citizens are entitled to. While this may cause controversy in individual cases involving a headscarf-wearing non-citizen, general headscarf bans are aimed towards all headscarf-wearing women independent of their nationality. Therefore, decision-makers must take not only human rights but also civil rights into account. The basic rights are held in high esteem and while they may be restricted by additional laws, their essence may not be infringed upon (Federal Agency for Civic Education 2009).

The most noticeably relevant human right, freedom of faith and conscience, is outlined in Article 4 of the Basic Law. It guarantees everyone the right to not only have their own faith and religion but also to practise it undisturbed. While the argument has been made that wearing a headscarf is not a mandatory part of Islam, the freedom to wear it as an expression of religion falls under the freedom to practise (Sacksofsky 2018). Unrestricted, this article, therefore, ensures women in Germany the right to wear a headscarf.

Article 3 defines the principle of equality before the law. It asserts that nobody may be advantaged or disadvantaged based on several attributes including gender and religion. This article must be mentioned in this context since the argument can be made that headscarf bans lead to a disadvantage based on the female gender and belonging to the religion of Islam. However, this argument tends to be overshadowed by Article 4. It addresses the issue of religion and its treatment which is raised by headscarf bans more directly. For this reason, Article 4 plays a more dominant role in deciding the legitimacy of headscarf bans, as demonstrated in the explanation of the ruling of the Federal Constitutional Court from 2018 which states it as the first consideration (Verfassungsbeschwerde 2020).

The final aspect of the Basic Law which should be pointed out is detailed in Article 33 Paragraph 3. It concerns equal citizenship and public service. In essence, in regards to headscarf bans, it states that people cannot be excluded from working in a public office based on their religious denomination. While this can be used as a strong argument against headscarf bans for civil servants, it is also understood as part of the principle of neutrality of the state (Dreier 2019). This principle has an opposite effect and will be discussed in the following sub-section.

5.1.2. The Neutrality of the State (“Neutralitätsgebot”)

The principle of the ideological-religious neutrality of the state is the reason why the legal discussion around headscarf bans in public offices differs from the private sector. The core of the principle is that the state, and subsequently the employees through which the state acts, must be completely neutral (Wissenschaftliche Dienste 2010). This is interpreted as public employees having to refrain from, firstly, treating others differently due to attributes like their religion and, secondly, showing affiliation with a particular group. One such show of affiliation would be the wearing of religious symbols. Affected by this principle are a large variety of occupations, for instance, the particularly debated teachers but also positions like those in government, judiciary or police.

This principle of neutrality is not dictated in one specific law but is rather simultaneously a part and a conclusion of several Articles of the Basic Law. The previously discussed Articles 3, 4 and 33 are part of them but other relevant laws also contribute to the principle (Dreier 2019). Combined, the included laws address and prohibit unequal treatment due to religious affiliation.

There is much debate as to whether or how neutrality can be achieved. Especially contentious is the question of how the neutrality of the state and the freedom of religion of its employees can be reconciled. This has led to several different states implementing laws applying to civil servants based on the principle of neutrality to clarify the legal situation. Due to the ambiguity of the principle and the trade-off between values on which the laws are based, they are universally controversial and continuously debated. A prominent example of this is the Berlin Neutrality Law⁴. Just last year, the Federal Constitutional Court ruled that its part which prohibits teachers from wearing headscarves is unconstitutional. Now politicians once again debate possible amendments (Fröhlich 2021).

5.1.3. The Right to Self-determination of Religious Communities

The legal situation in churches and organisations with a religious affiliation is a particular one. Article 140 of the Basic Law ensures religious communities the right to self-determination. Religious organisations have made use of this right to implement regulations that detail how far an applicant or employee must be affiliated with their religious community. Simplified, one could say that churches often name a Christian denomination as a requirement (Office for the Implementation of Equal Treatment 2021). Courts are divided regarding how the trade-off between the religious communities’ right to self-determination and the employees’ freedom of religion should fall. Additionally, the concern has been voiced that heavier weight is given to Christian churches’ right than to Islamic mosque communities’ (Walter 2019). It must also be noted that requirements can be set for all positions in religiously-lead organisations based on this right of self-determinations. This includes occupations for

⁴ Berliner Neutralitätsgesetz

which the relevance of religious orientation is disputed. A nursing position in a hospital under Christian sponsorship is an example (Müller 2016).

Due to the exemplary nature of employment in a religious organisation, this scenario had to be examined. However, it does not relate to an actual headscarf ban. This is because regulations in this area explicitly refer to religious denomination and not expression. Since the debate concerns the question of whether Muslim women can work in these organisations at all, the question of whether they would be allowed to express their religion if employed is not prominent.

5.1.4. General Equal Treatment Act (“Allgemeines Gleichbehandlungsgesetz“ AGG)

The General Equal Treatment Act regulates, firstly, the relationship between private citizens and, secondly, prohibits discrimination between them. It is the main law which directly applies to situations where women are prohibited to wear headscarves in the workplace. When courts decide over the legitimacy of headscarf bans, this Act is usually the first law cited to argue against them. Its main focus lies on preventing discrimination by employers but it also addresses other groups which play a role in the workplace, like customers and colleagues (Müller 2016).

