

## Appendix 2: Human Rights Watch Work on Headscarf Bans and Requirements in Other Countries

Human Rights Watch has reported on laws and policies requiring that women and girls wear headscarves or veils, or banning the wearing of such clothing, in a number of countries over the past two decades, documenting the impact on affected individuals. Human Rights Watch opposes both forced veiling and blanket or disproportionate bans on the wearing of religious dress as discriminatory interference with basic rights and has repeatedly criticized governments, such as Iran, and de facto authorities like the Islamic State (also known as ISIS), for excessive regulation of dress codes. In China, the authorities have long imposed pervasive restrictions on peaceful religious practice nationally and particularly in Xinjiang, the latter bans any form of appearance—including facial hair and niqab—that is interpreted to “whip up religious fanaticism, [and] disseminate religious extremist ideologies.”<sup>229</sup> In 2010, France enacted a national law banning the wearing of full-face veils anywhere in public. In Germany, in 2004, several local governments banned teachers and civil servants from wearing headscarves at work, but those rules were overturned.

Below are examples of laws on religious clothing in several countries.

### Chechnya

Starting in 2006, Chechen authorities launched a quasi-official “virtue campaign” for women and girls, which included imposition of an Islamic dress code. Despite the absence of any legal basis for doing so, Chechen authorities prohibited women from working in the public sector and entering governmental buildings if they do not wear hijabs. Education authorities required female students to wear hijabs in schools and universities.

Gradually, throughout 2009 and 2010, Chechen authorities broadened their enforcement of this de facto “hijab rule,” which they justify on traditional and religious grounds, to

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<sup>229</sup> Human Rights Watch, “*Eradicating Ideological Viruses*” *China’s Campaign of Repression Against Xinjiang’s Muslims* (New York: Human Rights Watch, 2018), <https://www.hrw.org/report/2018/09/09/eradicating-ideological-viruses/chinas-campaign-repression-against-xinjiangs>.

other public places, including entertainment sites, movie theaters, and even outdoor areas. These measures were publicly supported and promoted by the Kremlin-sponsored Chechnya leader Ramzan Kadyrov.

Since the start of the Ramadan fasting month in August 2010, Human Rights Watch has received numerous reports from Chechnya about women being harassed on the streets of Grozny, the Chechen republic's capital, for not covering their hair or wearing clothes deemed too revealing.<sup>230</sup>

In a 2011 report, Human Rights Watch documented acts of violence, harassment, and threats by law enforcement officers against women in Chechnya to intimidate them into wearing a headscarf or dressing more “modestly,” in long skirts and sleeves to cover their limbs. The documented attacks by apparent policemen took place from June through September 2010 in the center of Grozny.<sup>231</sup>

Moscow directed Chechen authorities to look into the attacks. However, no effective investigation has been carried out, and federal authorities took no further steps to put an end to the enforcement of this compulsory Islamic dress code. Moscow also failed to condemn Kadyrov’s statements, in which he openly condoned violence against women and honor killings in the name of traditional values.

In 2018, Human Rights Watch reported that the women’s “virtue campaign,” which had continued unabated, was again being stepped up by Chechen authorities aiming to ensure that women wear hijabs in public and adhere to traditional family roles.<sup>232</sup>

## France

In 2010, France enacted a national law banning the wearing of full-face veils anywhere in public. France introduced the ban amid a heated public debate about secularism, women’s rights, and security. The law made it a criminal offense to wear clothing intended to cover

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<sup>230</sup> “Russia: Stop Forced Dress Code for Women in Chechnya,” Human Rights Watch news release, August 24, 2010, <https://www.hrw.org/news/2010/08/24/russia-stop-forced-dress-code-women-chechnya>.

<sup>231</sup> Human Rights Watch, *“You Dress According to Their Rules” Enforcement of an Islamic Dress Code for Women in Chechnya* (New York: Human Rights Watch, 2011), <https://www.hrw.org/report/2011/03/10/you-dress-according-their-rules/enforcement-islamic-dress-code-women-chechnya#>.

