

FRANCE: Banning the niqab violated two Muslim women's freedom of religion – UN experts

United Nations Human Rights Office of the High Commissioner (23.10.2018) – <https://bit.ly/2S9ssjr> – In two landmark decisions, the United Nations Human Rights Committee found that France violated the human rights of two women by fining them for wearing the niqab, a full-body Islamic veil.

The two decisions, which were considered concurrently since they posed identical legal questions, are available to read in full (in French): 1 and 2.

The Human Rights Committee received the two complaints in 2016, after two French women were prosecuted and convicted in 2012 for wearing articles of clothing intended to conceal their faces in public. France in 2010 adopted a law stipulating that “No one may, in a public space, wear any article of clothing intended to conceal the face.” The law has the effect of banning the wearing of the full Islamic veil in public, which covers the whole body including the face, leaving just a narrow slit for the eyes.

The Committee found that the general criminal ban on the wearing of the niqab in public introduced by the French law disproportionately harmed the petitioners' right to manifest their religious beliefs, and that France had not adequately

explained why it was necessary to prohibit this clothing. In particular, the Committee was not persuaded by France's claim that a ban on face covering was necessary and proportionate from a security standpoint or for attaining the goal of "living together" in society. The Committee acknowledged that States could require that individuals show their faces in specific circumstances for identification purposes, but considered that a general ban on the niqab was too sweeping for this purpose. The Committee also concluded that the ban, rather than protecting fully veiled women, could have the opposite effect of confining them to their homes, impeding their access to public services and marginalizing them.

"The decisions are not directed against the notion of secularity (laïcité), nor are they an endorsement of a custom which many on the Committee, including myself, regard as a form of oppression of women," said Yuval Shany, Chair of the Committee. Rather, he explained, the decisions represented the position of the Committee that a general criminal ban did not allow for a reasonable balance between public interests and individual rights.

The case was the first of its kind to be considered by the Committee. While it regularly receives and rules on the practical application of civil and political rights in individual cases, it had not until now considered the question of laws which had the effect of banning the full Islamic veil.

The next step is for France within 180 days to report to the Committee on the action it has taken to implement the Committee's decision, including compensation of the two petitioners and measures taken to prevent similar violations in the future, including by reviewing the law in question.

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