The law does include one deciding passage that notes when an exception in equal treatment can be made in the private sector. Paragraph 8 describes that treatment may only differ if the characteristic which is discussed is a determining professional requirement (Federal Anti-Discrimination Agency 2019). This might for instance be health- and safety regulations that cannot be fulfilled while wearing a headscarf. Motivations like wanting to present a certain cultural image to customers do not fall into this clause (Müller 2016). Therefore, the effect of the General Equal Treatment Act concerning headscarf bans is that private employers cannot implement restrictions unless they can argue that headscarves imply a professional requirement.

5.1.5. Conflicts and Remarks

After analysing the previously named laws and principles it can be summarized that there are three different legal scenarios in which headscarf bans in the workplace can happen. In religiously-lead organisations, the situation is disputed but requirements regarding religion can be set due to religious communities' principle of self-determination. In the private sector, the rights guaranteed by the Basic Law in combination with the General Equal Treatment Act prohibits employers from implementing headscarf bans or discriminating against Muslim women in the hiring process. This is the case even though employers are often not aware that they cannot implement a ban if headscarves do not affect a professional requirement. The most controversial and debated scenario occurs for work in the public sector. Here, the individual rights to religion, equality and access to work in a public office contrast with the principle of the neutrality of the state.

This conflict has led to several opposing and differing court rulings and laws. General headscarf bans without any restrictions, for instance in terms of location, cannot be implemented constitutionally due to their conflict with existing basic rights. They can however be implemented for public offices through the introduction of specific laws based on the neutrality of the state. As a result, states have introduced a number of different laws which imply varying legal situations in most states. Additionally, since interpretations of the Basic Law vary, courts have reached conflicting rulings. In early 2020, the Federal Constitutional Court ruled against a junior lawyer in Hessen, who was prohibited from wearing her headscarf in the workplace (Verfassungsbeschwerde 2020). The court argued that the neutrality of the

state also applies to members of the judiciary and overrules the freedom of religion and its practice. Just a few months later, the Federal Labour Court ruled in favour of a Muslim teacher in Berlin who was rejected for wearing a headscarf. It stated that a ban for teachers would be unconstitutional unless said headscarf-wearing presented an actual threat to the school peace or neutrality of the state (Memarnia 2020).

A problem that has to also be mentioned is the unequal effect that restrictions of expression have on different religions. Compared to other religions, Christianity barely includes the wearing of religious symbols or significant rituals which affect the workplace. Islam dictates much stricter and more visible expressions of religion (Sacksofsky 2018). Laws that are presented as fair due to their restriction of expression of any religion, do in fact affect Muslim women much stronger than the Christian majority.

5.2. Which Institutions have Power Over Headscarf Bans?

After establishing the legal framework, this bachelor thesis will now analyse the involved institutions and answer the question of which ones decide over headscarf bans. The focus lies on understanding the power dynamics at play. This section aims in particular at determining the power Muslim women have, either through their political representation or as individuals. The effects of the determined power dynamics will then be discussed under the third sub-question. A distinction is again made between two domains, private and public. The reason that the religious domain is not closer analysed from here on is that headscarf bans in this domain do not have a significant effect to justify closer analysis. This is due to the combination of relatively few religious employers and few headscarf-wearing Muslims interested in working for them regardless of potential bans. Therefore, the analysis will focus on the public and private domains.

Firstly, the actors creating and implementing headscarf bans will be analysed. Particular attention will be paid to the political representation of Muslim women in the policy-making process. Secondly, an analysis of advisory centres and the courts that can rule on the legitimacy and subsequently continuance of headscarf bans will follow. In doing so, labour courts at the state and federal level, the Federal Constitutional Court and the European Court of Justice will be analysed. Most importantly, in this step, the different actions which Muslim women affected by a headscarf ban can take will be analysed. Their options as individuals will be examined. This aspect is central to understanding their power. This section will not only give insights into which actors are involved in the implementation and perpetuation of headscarf bans but also how much and what kind of power they hold in the issue.

Domains	Actors creating and implementing bans	Possible actions for affected Muslim women
Public office	<ul style="list-style-type: none"> ○ Federal and state governments ○ Informal representatives ○ Public employers 	<ul style="list-style-type: none"> ○ Advisory centres ○ Legal action at the Labour courts ○ Constitutional complaint at Federal Constitutional Court ○ Legal action at European Court of Justice
Private companies	<ul style="list-style-type: none"> ○ Private employers 	<ul style="list-style-type: none"> ○ Advisory centres ○ Legal action at the Labour courts ○ Legal action at European Court of Justice

Figure 2: Institutions Involved in Headscarf Bans

5.2.1. Creation and Implementation

Headscarf bans are first and foremost created by governments. They are then implemented by employers. A clear distinction must be drawn between bans in the public and private domain. As was discussed in the previous section on the legal framework, the Basic Law and the General Equal Treatment act restrict private individuals, including employers. They are prohibited from treating other private individuals differently based on their religion and expression thereof. In the private domain, this is not counteracted by the neutrality of the state. The result is that any bans created by governments only apply to positions in public offices. Any bans in the private domain are not formally legitimised by governments. Governments and informal representatives who partake in creating bans are, therefore, not considered as actors in the private domain. The distribution of actors in the two domains is visualised in Figure 2.