<sup>232</sup> Human Rights Watch, *World Report* (New York: Human Rights Watch) 2018 Report, Russia Chapter, <https://www.hrw.org/world-report/2018/country-chapters/russia>.

the face in public, punishable by a fine of up to €150 (US\$210) and/or a compulsory “citizenship course.” The law also criminalized coercing someone else into covering their face, punishable by up to a year in prison and a €30,000 (\$40,950) fine, or two years in prison and a €60,000 fine if the person coerced is a minor. The law entered into force in April 2011.

In 2014, the European Court of Human Rights (ECHR) upheld the law in the case of *S.A.S v France*. The case was brought by “S.A.S,” a 23-year-old Muslim French citizen, who sometimes wears a “niqab” —a veil covering the face except for the eyes. She contended that France’s ban on full-face veils violated her rights to freedom of religion, expression, and private life. She also contended that the ban was discriminatory on the basis of gender, religion, and ethnic origin.

The European Court had previously upheld restrictions on religious dress affecting the wearing of the headscarf in educational institutions in Turkey and Switzerland. In *S.A.S v France* the court took a position for the first time on blanket bans on full-face veils in public. While the court rejected the French government’s arguments that the ban was necessary to protect security and equality between men and women, it ruled that the ban was justified for the ill-defined aim of “living together,” accepting the French government’s case that a full-face veil prevents interaction between individuals.

A minority of judges, in a separate opinion, rejected the argument that the blanket ban pursued a legitimate aim and said that, in any event, the ban was far-reaching and not necessary in a democratic society. They said the decision “sacrifices concrete individual rights guaranteed by the Convention to abstract principles,” referring to the European Convention on Human Rights.

Human Rights Watch said of the ruling that it is “disturbing that the court acknowledged the specific negative effects of the ban on Muslim women, yet considered that it was justified” and that “[w]omen in France and elsewhere should be free to dress as they please.”<sup>233</sup>

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<sup>233</sup> “France: Face-Veil Ruling Undermines Rights,” Human Rights Watch news release, July 3, 2014, <https://www.hrw.org/news/2014/07/03/france-face-veil-ruling-undermines-rights> (accessed on October 20, 2020).

In October 2018, however, the UN Human Rights Committee ruled in favor of two French women who had been prosecuted, convicted, and fined in 2012 for wearing the niqab, based on the 2010 French law.<sup>234</sup> The committee found, in two rulings, 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. The committee also concluded that the ban, rather than protecting fully veiled women, could have the effect of confining them to their homes, impeding their access to public services and marginalizing them.<sup>235</sup>

## Germany

In April 2004, the German state of Baden-Württemberg enacted a law amending its school act regulating the wearing of religious clothing and symbols by teachers in public schools. The amendment prohibited teachers in public schools from wearing visible items of religious clothing and symbols, except those that exhibited Christian and Western educational and cultural values or traditions. By enacting the law, Baden-Württemberg intended to prohibit public school teachers from wearing the Islamic headscarf, while permitting teachers to continue to wear Christian religious clothing and symbols. Eight German states enacted similar laws soon after, and in two states the ban was extended to civil servants.<sup>236</sup>

In 2009, two Muslim women in North Rhine-Westphalia state challenged the 2004 rule, at the Federal Constitutional Court. In March 2015, the Federal Constitutional Court overturned the blanket hijab bans for public schools in four German states. The judges

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<sup>234</sup> Office of the United Nations High Commissioner for Human Rights, "France: Banning the niqab violated two Muslim women's freedom of religion - UN experts," October 23, 2018, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23750&LangID=E> (accessed on July 23, 2020).

<sup>235</sup> "French full-body veil ban, violated women's freedom of religion: UN Human Rights Committee," *UN News*, October 23, 2018, <https://news.un.org/en/story/2018/10/1023872> (accessed on July 23, 2020).

