



## UNITED STATES COMMISSION *on* INTERNATIONAL RELIGIOUS FREEDOM

# ISSUE UPDATE: RELIGIOUS GARB RESTRICTIONS

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### USCIRF's Mission

*To advance international freedom of religion or belief, by independently assessing and unflinchingly confronting threats to this fundamental right.*

*By Luke Wilson, Researcher*

## Religious Garb Restrictions and International Human Rights Law

### Overview

Countries around the world restrict individuals' freedom to wear garb expressing or in accordance with their religion or belief. Restrictions typically involve governments either prohibiting or mandating the wearing of religious garb. However, some restrictions also involve governments failing to protect individuals' freedom to wear religious attire in private employment settings. Examples of dressing in accordance with one's religion or belief include Muslim women wearing the hijab, Sikh men wearing the turban, Jewish men wearing the kippah, and Christians displaying the cross. One report found that 61 countries place [restrictions](#) on women's head coverings. Dress in accordance with one's religion or belief also includes individuals' freedom to choose not to wear or display religious articles.

This issue update provides a summary of international human rights law's protections for the right to freedom of religion or belief in the context of religious garb. It also examines laws from countries that restrict the freedom of individuals to wear religious garb and explains why those restrictions are inconsistent with international human rights law.

### Religious Garb under International Human Rights Law

International human rights law protects the freedom of individuals to wear attire in accordance with their religion or belief. Article 18 of the [Universal Declaration of Human Rights](#) (UDHR) protects an individual's "freedom to manifest his religion or belief" in "observance" and "practice." Similarly, Article 18(1) of the [International Covenant on Civil and Political Rights](#) (ICCPR) provides that the right to freedom of religion or belief includes the freedom, "in public or private," to manifest religion or belief in "observance" and "practice." [General Comment 22](#), the United Nations Human Rights Committee's (UNHRCtee) interpretative guidance to Article 18 of the ICCPR, provides that protections for the "observance and practice of religion or belief" include the freedom to wear "distinctive clothing or head coverings."

Article 18(3) of the ICCPR provides that any limitation on the freedom to manifest one's religion or belief, including prohibitions on wearing distinctive clothing or head coverings in public, must be "prescribed by law" and "necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others." General Comment 22 further notes that limitations may be "applied only for

those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated.” And, as the Special Rapporteur on freedom of religion or belief *notes*, “the burden of proof always falls on those who argue on behalf of restrictions, not on those who defend a right to freedom.”

## Laws Prohibiting Religious Garb in Public Spaces

Many countries have laws prohibiting individuals from wearing religious garb, including the hijab, the burqa, and the niqab, in public spaces. In Uzbekistan, Article 184 of the *Administrative Code* provides that Uzbek citizens who appear in public with religious attire are subject to a fine “five to ten times the minimum wage” or “administrative arrest for up to fifteen days.” Only government recognized ministers of religious organizations are exempted from this prohibition. In Tajikistan, the government *banned* Muslims from wearing black clothes to mourn the dead. In June 2022, Tajik police *detained a woman* for wearing a black dress to mourn her son’s death. While in their custody, police beat the woman to the point of unconsciousness.

In Austria, Article 2(1) of the *Anti-Face Covering Act* prohibits individuals from making themselves unrecognizable in public by covering their facial features “with clothing or other objects.” Article 2(2) allows for exceptions to the prohibition when “covering or hiding” facial features is in the context of artistic, cultural, sporting, or traditional events, or for health or professional reasons. Violations are punishable with a fine of up to 150 Euros (\$160).

In France, Article 1 of the *Law on Prohibiting the Concealment of the Face in Public Space* prohibits individuals from wearing outfits intended to conceal their faces in public. Article 2(2) allows for exceptions if an outfit is “prescribed or authorized by legislative or regulatory provisions, if it is justified by health or professional reasons, or if it is... within the framework of sports practices, festivals or artistic or traditional events.” Violations are punishable with a fine of up to 150 Euros (\$160).

In *Hebbadj v. France*, the UNHRCtee *held* that prosecuting and convicting a Muslim woman for wearing a niqab under the *Law on Prohibiting the Concealment of the Face in Public Space* violates Article 18’s protections for the freedom to manifest one’s religion or belief. France’s prohibition on face coverings is prescribed by law. However, the government failed to show that the ban is necessary to achieve one or both of France’s stated

objectives of protecting “public safety and order” and promoting “the minimum level of trust required to live together in an open and egalitarian society.”

France did not provide an example of a threat to public safety and order “that would justify such a blanket ban on the full-face veil.” Nor did France articulate “the existence of such a threat” in the Act or in the “National Assembly resolution of 11 May 2010, which preceded the adoption of the law.” France also failed to explain why the Act prohibits wearing the niqab on the grounds of public safety and order but allows face coverings for sporting, artistic, and other traditional purposes.

The UNHRCtee was equally skeptical that the prohibition on face coverings is necessary to promote “the minimum level of trust required to live together in an open and egalitarian society.” The French legislature “did not clearly define such an objective, either in the Act itself or in a statement of purpose.” Further, the ICCPR does not protect the “right to interact with any person in a public space” or the “right not to be disturbed by the fact that someone is wearing the full-face veil.” As such, the limitations on wearing religious garb are inconsistent with international human rights law.