Headscarf bans for public offices can be created by both federal and state governments. While most bans so far have been created at the state level, a recent federal law about the appearance of civil servants is speculated to open the doors for federal headscarf bans (Dernbach 2021). There are different procedures and institutions at play when distinguishing between federal and state bans which will, however, not be specified closer in this paper. While a step-by-step analysis of the policy-making process involved could certainly be interesting, it would exceed the scope of this paper without offering sufficiently large additional insights. Instead, the focus will lie on the levels of representation Muslim women have in the institutions involved. Therefore, the institutions involved, which are elected governmental bodies like the federal parliament, will be summed up as formal representative institutions. This categorisation can be made since there are few significant differences in Muslim women representation between those bodies (Jenichen 2018). Representatives outside of the formal elected system like NGOs will be referred to as informal representative institutions. This distinction is based on Pitkin's dimension of formal representation, which includes the mode of authorization.

Formal representative institutions are the ones deciding on and creating headscarf bans. While informal representative institutions can influence them, formal institutions have no legal obligation to follow their advice. Relatively few Muslim women are part of formal representative institutions in Germany. Six women and three men of the 709 members of the current federal parliament are Muslim. The resulting share of 1.3% is significantly lower than the 5.4-5.6% share of the German population that is Muslim (Jenichen 2018). This means that there is little descriptive representation in formal institutions for Muslims in general. This is even more so a problem for headscarf-wearing Muslims. It is very rare for them to see a politician running for office that shares that characteristic with them (Interviewee 1). Descriptive representation is crucial for minority groups that are faced with mistrust by the majority (Donovan 2007). Given Anti-Muslim sentiments, especially regarding the wearing of headscarves, experienced by Muslim women in virtually all areas of public life, they certainly fall into this category (Interviewees 1 and 2). Having their religion and its expression in common counteracts mistrust and improves communication between representatives and their constituents (Donovan 2007). This way, descriptive representation also strengthens symbolic representation. The reduced mistrust and improved communication encourage acceptance by those represented.

When discussing the creation of a headscarf ban or laws opening the doors to them, the type of representation primarily brought into focus is substantive representation. While it is problematic to make generalisations across the entire group, the overall consensus among Muslim women seems to be that headscarf bans are not in their interest (Interviewees 1 and 2). Headscarf bans are policies that very directly target Muslim women. Even if they are worded as prohibitions of all visible religious symbols, it is clear which group will be most affected in reality. This focus as well as the much lower support of bans by the Muslim women themselves gives them the strong impression that formal representatives are

not acting in their interest. This in turn draws additional attention to the lack of descriptive representation as female Muslim politicians are expected to work against such bans (Donovan 2007).

In comparison to formal representative institutions, informal representative institutions have much less influence on headscarf bans but much higher levels of representation. Since these organisations do not have official English names a content translation is provided in the footnotes. An example of such an informal representative institution is the Koordinationsrat der Muslime⁵. It was founded by several large umbrella associations to form a uniform point of contact for media and political matters (Pfündel, Stichs and Tanis 2021). These umbrella associations are themselves of various natures but generally represent mosque communities and cultural centres. A majority of mosque communities are in this way represented by the Koordinationsrat der Muslime (Koordinationsrat der Muslime 2020). It derives its authority from its numerous members' indirect support by being part of one of its mosque communities. Other even more self-authorized institutions are non-profit associations that work closely with Muslim women intending to help their social and economic position, in part by representing their interests. They are found all over Germany and vary in size and focus with examples including Aktionsbündnis Muslimischer Frauen⁶, Begegnungs- und Fortbildungszentrum Muslimischer Frauen⁷ and Kompetenzzentrum Muslimischer Frauen⁸.

Informal representative institutions influence policy decisions of formal institutions through several channels and contact points. Prominent is the Deutsche Islam Konferenz⁹ which facilitates dialogue between members of both types of institutions. Due to a large number of informal representatives present and the explicit support of the German state the results of this conference are given much weight (Interviewee 1). Informal organisations also issue independent statements on issues like headscarf bans or are engaged in projects or expert committees discussing them. Interviewees who are part of informal representative institutions state that there is a significant amount of contact between organisations like their own and formal politicians (Interviewees 1 and 2).

Members of informal representative institutions tend to be Muslims themselves or are very closely connected to Muslim communities. Especially in organizations focused on helping and representing Muslim women, many of the members are themselves female and wear headscarves. This leads to high levels of descriptive and symbolic representation. These types of representation, in addition to the close contact and high level of communication that informal representatives have, makes high levels of substantive representation likely. Even though they are lacking in the dimension of formal representation, overall these informal representative institutions are much more representative of Muslim women compared to formal institutions. With channels of communication already established, they would, therefore, present an opportunity for formal institutions to supplement the political representation of Muslim women in their policy-making process. In reality, this does not appear to be the case. Even though communication is present, informal representatives do not have the impression that their input is considered significant in decisions made about headscarf bans. They face the contradiction of, on the one hand, advancing integration and communication, and on the other hand, increasing policy decisions which they consider setbacks for integration and against their own interest (Interviewees 1 and 2). This disregard of their voices even after being heard only adds to Muslim women's perception of being underrepresented.

⁵ "Coordinating Council of Muslims in Germany": <http://koordinationsrat.de/>

⁶ "Action Alliance of Muslim Women": <https://muslimische-frauen.de/>

⁷ "Meeting and Training Centre of Muslim Women": <https://bfmf-koeln.de/>

⁸ "Competence Centre of Muslim Women": <https://kmf-zentrum.de/index.html>

⁹ "German Islam Conference": https://www.deutsche-islam-konferenz.de/DE/Startseite/startseite_node.html

5.2.2. *Courts and Possible Actions for Individual Muslim Women*

Once headscarf bans are created and implemented Muslim women have to decide how to react to them. If they decide to still seek employment in a place with a ban there are several courses of action they can take. Broadly spoken, they can either seek the support of an advisory centre or take legal action through a court. The former sometimes also leads to the latter.