<sup>236</sup> Human Rights Watch, *Discrimination in the Name of Neutrality: Headscarf Bans for Teachers and Civil Servants in Germany* (New York: Human Rights Watch, 2009), <https://www.hrw.org/report/2009/02/26/discrimination-name-neutrality/headscarf-bans-teachers-and-civil-servants-germany> (accessed on October 22, 2020).

criticized the fact that the four states had privileged Christianity in their school regulations.<sup>237</sup> The ruling rendered unconstitutional similar bans in other states.<sup>238</sup>

Now, Muslim women wearing hijabs are already teaching in Baden-Württemberg. Other states tolerate wearing the hijab among Muslim civil servants, including teachers, and public school students but some states still have restrictions. Lower Saxony allowed teachers to wear hijabs, but a ban can only be considered if “school peace” is jeopardized or “state neutrality” is in danger.<sup>239</sup> Several German states continue to ban teachers and civil servants from wearing niqab at work.<sup>240</sup>

In January 2020, the Federal Constitutional Court rejected a petition from a trainee lawyer in the state of Hesse, who had objected to the hijab ban in Hessian court houses. The Federal Constitutional Court defended the ban, arguing it is necessary for the sake of “neutrality in ideological and religious term.”<sup>241</sup>

## Iran

Human Rights Watch has repeatedly reported on the enforcement of a compulsory dress code on women in Iran,<sup>242</sup> which violates their rights to private life, personal autonomy, and freedom of expression, as well as to freedom of religion, thought, and conscience.

Iran has a long history of imposing rules about what women can and cannot wear, violating their fundamental rights. In the 1930s, the then-ruler, Reza Shah, prohibited women from wearing the hijab, and police were ordered to forcibly remove headscarves from women

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<sup>237</sup> Dietmar Hipp, “Judgment on headscarf bans: Karlsruhe criticizes preference for Christianity,” *Spiegel*, March 13, 2015 <https://www.spiegel.de/lebenundlernen/schule/analyse-kopftuch-urteil-christentum-unzulaessig-bevorzugt-a-1023460.html> (accessed on January 18, 2021).

<sup>238</sup> Human Rights Watch, *World Report* (New York: Human Rights Watch) 2016, European Union chapter, <https://www.hrw.org/world-report/2016/country-chapters/croatia-estonia-european-union-france-germany-greece-hungary>.

<sup>239</sup> “Muslim Teachers: Headscarf ban - different in every federal state,” *Spiegel*, May 9, 2018, <https://www.spiegel.de/lebenundlernen/job/kopftuchverbot-an-schulen-so-unterschiedlich-sind-die-regeln-fuer-lehrerinnen-a-1206983.html> (accessed on January 19, 2021).

<sup>240</sup> “The Islamic veil across Europe,” *BBC News*, May 31, 2018, <https://www.bbc.com/news/world-europe-13038095> (accessed on May 23, 2020).

<sup>241</sup> Federal Constitutional Court, “Headscarf ban for legal trainees is constitutional,” January 14, 2020, <https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2020/bvg20-013.html> (accessed on January 18, 2021).

<sup>242</sup> See, for example, Human Rights Watch, *World Report* (New York: Human Rights Watch) 2016, 2013, 2011, 2002, 1999, 1994, 1993 editions, Iran chapter.

wearing them. After the Iranian Revolution in 1979, in the early 1980s, Iranian authorities imposed a mandatory dress code requiring all women to wear the hijab, including in workplaces.

Since at least 2008, Iranian young women and men have been protesting against the government's control of women's bodies, especially the government's mandatory dress codes. Young activists resisted the government by using their bodies to make a statement about democracy and human rights.<sup>243</sup>

