

EUROPEAN COURT OF HUMAN RIGHTS
Fifth Section

S.A.S. v. France
Application No. 43835/11

Written Observations of Amnesty International

1. These comments are submitted by Amnesty International pursuant to article 36 § 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter European Convention on Human Rights) following the leave granted by the President of the Section in accordance with rule 44 § 3 of the Rules of the Court by letter dated 15 May 2012.
2. This brief is focused on issues regarding permissible limitations of the rights to freedom of expression and religion, and the scope of the anti-discrimination clause contained in article 14 of the European Convention on Human Rights, as it relates to these rights.
3. The brief draws substantially on the interpretations by United Nations treaty monitoring bodies (including the Human Rights Committee and the Committee for the Elimination of Discrimination against Women) of relevant international treaty provisions with regard to the limitation of the rights to freedom of expression and religion and discriminatory stereotyping on the basis of sex and religion. The brief also draws on Amnesty International's expertise and research regarding these issues from various regions, and on expert legal opinions. Amnesty International urges the Court to take these arguments into consideration in its determination of whether the facts of the current case amount to a violation of the rights protected by the European Convention on Human Rights.

I. Interest of Amnesty International

4. Amnesty International's mission is to conduct research and generate action to prevent and end grave abuses of human rights—including the rights to life, health, private life, equality and non-discrimination—and to demand justice for those whose rights have been violated. The organisation works independently and impartially to promote respect for human rights, based on research and on legal standards agreed by the international community.

II. The rights to freedom of religion and belief and freedom of expression

5. The protection of the right to freedom of thought, conscience, and religion and the freedom to manifest one's religion or beliefs is enshrined in article 9 of the European Convention on Human Rights, as well as in article 18 of the International Covenant on Civil and Political Rights, and in all major regional human rights treaties. All of these human rights treaties distinguish between the right to freedom of thought and religion—a right that is protected unconditionally and to which no limitations are permitted—and the freedom to manifest one's religion or beliefs—which may be subject to limited restrictions where specific conditions are met.

6. Similarly, international law protects the right to freedom of expression. This protection is enshrined in article 10 of the European Convention on Human Rights and article 19 of the International Covenant on Civil and Political Rights.
7. All human rights, including those related to religion, belief, and expression, entail both positive and negative components. In this connection, the U.N. Special Rapporteur on the right to freedom of religion or belief has noted that “[t]he first component of the freedom of religion or belief is freedom to positively express and manifest one’s own religion or belief, while its (negative) flip side is freedom not to be exposed to any pressure, especially from the state or state institutions, to perform religious or belief activities against one’s own will.”¹
8. As the U.N. Human Rights Committee has noted, respect for freedom of expression is an “indispensable” condition for the full development of the person and “essential for any society.”² It is “integral to the enjoyment of the rights to freedom of assembly and association, and the exercise of the right to vote.”³
9. The wearing of religious clothing is protected both as a manner of self-expression, under article 19 of the International Covenant on Civil and Political Rights,⁴ and as a part of the right to practice one’s religion, under article 18 of the Covenant.⁵
10. In the context of examining the right to wear religious symbols such as headscarves in public schools, the Special Rapporteur on the right to freedom of religion or belief has noted that, notwithstanding specific circumstances that might warrant the limitation of the wearing of religious garb, “there are nevertheless good reasons to start with a general presumption of the ... right to wear religious symbols.”⁶ In other words, blanket bans on the wearing of religious bans should, *prima facie*, be considered incompatible with the right to freedom of religion.
11. Permitted limitations to the freedom to manifest one’s religion or beliefs are contained in article 9.2 of the European Convention on Human Rights, which stipulates that three conditions must be met for a restriction to be permissible: (1) the restriction must be prescribed by law; (2) it must be necessary in a democratic society; and (3) the purpose of the restriction must be the protection of public order, health or morals, or the protection of the rights or freedoms of others.
12. Permitted limitations to the right to freedom of expression are contained in article 10.2 of the European Convention on Human Rights, and are similar, apart from a longer list of permitted purposes, including also national security, territorial integrity or public safety, the prevention of crime, and the protection of confidentiality and the impartiality of the judiciary.

¹ U.N. General Assembly, Human Rights Council, 16th sess., agenda item 3, *Report of the Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt*, U.N. Doc. A/HRC/16/53 (2010), ¶ 39.

² Human Rights Committee, *General Comment No. 34: Article 19: Freedoms of Opinion and Expression*, U.N. Doc. CCPR/C/GC/34 (2011), ¶ 2 (citing Human Rights Committee, Communication No. 1173/2003, *Benhadj v. Algeria* (Views adopted 20 July 2007); Human Rights Committee, Communication No. 628/1995, *Park v. Republic of Korea* (views adopted 5 July 1996)).