The term “advisory centre” is used as an umbrella for a variety of institutions. Some governmental institutions offer advice and support in areas affected by headscarf bans. For instance, municipalities offer social counselling. While this can imply a wide assortment of areas, there are many specialised offices that focus on relevant fields. Relevant offices include those focused on migrants or integration. The Federal Anti-Discrimination Agency offers similar support while focusing more on the discriminatory aspect of the situation. There are also a large number of non-governmental organisations which offer support in disputes. An example is “Mira - Mit Recht bei der Arbeit”¹⁰ which offers legal advice regarding the labour market to migrants. The previously discussed informal representative institutions often also provide help to individuals. Organisations such as these, both governmental and non-governmental, often offer to mediate between employers and employees. They typically have more knowledge about the legal situation and can prevent some disputes from escalating to court cases. If this fails, often organisations provide support during legal proceedings to the affected women. It is quite common that seeking the support of advisory centres leads to compromises and agreements directly (Interviewee 3). These types of agreements often consist of Muslim women working in less visible positions or employers being more lenient in their regulations.

The types of legal actions which can be taken vary slightly depending on the domain. The most significant difference is that the Federal Constitutional Court can only be involved if a woman seeks to confront a branch of government and not an immediate employer. Therefore, it is considered to operate in the public domain. The second major difference is the arguments used in court cases. Because, as previously discussed, the laws differ between domains, the requirements for judgements also do. To have a court rule against a headscarf ban it must be determined that this ban violates the law. “The law” can refer to any part of the legal framework previously discussed. Its opposing principles and vague explanations of exceptions make it difficult to predict court rulings even in lengthy analyses. In different cases, different principles have been prioritised leading to uncertainty in any ruling about headscarf bans. Due to the scope of this paper, this aspect will not be further explored.

Headscarf bans in workplaces fall into the jurisdiction of the labour courts which handle disputes between employers and employees. This includes private employers as well as employers in public offices. If a Muslim woman affected by a headscarf ban wants to take legal action, her starting point is a first-instance labour court¹¹. This court then judges whether the ban violates the law. If it rules against the affected Muslim women, she has the option of filing an appeal with a state labour court¹². If this state court comes to the same decision, the next step would be to appeal with the Federal Labour Court¹³. However, this is only possible if the previous court ruling explicitly allows it or if it contradicts previous fundamental court rulings (Bundesarbeitsgericht 2021). This course of action was chosen last year by a Muslim teacher whose application was rejected due to her headscarf. The woman was found to be in the right by the Federal Labour Court (Kopftuchverbot 2020).

¹⁰ “Mira – With rights at work”: <https://mira-beratung.de/>

¹¹ Arbeitsgericht

¹² Landesarbeitsgericht

¹³ Bundesarbeitsgericht

A further option is to take legal action at the European Court of Justice. Its role is to ensure that EU law is implemented equally in all EU member states. This means that anybody who has been harmed by an EU institution or its employees can lodge a complaint (European Union n.d.). While at first glance this seems to only include bans in public offices, the private domain can also be judged. EU member states have the responsibility of protecting fundamental rights and must, therefore, prevent bans that harm these rights. For this reason, a receptionist at a private company was able to present her case by arguing based on a violation of the principle of equal justice (European Union n.d.).

Once all other legal actions have been taken, affected women can lodge a constitutional complaint at the Federal Constitutional Court¹⁴. The purpose of such a complaint is to assert an individual's civil rights vis-à-vis the state. The court only investigates if a specific constitutional law has been violated. The complaint can be lodged by individuals free of charge under the condition that their civil rights are directly affected. A constitutional complaint can be targeted at each branch of government: legislative, executive and judicial (Bundesverfassungsgericht 2021). This means that not just the formal representative institutions which created the bans but also the previous courts which upheld them can be attacked. A constitutional complaint was recently lodged by a Muslim trainee attorney about a headscarf ban at her workplace and was rejected by the court (Verfassungsbeschwerde 2020).

Therefore, there are quite a few courses of action that Muslim women affected by headscarf bans can take should they chose to confront them. Advisory centres offer a good way of solving problems directly and quickly. Since they are not involved in creating bans they cannot be considered politically representative. However, they do support individual Muslim women and increase their power in negotiations with employers. This support helps Muslim women feel heard by German society. Since some of the organisations are governmental, it may even help increase trust in the government. Solving problems through advisory centres also helps to avoid a potentially long and uncertain trial. It is quite possible to overturn headscarf bans by going to court but it is in no way guaranteed. Varying judgements, some in favour of bans, some against them, some prioritising one principle, some another, send mixed messages to Muslim women. They bring confusion and potentially mistrust for the justice system. However, the courts are not elected and are meant to be neutral. For this reason, it is difficult to derive conclusions about representation and power from them. Their role is only to uphold or overturn bans based on laws created by formal representative institutions. Therefore, mistrust caused by confusing or contradictory laws can be attributed, at least in part, to these institutions. But even with these shortcomings, the courses of action available to Muslim women do increase their power concerning headscarf bans.

