

Chapter 7, Problem III: Update on Religious Freedom and Women's Rights

On September 16, 2022, 22-year-old Mahsa Amini died while in the custody of the Iranian 'morality police' for allegedly violating Iran's strict dress code. Her death sparked a widespread protest movement in Iran. Following the 1979 Iranian revolution (which led to the establishment of the Islamic Republic of Iran), there were significant changes in Iranian society and law. One was the enforcement of Islamic dress codes, including the requirement that all women wear a headdress in public. Iranian law empowers the authorities to arrest and detain women, and to restrict their access to public institutions, such as hospitals, schools, government offices, and airports, if they do not wear a headdress.

Protests against the headdress have continued sporadically since 1979, with the death of Mahsa Amini triggering the most recent (and arguably the biggest) uprising to date. Amini's death in police custody sparked extensive demonstrations nationwide, as well as violence against protestors. As acts of resistance, many women have since chosen to venture in public and to post pictures online without adhering to the dress code. The actions of this now visible minority of Iranian women are lauded by many; for example, they have been praised across social media and news outlets for risking punishment to stand for their rights.

However, reports indicate that Iran's strict dress code laws are also being used to justify violent assaults on women and girls in public spaces by so-called pro-government vigilantes. For example, an incident in April 2023 went viral when a video appeared to show a man throwing yogurt at two uncovered women in a shop near a holy Shia Muslim city. Some religious Iranian women also act with overt hostility towards those who appear in public without a headdress. Many such incidents of pro-State citizens harassing women for not wearing a headdress have been posted online.

Meanwhile, in France, restrictions on the wearing of Islamic attire for women and girls have continued. For example, in May 2022, the southwestern city of Grenoble decided that women may wear burkinis—a head-to-toe swimsuit worn by some Muslim women—in municipal public schools. The Grenoble mayor defended the decision on the ground that all city residents should have access to public services, including pools. The head of a regional council quickly responded by suspending a set of subsidies to Grenoble, saying that the burkini was a sign of women's submission. In addition, the national Interior Minister challenged Grenoble's decision in court. In June 2022, France's highest administrative court upheld the nationwide ban on burkinis in public pools, saying that allowing the burkini would "undermine the principle of neutrality of public services."

Notes & Questions

1. Does *S.A.S v. France* allow you any space to challenge France's burkini ban before the European Court of Human Rights? If so, how would you argue the case on behalf of the women in Grenoble who want to wear the burkini?
2. Is there a difference, as a matter of international human rights law, between France prohibiting the headdress and Iran requiring it?
3. Iran is not a party to CEDAW. If it were, would its requirement that women wear the headdress violate CEDAW? If it lifted this requirement and private actors still enforced the dress code independently of the state, would the government have to do anything in response? If so, what would it have to do?