



## **Statement Urging Governments Around the World to Respect and Fulfill the Fundamental Right to Freedom of Religion and Belief of Muslim Women and Girls**

**June 15, 2009**

Restricting Muslim women’s liberties on the basis of their dress is a clear violation of their civil and religious liberties under international law. Those who defend their actions by arguing that they are forcing these women to “modernize” are indeed discriminating against them and denying them important opportunities for education, work, and success.

Governmental efforts to ban the wearing of female Islamic dress in public academic institutions run counter to Muslim women’s freedom of religion, conscience and thought as protected under international law as well as their right to non-discrimination and on the basis of religious belief and other rights by extension. Throughout the 20<sup>th</sup> century, states have come together to enact numerous international legal instruments that both recognize the freedom of thought, religion and consciousness as well as require states to protect against infringements of that right. The volume of international protections demonstrate a broad consensus that religious freedom is one of the most basic of all human rights that must be protected by individual states and the broader international community.

Beginning with the foundational text of international human rights law, the Universal Declaration of Human Rights (hereinafter UDHR) envisioned a world where

“[e]veryone has the right to freedom of thought, conscience and religion ... [which] includes [the] freedom ...to manifest his religion or belief in teaching, practice, worship and observance.”<sup>i</sup>

This initial declaration has since been reaffirmed by a series of international human rights instruments.

For example, the International Covenant on Civil and Political Rights (hereinafter Covenant) codified the rights expressed by the UDHR. Often referred to as the “International Bill of Human Rights,” the Covenant created international recognition for classical civil rights protections including the right to freedom of thought, conscience and religion.<sup>ii</sup> Included in this right is the freedom to manifest religion or belief in observance of ones faith as with the wearing of distinctive clothing or headcoverings.<sup>iii</sup> The Covenant went beyond the affirmation of specific rights however by also creating an affirmative duty for States Parties to the treaty to ensure “to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant.”<sup>iv</sup> Similar protections are demonstrated by the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (hereinafter Declaration) that proclaimed “religion or belief ...[as] one of the fundamental elements in [an individual’s] conception of life and ...should be fully respected and guaranteed.”<sup>v</sup> In the furtherance of this goal, Governments were called upon to enact “effective measures to prevent

and eliminate discrimination on the grounds of religion or belief” including via the enactment or rescinding of domestic legislation.<sup>vi</sup> The Declaration also outlined a series of freedoms included in this right like the freedom to “make, acquire and use ...the necessary articles and the materials related to the rites or customs of a religion or belief”<sup>vii</sup> which would include religious dress.

Inextricably linked to the right to freedom of thought, conscience and religion is the right to its practice free from manifestations of intolerance and discrimination. The Declaration defines intolerance and discrimination as

“any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.”<sup>viii</sup>

This definition is a baseline for measuring discriminatory practices on the basis of religion that permeates throughout other international human rights instruments.<sup>ix</sup>

The discrimination definition stated above appears to allow for “religious neutral” legislation that restricts all religious practices on an equal basis. Nevertheless, comprehensive bans of religious symbols and clothing that claim to treat all religions equally should still be prohibited as they often have a disparate impact on members of a particular faith. For example, Muslim women are often hardest hit by comprehensive bans as they may consider religious dress mandatory for engaging in public life.<sup>x</sup> Moreover, if women are the recipients of disparate treatment under the law, such bans would also violate international protections that prohibit discrimination based on gender like the Convention on the Elimination of All Forms of Discrimination against Women that requires states to condemn discrimination of women<sup>xi</sup> in all its forms including discrimination based upon religious beliefs and practices and take appropriate measures to eliminate it.<sup>xii</sup>

Bans on the wearing of religious clothing will also have a negative impact on the human right to education. The Convention on the Rights of the Child (Convention) and the International Covenant on Economic, Social and Cultural rights both recognize the right of every child to an education. As part of their enforcement of this right, states are required to take steps to ensure student attendance at domestic educational institutions. For example, both require states to mandate primary education and take appropriate measures to make secondary education accessible to all students. States are also required to take measure to encourage attendance and limit student dropout rates.<sup>xiii</sup> In contrast to supporting these goals however, government bans on religious clothing hinder student attendance by forcing Muslim girls and women to decide between following the tenets of their faith and pursuing an education. Moreover, such bans could actually create an atmosphere of religious intolerance in academic settings as certain religious practices and by extension the belief system from which they stem are deemed not fit for the public sphere. Such a hostile environment would also create additional barriers to Muslim women and girl attendance in schools.<sup>xiv</sup>

Government efforts to ban female Islamic dress in public academic institutions violate the provisions of numerous international human rights agreements that protect against requiring an individual to choose between their cultural and religious heritage and the benefits that an

education would provide. Bans requiring Muslim girls and women to take such a decision violates not only their rights to freedom of religion, non-discrimination on the basis of their belief and practice, non-discrimination on the basis of gender, and education; it should also shame those who seek to place Muslim girls and women in such vicious circumstances where they feel compelled to make this choice.