5.3. Which Types of Effects Are Caused by a Headscarf Ban?

This section contains an analysis of the types of effects caused by headscarf bans and the mechanisms behind them. Figure 3 provides an overview. The section opens with a discussion of the consequences of the power dynamics determined previously. Secondly, the signal effect of headscarf bans will be closely examined. Thirdly, this research will determine the effect on employment by using the theory of taste-based discrimination. Finally, the remaining connections visualised in Figure 3 will be explained.

¹⁴ Bundesverfassungsgericht

The starting point will be the discovered immediate effects. Here, Allport's contact hypotheses will aid in explaining the effects of the found changes in employment.

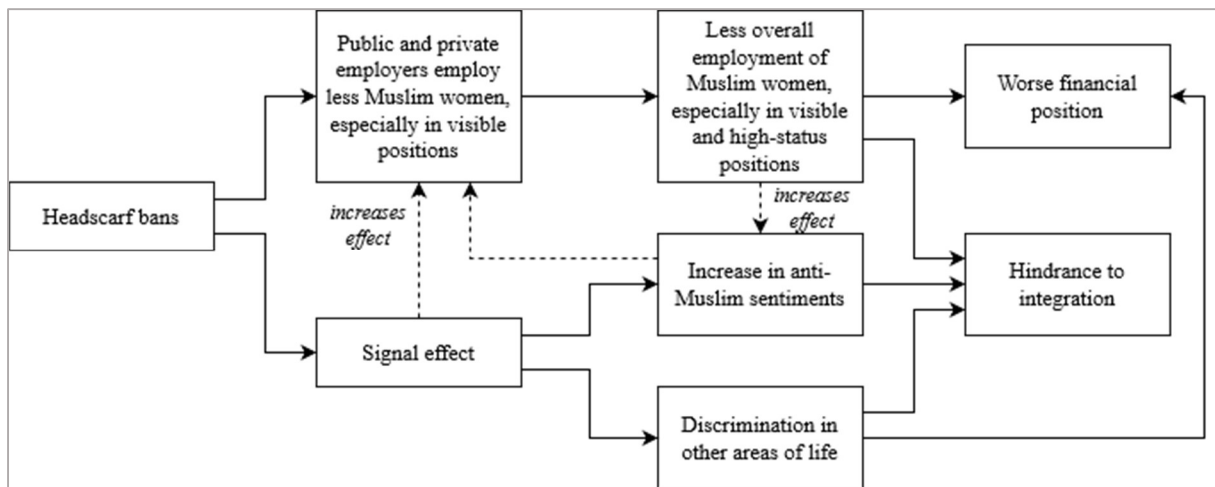


Figure 3: Wider Effects of Headscarf Bans

5.3.1. Effect of Institutions and Power Dynamics

Power dynamics surrounding headscarf bans play a significant role in Muslim women's integration. Descriptive, symbolic and substantive representation in formal representative institutions could increase Muslims' trust in them. It would also symbolise their acceptance by overall society and cause Muslims to feel more connected (Donovan 2007). This would be a significant advancement in identificational integration which is based on this emotional connectivity. Substantive representation in particular would lead to the implementation of policies that are beneficial to Muslim women. Given that the aim of policies targeting Muslim women is often to improve their integration, this can be expected to improve cognitive, structural and social integration as well. However, this representation is lacking and this chance is missed. Instead, the lack is perceived by Muslim women and functions in the opposite direction, decreasing emotional connectivity and hindering identificational integration (Interviewee 1). This lack and its effects are additionally strengthened due to the disregard of input from informal representative institutions. As a potential additional source of representation, their deliberate exclusion from actual decisions on headscarf bans can be perceived by Muslim women as a symbol of deliberate exclusion. This is, of course, detrimental to their identificational integration.

Advisory centres and several responsible courts increase the power of individual affected Muslim women significantly. This comes into effect in instances where a Muslim woman wants to work in a place that already has a headscarf ban. Their support makes it more likely for this endeavour to be successful and increases the employment of Muslim women. This can happen either by preventing their dismissal or rejection in the application process. The employment of these Muslim women improves their structural integration. However, it has to be pointed out that this employment can vary in type. Compromises reached through the help of advisory centres can often result in Muslim women being employed but only in less visible positions. These less prominent and less high-status positions reduce the positive effect on their structural integration. Additionally, the reduction in contact with non-Muslims through work caused by this change in employment hinders the social integration of all Muslim women.

5.3.2. *Signal Effect*

Policies such as headscarf bans, created by formal representative institutions, set social standards. They are quickly perceived as expressions of what is wanted or expected in the overall society. Since the formal representative institutions claim their legitimacy through elections, their decisions could be seen by some as representative of the general attitudes of the population. This is the message conveyed to and received by many members of society, independent of whether it is, in reality, the truth or not (Interviewees 1 and 2). The following mechanisms have been observed by both interviewees working in informal representative institutions (Interviewees 1 and 2). They draw their insights from their own experiences as headscarf-wearing Muslims, reports by a large amount of other headscarf-wearing women and their work as representatives in the political sphere. Headscarf bans convey signals about both the Muslim religion, which is the reason behind headscarves, and how they should be treated.

Headscarves are a clear expression of Islam. Banning them sends the message that there is something negative about this religion. There are a large number of pre-existing prejudices about the religion and its members that citizens may consider being confirmed by this. Bans strengthen these prejudices and negative sentiments by signalling that the government does not support this particular religion. The second message sent is that independent of attitudes towards Islam it should not be visibly expressed. This indication gives additional weight to the negative message about Islam. Therefore, one of the effects is an increase in Anti-Muslim sentiment in the population.