³ *Id.* ¶ 4.

⁴ Human Rights Committee, *General Comment No. 28: Equality of Rights between Men and Women (Article 3)*, U.N. Doc. CCPR/C/21/Rev.1/Add.10 (2000), ¶ 13.

⁵ Human Rights Committee, *General Comment No. 22: The right to freedom of thought, conscience and religion (Art. 18)*, UN Doc. CCPR/C/21/Rev.1/Add.4 (1993), ¶ 4.

⁶ *Report of the Special Rapporteur on the Right to Freedom of Religion or Belief*, U.N. Doc. A/HRC/16/53, ¶ 43.

13. These conditions on restrictions to the freedom of religious expression and of expression generally are analogous to those contained in articles 18.3 and 19.3 of the International Covenant on Civil and Political Rights, and the considerations and jurisprudence of the U.N. Human Rights Committee in this regard are helpful in evaluating limitations imposed by states on these rights.
14. Moreover, “[i]t is a generally accepted principle that when several norms bear on a single issue they should, to the extent possible, be interpreted so as to give rise to a single set of compatible obligations.”⁷ As this Court observed in *Banković v. Belgium*, “The Convention should be interpreted as far as possible in harmony with other principles of international law of which it forms part.”⁸ This principle is particularly compelling where, as here, the other sources of international law are also human rights treaties. Both this Court and the Human Rights Committee have noted the special character of human rights treaties, which recognise that individuals are endowed with rights.⁹ Because all states party to the European Convention on Human Rights are also party to the International Covenant on Civil and Political Rights, as well as to the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, it is imperative that these treaties be construed in harmony.
15. The Human Rights Committee has indicated with regard to restrictions on the right to manifest one’s belief or religion that “restrictions are not allowed on grounds not specified [in Article 8.3], even if they would be allowed as restrictions to other rights protected in the Covenant, such as national security[; that l]imitations may be applied only for those purposes for which they were prescribed[; that they] must be directly related and proportionate to the specific need on which they are predicated[; and that they] may not be imposed for discriminatory purposes or applied in a discriminatory manner.”¹⁰
16. A restriction fails the test of necessity if the protection could be achieved in other ways that do not limit the right to freedom of expression or the right to manifest one’s belief or religion.¹¹ To meet the test of proportionality, restrictions must not be overly broad: “[T]hey must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve their protective function; they must be proportionate to the interest to be protected.”¹²
17. With regard to freedom of expression, the Human Rights Committee has clarified that restrictions “must not only comply with the strict requirements of article 19, paragraph 3 of the Covenant but must also themselves be compatible with the provisions, aims and

⁷ See International Law Commission, 58th sess., *Conclusions of the Work of the Study Group on the Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law* (2006), concl. 4. See also *id.* concl. 42.

⁸ See *Banković and Others v. Belgium and Others*, Application No. 52207/99 (Grand Chamber decision on admissibility 12 December 2001), ¶ 57.

⁹ See *id.* (noting both that “the principles underlying the Convention cannot be interpreted and applied in a vacuum” and “the Convention’s special character as a human rights treaty”); Human Rights Committee, *General Comment No. 24: Issues Relating to Reservations Made upon Ratification or Accession to the Covenant or the Optional Protocols Thereto, or in Relation to Declarations under Article 41 of the Covenant*, U.N. Doc. CCPR/C/21/Rev.1/Add.6 (1994), ¶ 18 (noting “the special character of a human rights treaty”).

¹⁰ Human Rights Committee, *General Comment No. 22*, ¶ 8.

¹¹ See Human Rights Committee, *General Comment No. 34*, ¶ 33.

¹² Human Rights Committee, *General Comment No. 27: Freedom of Movement*, U.N. Doc. CCPR/C/21/Rev.1/Add.9 (1999), ¶ 14, *quoted in* Human Rights Committee, *General Comment No. 34*, ¶ 34.

objectives of the Covenant.”¹³ In particular, “[l]aws must not violate the non-discrimination provisions of the Covenant.”¹⁴