Human Rights Watch reported in 2018 that a number of women had been arrested peacefully protesting against the dress code.<sup>244</sup> The most recent wave of protests against compulsory hijab began on December 27, 2017, when photos circulated on social media of a woman who had taken off and held aloft her headscarf on Enghelab (Revolution) Street in Tehran. Since then, dozens of "Girls of Revolution Street" have taken their headscarves off while standing on electric utility boxes across the country and more than 35 women have been arrested by Iranian officials protesting Iran's compulsory hijab.<sup>245</sup> Under article 639 of Iran's penal code, "encouraging immorality" can carry a sentence of between 1 to 10 years in prison.<sup>246</sup> Iranian authorities have sentenced at least four of these women to prison sentences up to 10 years.<sup>247</sup> In March 2019, a prominent Iranian human rights lawyer, who has represented women arrested for removing their headscarves, has been jailed herself. Nasrin Sotoudeh was charged with several national security-related offenses. Her family said she was given 38 years in prison and 148 lashes.<sup>248</sup>

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<sup>243</sup> Pardis Mahdavi, "How the US repeatedly failed to support reform movements in Iran," *The Conversation*, February 5, 2020, <https://theconversation.com/how-the-us-repeatedly-failed-to-support-reform-movements-in-iran-129537> (accessed on May 23, 2020).

<sup>244</sup> "Iran: Stop Prosecuting Women Over Dress Code," Human Rights Watch news release, February 24, 2018, <https://www.hrw.org/news/2018/02/24/iran-stop-prosecuting-women-over-dress-code> (accessed on October 22, 2020).

<sup>245</sup> Nassim Hatam, "Iranian women threw off the hijab - what happened next?" *BBC News*, May 19, 2018, <https://www.bbc.com/news/world-middle-east-44040236> (accessed May 22, 2020).

<sup>246</sup> "Iran: Stop Prosecuting Women Over Dress Code," Human Rights Watch news release, February 24, 2018, <https://www.hrw.org/news/2018/02/24/iran-stop-prosecuting-women-over-dress-code> (accessed May 22, 2020).

<sup>247</sup> Maya Oppenheim, "Iranian women defy threat of decade-long jail sentence by taking photos of themselves without headscarves," *Independent*, August 2, 2019, <https://www.independent.co.uk/news/world/middle-east/iran-women-headscarves-photos-jail-sentence-masih-alinejad-a9032901.html> (accessed on January 22, 2021).

<sup>248</sup> "Nasrin Sotoudeh: Iran lawyer who defended headscarf protesters jailed," *BBC News*, March 11, 2019, <https://www.bbc.com/news/world-middle-east-47531312> (accessed May 22, 2020).

## Saudi Arabia

Saudi Arabia's strict dress code still has many impacts on women, including their ability to work. The Saudi Labor Ministry fines employers and workers who breach guidelines on sex segregation and women's dress code, including mandatory jilbabs. These rules mean, said a Saudi woman, "Companies don't want to hire women. It is too much of a hassle."<sup>249</sup>

Abayas and jilbabs are a long tradition in the Arab Peninsula but it drastically changed after the Iranian revolution and the seizure of the Grand Mosque in Mecca, both taking place in 1979. Juhayman al-Otaybi led his armed militants to take over Mosque and to call on Muslims to topple the ruling House of Saud. They controlled the area for two weeks, prompting King Khalid to ask France and Pakistani commandos to storm the area, ending the siege with 250 dead.

This was a watershed moment: 1979. It is not a coincidence that Saudi Arabia and Iran were the most important Sunni and Shia states in the Islamic world. In 1979, Iran demanded that the control of the two Islamic holy cities, Mecca and Medina, should be organized internationally within the Islamic world. Saudi rejected that idea. Both Saudi Arabia and Iran began to out-Islam one against another.<sup>250</sup>

Domestically, Juhayman may have died but his austere vision lives on. The House of Saud began to let ultra-conservative Islamic forces to gain control over Saudi society. In the 1980s, a strict interpretation of Islamic Sharia began in public Saudi life. Ultra-conservative clerics considered the black abaya is the only way by which the Sharia obligation could be fulfilled—no other color. A single form of the loose black abaya became common attire for Saudi women until now.<sup>251</sup>

In the Middle East, many countries have discriminatory regulations against girls and women, but Saudi Arabia has the most draconian in the extent of its laws and regulations,

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<sup>249</sup> "The Saudi Dress Code Debacle," Human Rights Watch news release, July 19, 2017, <https://www.hrw.org/news/2017/07/19/saudi-dress-code-debacle>.