Additionally, it is important to realise that not just the areas which the ban originally targets are affected by this. Social acceptance or even expectation of headscarf bans are also signalled to private employers, affecting their actions, which will be closer discussed in the next section. But also other areas of life, for instance, the treatment of Muslims in public places or applications for apartments, are affected. Anti-Muslim sentiment and the social preference against the wearing of headscarves affect the way headscarf-wearing women are treated in many instances. For instance, it is a large reported issue for headscarf-wearing women to be confronted and lectured about the negative moral aspects of their religion and its expression at any point. Strangers approach them this way in any place, like terraces or public transport, and present an everyday problem for Muslim women (Interviewee 1). The perceived governmental approval of treating women differently based on their headscarves also can be applied in areas like apartment hunting. It is not unexpected for Muslim women to find an apartment but be rejected at the last moment when coming to the viewing wearing a headscarf (Interviewee 2). This may force them to settle for less favourable living arrangements. Discrimination such as these can leave Muslim women in a worse financial position.

Additionally, experiencing the increase in anti-Muslim sentiment and being treated differently in several areas of life affects the integration of Muslim women negatively. Being treated as significantly different from the rest of society and in a clearly negative way is detrimental to feeling emotionally connected to that society. It also makes it more difficult to develop social relations with people outside of the Muslim community. This is reinforced by discriminatory behaviour which prevents contact between Muslims and other members of society. Some women also deliberately avoid contact in which they may experience discrimination. The exact effects of reduced contact will be explained later in this analysis. The hindrance of the development of emotional connectivity and social relations negatively affects the integration of headscarf-wearing Muslim women.

5.3.3. Direct Effect on Employment

The most immediate effect that headscarf bans have is on the women already working or looking for employment in positions that implement bans. A distinction is here drawn again between the public and the private domain. The reason for this step is the different sources of headscarf bans in the domains. When formal representative institutions issue a headscarf ban for a public profession, it is simply implemented by public employers in this field. Here, only the effect of this implementation must be discussed. Since headscarf bans by the government are not targeted at private employers their decision to implement a ban is more complex and must be examined closer. The processes in both domains are illustrated in Figure 4.

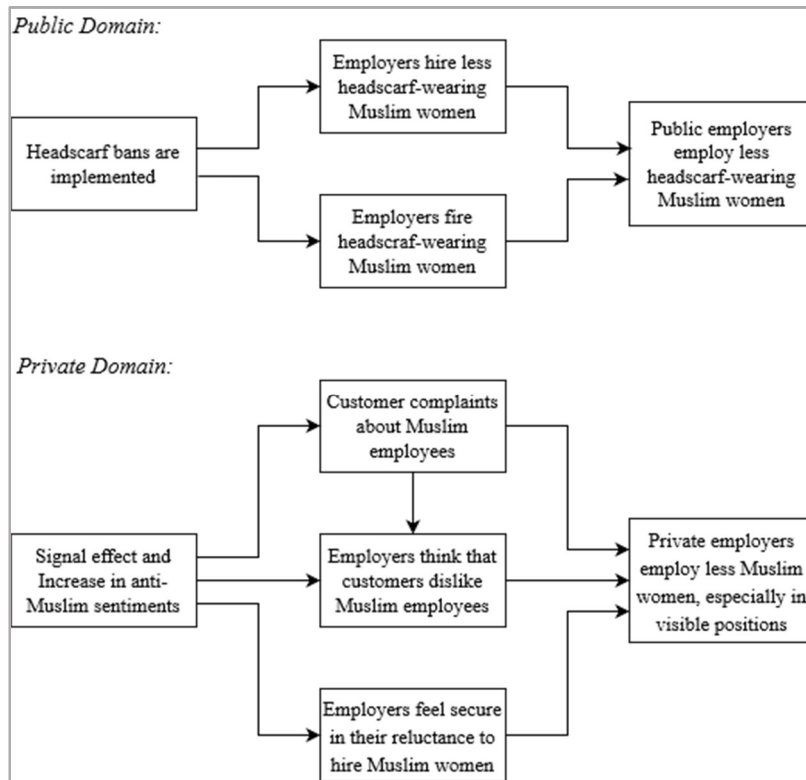


Figure 4: Direct Effect of Headscarf Bans on Employment

The direct consequence of headscarf bans being implemented in the public domain is twofold. Firstly, the application process is affected. Headscarf-wearing Muslim women are much less likely to gain employment in the affected positions. Due to the ban, headscarves become a legitimate reason to deny employment and, therefore, increase the likelihood of rejection in the application phase. Compromises reached through negotiations, perhaps assisted by an advisory centre, often involve hiring headscarf-wearing women in less visible positions (Interviewee 3). Secondly, headscarf-wearing women who are already employed are faced with the threat of being fired. Alternatively, some may be moved internally to a less visible position but the uncertainty remains. If employers implement strict headscarf bans, Muslim women have to decide between not working in the affected positions or removing their headscarves at work. Both reactions are common (Interviewee 1). This means that even if some women choose to remove their headscarves, the employment of a significant number of Muslim women is affected. All of this results in a lot fewer Muslim women being employed in public office positions. This effect is especially strong in visible positions.