18. The Human Rights Committee has declined to apply a “margin of appreciation” to restrictions on freedom of expression. Instead, the committee calls upon the state to “demonstrate in specific fashion the precise nature of the threat to any of the enumerated grounds listed in paragraph 3 that has caused it to restrict freedom of expression.”¹⁵
19. The Human Rights Committee has clarified that “[t]he observance and practice of religion or belief may include not only ceremonial acts but also such customs as the observance of dietary regulations, the wearing of distinctive clothing or headcoverings, participation in rituals associated with certain stages of life, and the use of a particular language customarily spoken by a group.”¹⁶ This notion is reflected in the jurisprudence of the Committee which notes that the physical manifestations of religion or belief in the public sphere are protected by the Covenant, including the desire to bear names linked to or associated with a specific religion,¹⁷ the desire to wear specific headgear,¹⁸ and the desire to grow facial hair,¹⁹ as associated with faith.
20. The Human Rights Committee has, on occasion, found narrow restrictions of clothing worn exclusively or predominantly by persons of minority faiths to be compatible with the Covenant. For example, in *Bhinder v. Canada*, the Committee held that Canada could uphold a requirement for construction workers to wear hardhats at certain times, even if this prevented Sikh men from wearing turbans at those times. This restriction was found to be compatible with the Covenant because it was prescribed by law, and of narrow application to those times where the legitimate objective—in this case health—was truly at stake: the Committee referred to specific accident incidents that rendered the wearing of head safety gear mandatory.²⁰ In this manner, it might be reasonable for the purpose of public order or the rights of others to a fair trial to require those giving testimony as witnesses in a legal case to establish their identity by removing a veil.
21. The Human Rights Committee has never endorsed blanket restrictions on specific clothing or expressions of religion, and has clarified that reference to a majority culture or tradition does not constitute a legitimate objective for permissible restrictions of the right to manifest one’s religion or beliefs.
22. For example, the Committee dismissed as inadmissible a case that sought to require restrictions on religious headgear for mounted police officers in Canada. The Committee noted that the complainants—former mounted police officers—had failed to show how their rights would be violated by someone else wearing a turban instead of the traditional

¹³ Human Rights Committee, *General Comment No. 34*, ¶ 26 (citing Human Rights Committee, Communication No. 488/1992, *Toonen v. Australia* (views adopted 30 March 1994)).

¹⁴ *Id.*

¹⁵ *Id.* ¶ 36. See Human Rights Committee, Communication No. 511/1992, *Ilmari Länsman, et al. v. Finland* (views adopted 14 October 1993); Human Rights Committee, Communication No. 518/92, *Sohn v. Republic of Korea* (views adopted 19 July 1995); Human Rights Committee, Communication No. 926/2000, *Shin v. Republic of Korea* (views adopted 16 March 2004).

¹⁶ Human Rights Committee, *General Comment No. 22*, ¶ 4.

¹⁷ Human Rights Committee, Communication No. 453/1991, *A.R. Coeriel and M.A.R. Aurik v. The Netherlands*, (Views adopted 9 December 1994).

¹⁸ Human Rights Committee, Communication No. 208/1986, *Karnel Singh Bhinder v. Canada* (views adopted 9 November 1989); Human Rights Committee, Communication No. 2048/2002, *Kenneth Riley et al v. Canada* (admissibility decision 21 March 2002).

¹⁹ Human Rights Committee, Communication No. 721/1996, *Clement Boodoo v. Trinidad and Tobago* (views adopted 2 April 2002).

²⁰ Human Rights Committee, *Bhinder v. Canada*, ¶ 2.5.

mounted police uniform headgear.²¹ In this case, the Committee was unconvinced by the complainants' assertion that Canadians would feel so perturbed by police officers wearing religious symbols that this would affect public order and/or the human rights of those witnessing a mounted police officer wearing a turban. It is unlikely that the Committee would be any more convinced by an assertion that a Muslim woman wearing a face veil, headscarf, or other garments associated with Islam would affect public order or the rights of others, particularly in a case in which all women are subject to restrictions on what they may wear at all times in public.

III. The rights to non-discrimination and equality

23. The right to non-discrimination on any ground is enshrined in all international and regional human rights treaties. In addition, several treaties include specific provisions to protect equality under the law²² and the right to equal enjoyment of rights by men and women.²³ The European Convention on Human Rights protects the right to non-discrimination in the enjoyment of the rights contained in the Convention on the grounds of "sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."²⁴ The Convention provision should be interpreted in a way that is consistent with the non-discrimination provisions of other human rights treaties in force in any country under examination, as discussed above.