#### **About KARAMAH**

Founded in 1993 with offices in Washington, DC, KARAMAH is a charitable, educational organization that focuses on the domestic and global issues of human rights, particularly those of Muslim women. Karamah is Founded upon the ideal that education, dialogue, and action can counter the dangerous and destructive effects of ignorance, silence and prejudice. Its three primary divisions are **Law and Leadership**, **Family Law**, and **Islamic Law**. For media inquiries or for more information, contact Jina Hassan at [jhassan@karamah.org](mailto:jhassan@karamah.org) or call 202-234-7302.

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<sup>i</sup> The Universal Declaration of Human Rights, §18, United Nations, available at <http://www.un.org/en/documents/udhr/> (as of June 1, 2009).

<sup>ii</sup> International Covenant on Civil and Political Rights, art. 18, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, *entry into force* 23 March 1976, in accordance with Article 49, Office of the United Nations High Commissioner for Human Rights, available at <http://www2.ohchr.org/english/law/ccpr.htm> (as of June 1, 2009); *See also* ICCPR Objectives available at <http://www.un.org/millennium/law/iv-4.htm> (as of June 2, 2009).

<sup>iii</sup> General Comment No. 22: The right to freedom of thought, conscience and religion ( Art. 18). 30/07/93. CCPR/C/21/Rev.1/Add.4, General Comment No. 22, ¶3, Office of High Commissioner of Human Rights, available at [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/9a30112c27d1167cc12563ed004d8f15?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/9a30112c27d1167cc12563ed004d8f15?Opendocument) (as of June 2, 2009).

<sup>iv</sup> *Supra* n. ii at art. 1.1.

<sup>v</sup> Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief, Preamble, Proclaimed by General Assembly resolution 36/55 of 25 November 1981, Office of the High Commissioner for Human Rights, available at [http://www.unhcr.ch/html/menu3/b/d\\_intole.htm](http://www.unhcr.ch/html/menu3/b/d_intole.htm) (As of June 1, 2009).

<sup>vi</sup> *Id.* at art. 4.

<sup>vii</sup> *Id.* at art. 6(c).

<sup>viii</sup> *Id.* at art. 2.2.

<sup>ix</sup> *See for example* art. 4.1 of the ICCPR that states “[i]n time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.”; *See also* art. 2.2 of the International Covenant on Economic, Social, and Cultural Rights that states “States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

<sup>x</sup> *See generally Muslim Women, Human Rights and Religious Freedom: Europe Under the Spotlight of National and International Law*, Islamic Human Rights Commission, March 8, 2004, available at <http://www.ihrc.org.uk/show.php?id=1025> (as of June 2, 2009).

<sup>xi</sup> Discrimination of women is defined as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of

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their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” Convention on the Elimination of All Forms of Discrimination against Women, Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979, *entry into force* 3 September 1981, in accordance with article 27(1), Office of High Commissioner of Human Rights, art. 1, available at <http://www.unhchr.ch/html/menu3/b/e1cedaw.htm> (as of June 3, 2009).

<sup>xii</sup> *Id.* at art. 2. *See* for example art.2(d) that requires states “[t]o refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation.”

<sup>xiii</sup> Convention on the Rights of the Child, Adopted and opened for signature, ratification and accession by, General Assembly resolution 44/25 of 20 November 1989, *entry into force* 2 September 1990, in accordance with article 49, *see* generally art. 28, Office of the High Commissioner for Human Rights, available at <http://www.unhchr.ch/html/menu3/b/k2crc.htm> (as of June 3, 2009); International Covenant on Economic, Social and Cultural rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, *entry into force* 3 January 1976, in accordance with article 27, *see* generally art. 13, Office of the High Commissioner for Human Rights, available at [http://www.unhchr.ch/html/menu3/b/a\\_cescr.htm](http://www.unhchr.ch/html/menu3/b/a_cescr.htm) (as of June 3, 2009).

<sup>xiv</sup> *Supra* n. x at ¶ 23.