In the private domain, the signal effect of headscarf bans by the government and increasing anti-Muslim sentiment in society affects employment through two main actors: Employers and customers. The acceptance or expectation of headscarf bans in workplaces as well as increasing anti-Muslim sentiment may cause customers to dislike headscarf-wearing employees. In terms of the taste-based discrimination theory, the use of their services brings these customers an additional psychological cost. They may develop a less favourable view of the company or organisation and be less ready to use their services. This development is visible in the increasing number of customer complaints about headscarf-wearing women in visible positions like receptionists (Interviewee 1). If an employer thinks that headscarves cause significant ill will among customers, they are likely to try and avoid losing profit by not employing Muslim women in visible positions. This effect sets in whether their perception is accurate or not. They may draw their conclusions from customer complaints or their own perception of society's view of headscarf-wearing Muslims.

Employers may also choose to employ no or fewer Muslim women independent of customer attitudes. They are also affected by anti-Muslim sentiment and social standards. Through the signal effect of the government's and the courts' decisions employers with pre-existing prejudice and negative sentiments can feel justified in their reluctance to hire Muslim women. Due to their feelings towards the group, they make their employment decisions as though hiring Muslim women causes them an additional cost. As an effect of headscarf bans in the public field, they now feel more confident in their choice to avoid this cost by not hiring Muslim women on basis of their headscarves. They may even feel like they can implement official bans within their own company even though this is not legally accurate. Through both customer-based and employer-based discrimination private employers employ fewer Muslim women, in particular in visible positions. Therefore, this effect of headscarf bans occurs in both the public and the private domain.

5.3.4. Effects of Employment, Anti-Muslim Sentiments and Further Discrimination

The change in employment, increase in Anti-Muslim sentiments and discrimination in other areas of life still bring further effects leading to the two ultimate effects found. Since employers both in the public and private domain employ fewer Muslim women, the overall employment of Muslim women is reduced. Those women who are employed are less likely to be working in visible positions. This also implies that fewer Muslim women are employed in positions that carry a high occupational status. The power and prestige implied by a high status tend to necessitate certain visibility. High-ranking employees of organisations and companies are quite visible. Positions which have a role model function, like teachers, are even more visible. Most conflicts about headscarves arise about positions that are either high-status and high-ranking or highly visible or both (Interviewees 1 and 2). A direct effect of fewer Muslim women being employed in such positions is that their overall financial position is worse (Stichs and Müssig 2013). If they are not employed at all they lack a crucial income source. Employed Muslim women can expect overall lower pay. While hourly wages cannot necessarily be derived from the visibility of a position, occupational status plays a clear role. High-ranking positions in companies tend to come with higher pay. Positions with low status, like cleaners, tend to come with low pay. Therefore, headscarf bans lead to an overall reduced income of Muslim women, bringing them into a worse financial situation.

Less Muslim women being employed, especially in visible and high-status positions, also affects overall anti-Muslim sentiments and integration of Muslim women. One way in which anti-Muslim sentiments are affected is through one specific prejudice. It implies an image of Muslim women as cleaners or housewives instead of working in high-status positions (Interviewee 1). The change in overall

employment due to headscarf bans would cause this image to hold some more truth and seemingly confirm the negative prejudice which subsequently increases anti-Muslim sentiments.

Another way these sentiments are affected is through contact. Employment holds a lot of opportunities for contact between Muslim women and other members of society. This contact is crucial to reduce prejudices and subsequently anti-Muslim sentiments (Allport 1954; Interviewees 1 and 2). Especially visible positions hold a lot of potential for contact since they involve not only coworkers but also customers. This contact increases knowledge about Muslim women, especially headscarf-wearing ones, and disproves stereotypes. This is especially important since Muslim women experience a strong disconnect between their own reasons for wearing headscarves and their self-image compared to the view other members of society have of them (Interviewees 1 and 2). Contact through employment would be particularly effective since its effect is facilitated through the support of authorities, in this case, employers and government. Even more potent is contact with coworkers since it usually includes equal status, a common goal and inter-group cooperation. All of Allport's conditions would be met, indicating a strong effect of contact. The reduced employment especially in visible positions therefore either leads to an increase of Anti-Muslim sentiment or at the very least prevents an opportunity to reduce it. This anti-Muslim sentiment, in turn, holds back the identificational and social integration of Muslim women. The reduced contact also directly prevents many chances for forming social relations and subsequently holds back social integration.

6. Conclusion

Due to the use and integration of economic and political theories, new insights into the effects of headscarf bans have been reached. The inclusion of political science has made it possible to understand the role that the creation and the legal structures surrounding it have for the overall effects of headscarf bans. By combining insights from both disciplines two overall effects of headscarf bans on Muslim women in the German labour market have been determined: A worse financial position for Muslim women and a hindrance of their integration.

In the analysis of the legal framework, three different situations or domains have been distinguished: Public offices, religious organisations and private companies. This paper answered the question of which laws affect headscarf bans and established an overview of which ones affected which domain (see Figure 1). The findings were that the principles of freedom of religion and equality before the law work against headscarf bans in all domains. In the domain of religious organisations, these principles are counteracted by their right to self-determination. Regarding private companies, the General Equal Treatment Act becomes relevant. It generally also works against bans but justifies them in slightly vaguely defined exceptions. In public offices, the section of the Basic Law which guarantees equal citizenship and public service presents an additional hurdle to headscarf bans. However, it is offset by the principle of the neutrality of the state.