24. The responsibility of states to guarantee freedom from discrimination requires states to take effective measures to overcome discriminatory attitudes. For example, under article 3 of the International Covenant on Civil and Political Rights, states "must not only adopt measures of protection, but also positive measures in all areas so as to achieve the effective and equal empowerment of women" and "should ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women's right to equality before the law and to equal enjoyment of all Covenant rights."²⁵ States party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) "agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women," including by undertaking "all appropriate measures . . . to modify or abolish . . . customs or practices which constitute discrimination against women."²⁶ CEDAW also requires states to "take all appropriate measures" to "modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women."²⁷

25. The steps states take to do so must be "appropriate." Such steps may not have the effect of destroying other rights or impermissibly limiting those rights.²⁸

26. As the Human Rights Committee has repeatedly noted, the right to freedom from discrimination is intimately linked to freedom of religion and thought and the freedom to manifest one's religion. In this connection, the Committee has clarified that "certain measures . . . imposing special restrictions on the practice of other faiths [than the faith of

²¹ Human Rights Committee, *Riley v. Canada*, ¶ 4.2.

²² International Covenant on Civil and Political Rights, arts. 14, 26.

²³ Id. art. 3; International Covenant on Economic, Social and Cultural Rights, art. 3.

²⁴ European Convention on Human Rights, art. 14.

²⁵ Human Rights Committee, *General Comment No. 28*, ¶¶ 3, 5.

²⁶ Convention on the Elimination of All Forms of Discrimination against Women, art. 2(f).

²⁷ Id. art. 5(a).

²⁸ See International Covenant on Civil and Political Rights, art. 5(1); Human Rights Committee, *General Comment No. 28*, ¶ 9.

the majority of a population], are not in accordance with the prohibition of discrimination based on religion or belief and the guarantee of equal protection.”²⁹ Restrictions that prohibit clothing exclusively or predominantly worn by persons of a minority faith—such as for example headscarves and face veils—constitute a prima facie violation of this principle.

27. The Human Rights Committee has observed that “specific regulation of clothing to be worn by women in public . . . may involve a violation of a number of rights guaranteed by the Covenant, such as: article 26, on non-discrimination; article 7, if corporal punishment is imposed in order to enforce such a regulation; article 9, when failure to comply with the regulation is punished by arrest; article 12, if liberty of movement is subject to such a constraint; article 17, which guarantees all persons the right to privacy without arbitrary or unlawful interference; articles 18 and 19, when women are subjected to clothing requirements that are not in keeping with their religion or their right of self-expression; and, lastly, article 27, when the clothing requirements conflict with the culture to which the woman can lay a claim.”³⁰ This analysis applies whether the regulation requires women to wear or prohibits them from wearing specific clothing.

28. Ensuring freedom from discrimination requires states to take account of and address compound forms of discrimination. Intersecting discrimination—that is distinct discrimination because of intersecting factors of disadvantage—has been acknowledged by various U.N. treaty monitoring bodies. An analysis of intersecting discrimination acknowledges that women may experience discrimination due to the intersection of sex with other factors such as age, race, language, class, or religion. These factors combine to produce distinct forms of discrimination, such as, for example, the exclusion of lesbian women from fertility treatment. Experts note that “[i]ntersecting discrimination can determine the form or nature that discrimination takes, the circumstances in which it occurs, the consequences of the discrimination, and the availability of appropriate remedies.”³¹

29. The U.N. Committee on the Elimination of Racial Discrimination has said in its General Recommendation 32 on Special Measures that the grounds of discrimination protected by the convention it oversees “are extended in practice by the notion of ‘intersectionality’ whereby the Committee addresses situations of double or multiple discrimination—such as discrimination on grounds of gender or religion—when discrimination on such a ground appears to exist in combination with a ground or grounds listed in article 1 of the Convention.”³²

30. The Committee on the Elimination of all forms of Discrimination Against Women has said in its General Recommendation 28 on the core obligations of states under Article 2 of CEDAW that “[i]ntersectionality is a basic concept for understanding the scope of the general obligations of States parties contained in article 2. The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity. Discrimination on the basis of sex or gender may affect women belonging to such groups to a different degree or in different ways to men.”³³ The Committee applied

²⁹ Human Rights Committee, *General Comment No. 22*, ¶ 9.

³⁰ Human Rights Committee, *General Comment No. 28*, ¶ 13.

³¹ Montreal Principles on Women’s Equal Access to Economic Social and Cultural Rights, ¶ 10.

³² Committee on the Elimination of Racial Discrimination, *General Recommendation No. 32: The Meaning and Scope of Special Measures in the International Convention on the Elimination of All Forms of Racial Discrimination*, U.N. Doc. CERD/C/GC/32 (2009), ¶ 7.