<sup>250</sup> Terence Ward, *The Wahhabi Code: How the Saudis Spread Extremism Globally* (New York: Arcade Publishing, 2018).

<sup>251</sup> "Abayas: Were they originally black or colored?" *Sekkamag*, October 1, 2017, <https://sekkamag.com/2017/10/01/abayas-were-they-originally-black-or-colored/> (accessed May 22, 2020).

as well as the authorities' efforts to apply them, including jilbab regulations as well as male guardian system.<sup>252</sup>

## Areas of Syria under Islamic State rule

In 2014, Human Rights Watch reported that between September 2012 and November 2013, members of Jabhat al-Nusra and the Islamic State (ISIS) required that women follow a strict dress code that mandated the *abaya* and *jilbab* and prohibited jeans, close-fitting clothing, and makeup. Members of these groups forbade women from being in public without a male family member in Idlib city, Ras al-Ayn, Tel Abyad, and Tel Aran. Women and girls who did not abide by the restrictions were threatened with punishment and, in some cases, blocked from using public transportation, accessing education, and buying food. The regulations imposed on women by Jabhat al-Nusra and ISIS had a far-reaching impact on women's and girls' daily lives, affecting their ability to obtain education, provide for their families, and even procure necessities crucial to survival.<sup>253</sup>

Syria does not have a state-mandated religion and its constitution protects freedom of religion, but requires that the president be Muslim, stipulating that Islamic jurisprudence is a principal source of legislation.<sup>254</sup> While the Syrian constitution guarantees gender equality, the Syrian penal code and personal status laws, which govern matters such as marriage, divorce, and inheritance, contain provisions that are discriminatory to women and girls. De facto authorities are responsible for respecting fundamental human rights in areas under their control and holding those who abuse them to account.

Women and girls faced discrimination and severe restrictions, including on their dress code, in ISIS-held areas. The UN Independent International Commission of Inquiry on the Syrian Arab Republic reported, in September 2018, that members of Hay'at Tahrir al-Sham have been:

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<sup>252</sup> "Saudi Arabia: 10 Reasons Why Women Flee," Human Rights Watch news release, January 30, 2019, <https://www.hrw.org/news/2019/01/30/saudi-arabia-10-reasons-why-women-flee> (accessed on October 22, 2020).

<sup>253</sup> "Syria: Extremists Restricting Women's Rights," Human Rights Watch news release, January 13, 2014, <https://www.hrw.org/news/2014/01/13/syria-extremists-restricting-womens-rights> (accessed on October 22, 2020).

<sup>254</sup> US State Department's Bureau of Democracy, Human Rights, And Labor, "July-December 2010 International Religious Freedom Report," September 13, 2011, [https://www.state.gov/j/drl/rls/irf/2010\\_5/168276.htm](https://www.state.gov/j/drl/rls/irf/2010_5/168276.htm) (accessed January 31, 2019).

...issuing decrees demanding, for example, that women and girls over 9 years of age wear a black or dark brown *jalabiya*, a wide-cut, loose-fitting garment, when venturing outdoors. They may not wear dresses with bright colors, must cover their hair, and cannot wear makeup. Hay'at Tahrir al-Sham has been issuing similar decrees in schools in Idlib, emphasizing that female students who do not abide by the dress code will be banned from attending classes.<sup>255</sup>

## Turkey

A 2004 Human Rights Watch report on Turkey analyzed the state-imposed ban at the time on the wearing of the hijab in Turkish universities. Turkey's restrictions on wearing overtly religious-oriented attire were rooted in the founding of the modern, secular Turkish state in the 1920s, when the republic's founding father, Mustafa Kemal Atatürk, introduced a series of clothing regulations designed to keep Islamic symbolism out of the civil service.