The analysis then moved to the institutions and power dynamics at play in this legal framework and answered the second subquestion (see Figure 2). Federal and state governments as well as informal representative institutions were identified as actors in the creation of headscarf bans. Public, as well as private employers, were identified as the ones implementing them. This paper found that Muslim women especially those wearing headscarves lack representation in the decision-making that results in headscarf bans. In governments, which are formal representative institutions, they lack symbolic descriptive and substantive representation. Informal representative institutions hold much higher levels of these types

of representation. However, their input is often disregarded by formal institutions and they have little influence on the creation of bans which only highlights the lack of representation in the creation process. Therefore, the ultimate power over headscarf bans lies with the formal representative institutions. The analysis further determines that there are a significant number of possible actions for headscarf-wearing Muslim women who want to still want to work in positions with bans. The help of advisory centres is promising but while it does further successful employment, it often results in compromises that may not be favourable. The variety of courts provide a feasible option to overturn bans but this path is not reliable since the courts' rulings are very unpredictable and uncertain. These choices increase the power of individual Muslim women but are not enough to compensate for the lack of representation in the policy-making formal representative institutions. Therefore, Muslim women hold relatively little power concerning headscarf bans.

The analysis in the final section of the paper has found various types of intermediate effects of headscarf bans but discovered that they all cumulate in two major ultimate effects: A worse financial position of Muslim women and a hindrance of their integration (see Figure 3). The lack of representation and power of Muslim women that headscarf bans demonstrate is found to hinder integration in all dimensions, cognitive, structural, social and identificational. The creation of headscarf bans also has a signal effect which leads to an increase in Anti-Muslim sentiment as well as discrimination in areas at which the ban was not originally targeted. This discrimination can both lead to a worse financial position of Muslim women and obstructs their integration. The signal effect and subsequent increase in anti-Muslim sentiment also facilitate and worsen the effect of headscarf bans on employment. Through taste-based discrimination, it has been found that not only public but also private employers employ fewer Muslim women, especially in visible positions (see Figure 4). This in turn leads to less overall employment of Muslim women, particularly in high-status positions. A direct effect of this is a worsening of their financial position. It also has a major negative effect on integration since employment is considered to be central to it by all sources. Employment affects all dimensions of Esser's model. The loss of contact it brings has been found to reinforce the unfavourable effect on both integration and the intermediate effect of an increase in Anti-Muslim sentiments. These sentiments themselves additionally hinder the integration of Muslim women.

Thereby, the overall research question is also answered. The effect of headscarf bans on Muslim women in the German labour market is a worse financial position for them and a hindrance to their integration. This is caused through several mechanisms and intermediate effects including less overall employment of Muslim women, especially in visible and high-status positions, an increase in anti-Muslim sentiments and discrimination in other areas of life.

These findings hold valuable information to consider when deciding for or against headscarf bans. That is the case for governments who create them and employers who implement them. The clear negative effects on both the financial situation and integration of Muslim women are especially important to consider for politicians who orientate themselves according to effects rather than philosophical arguments. Much of the legislation targeted at Muslim women aims to aid their integration in the overall German society and headscarf bans are often promoted as doing just that. These findings are societally highly relevant because they disprove this argument. This paper in particular holds the advantage that it avoids normative aspects and, therefore, cannot be as easily dismissed by headscarf ban supporters on the claim of bias.

Academically, this paper fills a gap by focusing on the effects of bans, on Muslim women, on the labour market, in the German context. This combination has not been explicitly researched before this paper. In addition, this paper opens the door to further research focused on the concrete economic effects of headscarf bans. An option to solidify and extend the analysis would be to conduct studies that include a

larger number of interviews. In the process of this research, there were significant problems with finding interviewees since those who are specialised in this field are approached for a significant number of interviews by both academics and media. Larger studies would likely carry more weight and be more successful in swaying experts to participate. The findings of this study were also restricted due to the scope of the paper. A closer analysis of the policy-making process or the rulings of courts holds the potential to further understand the power dynamics at play. The chance to draw further conclusions about their effects was, therefore, missed. Another interesting path for further research is to include other theories to determine possible other effects. Disciplinary integration with other fields also holds potential. In particular, sociology holds methods to explain the behaviour of affected actors and is, therefore, an intriguing source of understanding of mechanisms.

There are several options to extend this research and both strengthen the support for the determined mechanisms as well as find additional effects. However, this bachelor thesis has already found clear effects. Based on theories, secondary research and interviews, headscarves have been found to lead to a worse financial situation for Muslim women and a hindrance to their integration. This paper forms a good starting point for further research into this topic. But even at this level of research into the field, it provides significant food for thought for those examining and evaluating headscarf bans.

7. Bibliography

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8. Appendix: Interview Questions

Institutions and Power dynamics

What kind of influence do Muslim women or their representatives have on decisions regarding headscarves?

What are the consequences of this power dynamic?

- Emotional response?
- Feelings of exclusion?
- Effect on integration?

What are the possible courses of action Muslim women affected by headscarf bans can take?

- How likely are they to succeed?

Work environment and Anti-Muslim sentiment

How do the sentiments towards Muslim women change in an area which implements a headscarf ban?

- Effects on Muslim women already employed in the area?
- Effects on Muslim women seeking employment in the area?
- How do they change in the overall society?

What are the common reactions of Muslim women to a headscarf ban?

- Removing the headscarf?
- Not working in the area?
- Withdrawal from employment altogether?

What importance does employment have for integration?

General

Does it play a significant role in which area headscarf bans are implemented?

In your opinion, what are the effects of tensions around headscarves?

In your opinion, what are the biggest effect of headscarf bans?