Even if the prohibition on face coverings were necessary to achieve either of France’s stated objectives, the UNHRCtee found that the government did not show that a ban on face coverings is proportionate to those objectives nor that it is the least restrictive means of achieving them. This is particularly relevant given that criminalizing face coverings is “a significant restriction of the rights and freedoms” of the Muslim women challenging France’s prohibition. Although the opinion stopped short of stating that all prohibitions on face coverings are impermissible limitations on Article 18’s freedom to manifest one’s religion or belief, its reasoning strongly suggests that criminalizing wearing religious garb in public that covers the face is an impermissible limitation of Article 18’s protections.

## Laws Mandating Religious Garb in Public Spaces

Some countries have legal regimes impermissibly mandating individuals to wear religious garb in public. In *Afghanistan*, the Taliban has made a series of *ad hoc* announcements and decrees forcing individuals to dress in accordance with the group’s interpretation of Islam. The Taliban’s acting minister for the “promotion of virtue and prevention of vice” *announced* a rule directing women to wear “all-encompassing loose clothing that only reveals their eyes” in public. If a woman does not follow the directive, her “male guardians” may be

punished with imprisonment and loss of employment. The Taliban [established](#) “morality police” who harass and threaten women who are out of compliance with this religiously-inspired restriction.

In Iran, [Article 638](#) of the Penal Code criminalizes violating “any religious taboo in public.” One such taboo is “women who appear in public without a proper hijab.” Violations are punishable by up to two months’ imprisonment or a fine. In September 2022, Iran’s morality police detained and beat 22-year-old [Mahsa Zhina Amini](#) into a coma for wearing a hijab improperly. She later died in a hospital because of her injuries. Amini’s death sparked widespread protests against her murder and the hijab law. Protesters faced [extreme human rights violations](#) at the hands of the government, including execution, rape, torture, and mass arrests. In October 2023, 16-year-old Armita Geravand fell into a coma, reportedly after Iran’s morality police [beat her](#) for wearing an improper hijab. Geravand [died](#) in a hospital shortly thereafter. At Geravand’s funeral, government officials [arrested](#) Iranian human rights activist Nasrin Sotoudeh.

The Taliban and Iran enforce religious garb mandates based on their own religious principles, thereby imposing a limitation on individuals’ freedom to wear garb consistent with their own religion or belief. Article 18(3) of the ICCPR does permit limitations on the “freedom to manifest one’s religion or belief.” However, General Comment 22 notes that “limitations...for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition.” The religious garb mandates the Taliban and Iran impose are designed to protect “morals.” And they derive from the Taliban’s and Iran’s respective interpretations of Islam. As such, the mandates are impermissible limitations on Article 18’s protections for the freedom to manifest one’s religion or belief.

### **Government’s Obligation to Protect Individuals from Impermissible Limitations on Wearing Religious Garb in Employment Settings**

In employment settings, individuals are sometimes subject to impermissible limitations on their freedom to wear religious garb, including prohibitions on wearing certain religious clothing. Although the precise contours of an individual’s freedom to wear religious garb in employment settings is not fully resolved, international human rights law does provide some guidance.

In [F.A. v. France](#), the UNHRCtee found that firing a Muslim woman for wearing a headscarf while working at a private daycare facility was an impermissible limitation on her freedom to manifest her religion or belief. Pursuant to its internal regulations, the daycare facility informed a female Muslim employee that she was not permitted to wear a headscarf during work. The female employee continued to wear her headscarf and shortly thereafter was terminated from her position. The applicable provisions of the French Labor Code, [Articles L1121-1](#) and [L1321-3](#), provide that employer restrictions or internal regulations may not limit the “rights of persons and individual and collective freedoms” unless those limitations are justified by the nature of the task to be performed or proportionate to the aim sought.

The UNHRCtee found that the daycare facility’s limitation on the Muslim employee’s freedom to wear religious garb was prescribed by law, given that the French Labor Code governs private internal regulations. However, the body rejected France’s argument that the limitation was necessary to “protect the rights and freedoms of the children and their parents.” Recall that under international human rights law, France, as the party seeking to impose the limitations, must meet the [burden of justification](#) for the prohibition on religious garb. The UNHRCtee, without elaborating, found that France did not meet its burden to provide a sufficient justification for the daycare facility’s prohibition of religious garb. The case importantly shows that Article 18’s protections for individuals who wear religious garb extends to employment settings. As the Special Rapporteur on freedom of religion or belief [noted](#), “there can be no reasonable doubt that the right to freedom of thought, conscience, religion or belief also applies in the workplace.”

### **Conclusion**

Government mandates or restrictions on wearing religious garb violate international human rights law’s protections for the right to freedom of religion or belief. They impermissibly prohibit and punish individuals’ freedom to dress in accordance with their religion or belief. These regulations and restrictions also tend to target women, including in Afghanistan, France, and Iran. Repealing legislation restricting individuals’ freedom to wear garb in accordance with their religion or belief is necessary to comply with international human rights law.



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The U.S. Commission on International Religious Freedom (USCIRF) is an independent, bipartisan federal government entity established by the U.S. Congress to monitor, analyze, and report on religious freedom abroad. USCIRF makes foreign policy recommendations to the President, the Secretary of State, and Congress intended to deter religious persecution and promote freedom of religion and belief.