The situation changed gradually after the election of the conservative religious Justice and Development Party (AKP) in November 2002. In October 2013, with the introduction of a law lifting the ban on women wearing a headscarf in civil service jobs, Prime Minister Recep Tayyip Erdoğan made a speech in parliament saying, “A dark time eventually comes to an end. Headscarf-wearing women are full members of the republic, as well as those who do not wear it.”<sup>256</sup>

Turkish women who want to wear the hijab to civil service jobs and government offices can currently do so. The new rules were put into place to address concerns that the restrictions on the hijab were discriminatory and were discouraging women from conservative backgrounds from seeking government jobs or higher education.<sup>257</sup> By 2016, the ban had also been lifted for judges, prosecutors, police and, in 2017, for military personnel.

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<sup>255</sup> UN Human Rights Council, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/39/65, August 9, 2018, Human Rights Council, thirty-ninth session, para. 62.

<sup>256</sup> Roff Smith, “Why Turkey Lifted Its Ban on the Islamic Headscarf,” National Geographic, October 12, 2013, <https://www.nationalgeographic.com/news/2013/10/131011-hijab-ban-turkey-islamic-headscarf-ataturk/> (accessed May 22, 2020).

<sup>257</sup> Ibid.

## Xinjiang (in China)

In May 2014, the Chinese government's "Strike Hard Campaign against Violent Terrorism" began in Xinjiang. The authorities punish Xinjiang residents for expressing identity other than those associated with the dominant Han Chinese culture and consider many of their Islamic practices to be problematic and extremist.

In late 2014, the campaign began to ban niqabs and gamis (long dress) for all Muslim women. It also bans the jilbab for girls, young, and middle-aged women. Only older women in Xinjiang could wear their jilbabs. <sup>258</sup>

In March 2015, a Kashgar court sentenced a group of Muslim women for wearing gamis and niqabs and men for wearing big beards, according to Radio Free Asia. A Muslim husband and wife were respectively sentenced to six and two years in prison for wearing a big beard and for wearing a niqab and burqa, respectively. <sup>259</sup>

In 2016, the Chinese authorities stepped up mass arbitrary detention, including in pretrial detention centers and prisons, both of which are formal facilities, and in political education camps, which have no basis under Chinese law.

Credible estimates indicate that, at its height, one million Turkic Muslims are being held in camps, where they are being forced to learn Mandarin Chinese, sing praises of the Chinese Communist Party, and memorize rules applicable primarily to Turkic Muslims. Those who resist or are deemed to have failed to "learn" are punished. The detainees in political education camps are held without any due process rights—neither charged nor put on trial—and have no access to lawyers and family. They are held for having links with foreign countries, particularly those on an official list of "26 sensitive countries" including Indonesia, and for using foreign communication tools such as WhatsApp, as well as for peacefully expressing their identity and religion, none of which constitute crimes.

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<sup>258</sup> Human Rights Watch, *Eradicating Ideological Viruses: China's Campaign of Repression Against Xinjiang's Muslims* (New York: Human Rights Watch, 2018), <https://www.hrw.org/report/2018/09/09/eradicating-ideological-viruses/chinas-campaign-repression-against-xinjiangs> (accessed on October 22, 2020).

<sup>259</sup> "Is it illegal to wear national clothes? Xinjiang couple sentenced for wearing burqa," *Radio Free Asia*, March 29, 2015, <https://www.rfa.org/mandarin/yataibaodao/shaoshuminzu/xl1-03292015112150.html> (accessed on January 31, 2020).

The United Nations Committee on the Elimination of Racial Discrimination reviewed the situation in China in August 2018 and described Xinjiang as a “no rights zone.” The Chinese delegation disputed this portrayal of the region, as well as its characterization of political education camps, calling them “vocational education centers.”<sup>260</sup>

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<sup>260</sup> “China: Massive Crackdown in Muslim Region,” Human Rights Watch news release, September 9, 2018, <https://www.hrw.org/news/2018/09/09/china-massive-crackdown-muslim-region> (accessed on October 22, 2020).