³³ Committee on the Elimination of Discrimination against Women, *General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, U.N. Doc. CEDAW/C/GC/28 (2010), ¶ 18.

this understanding in the case of *Maria de Lourdes da Silva Pimentel v. Brazil*, finding that the applicant's daughter "was discriminated against, not only on the basis of her sex, but also on the basis of her status as a woman of African descent and her socio-economic background."³⁴

31. In General Comment 16 on the equal right of men and women to the enjoyment of all economic, social and cultural rights, the U.N. Committee on Economic Social and Cultural Rights noted that "[m]any women experience distinct forms of discrimination due to the intersection of sex with such factors as race, colour, language, religion, political and other opinion, national or social origin, property, birth, or other status, such as age, ethnicity, disability, marital, refugee or migrant status, resulting in compounded disadvantage."³⁵
32. Intersecting discrimination may express itself in the form of discriminatory stereotyping of subgroups of women. For example, the stereotype that Muslim women, in particular Muslim women who wear veils, are submissive, oppressed, and incapable of making their own decisions is a gender-and religion-based stereotype.
33. Under article 5(a) of CEDAW, states are obligated to work toward "the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women".³⁶ Read in conjunction with the general obligation to "take all appropriate measures . . . to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women", article 5(a) of the convention establishes a specific obligation to eliminate laws and practices based on discriminatory forms of gender stereotypes, including where these stereotypes apply to subgroups of women.
34. Some stereotypes are statistical or descriptive ("women live longer than men"), and some are normative or prescriptive ("women are only fulfilled through motherhood"). Whatever the basis for a particular stereotype, they constitute a form of discrimination when they result in differentiated treatment, implemented through a law, policy, or practice, that nullifies or impairs the enjoyment of human rights or fundamental freedom. Even if the stereotype is correct in general—most women do in fact live longer than most men—this does not justify a law or policy that impairs the human rights of those women who do not happen to conform to that stereotype.
35. Stereotypes often have the result of further marginalising the group they ascribe specific traits or behavioural patterns to. For example, the stereotype that Muslim immigrants in Europe do not wish to integrate in their host country results in further exclusion of both individual Muslims and of Muslim immigrants as a group.
36. Stereotyping also typically strips an individual of his or her autonomy by assuming the result or intent of a decision-making process. For example, the stereotype that all or most Muslim women who wear headscarves do not do so out of choice, and that they therefore need to be protected, strips the individual Muslim woman of autonomy with regard to the her religious expression, or self-expression: she is assumed to be submissive and in need of protection, regardless of her individual situation. Note that this is true whether the stereotype that "Muslim women are submissive" is descriptive or normative: any law that, in a blanket manner, strips all Muslim women of autonomy under the guise of protection that the

³⁴ Committee on the Elimination of Discrimination against Women, *Maria de Lourdes da Silva Pimentel v. Brazil*, Communication No. 17/2007 (views), U.N. Doc. CEDAW/C/49/D/17/2008 (2011), ¶ 7.7.

³⁵ Committee on Economic, Social and Cultural Rights, *General Comment No. 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights*, U.N. Doc. E/C.12/2005/4 (2005), ¶ 5.

³⁶ Convention on the Elimination of All Forms of Discrimination against Women, article 5(a).

individual woman may or may not need constitutes impermissible discrimination based on a stereotype.

IV. Implications for Other Rights

37. Restrictions on headscarves and veils can impair the right to work, the right to education, and the right to equal protection of the law. They can also be a contributing factor in acts of harassment and violence, in violation of the right to security of person.
38. In practice, restrictions on headscarves and veils have contributed to discriminatory stereotyping of Muslim women. This type of discrimination has a serious impact on Muslim women's equal enjoyment of the right to work. In Belgium, for example, the European Commission against Racism and Intolerance found that women who wear the headscarf encounter difficulties in access to employment, as well as to housing and other goods and services available to the public.³⁷ Other research confirms that women in Belgium who wear headscarves are not employed in particular positions—for example, some private employers, such as banks and financial institutions, allow the display of religious symbols only for staff in back-office positions, and other employers, such as cleaning companies, restrict the wearing of religious symbols and dress to satisfy the requirements of their clients.³⁸ Amnesty International has identified similar barriers to employment in Switzerland and the Netherlands for women who wear headscarves.³⁹
39. Bans on religious symbols in schools can result in increased dropout rates for Muslim girls and may lead to de facto segregation or marginalisation of students from religious minorities. Amnesty International has documented such restrictions in law or practice in some schools in Belgium, France, the Netherlands, Switzerland, Spain, Turkey, the United Kingdom, and elsewhere, with adverse consequences for the enjoyment of the right to education.⁴⁰
40. In addition, to the extent that such restrictions reinforce stereotypical views about Muslims and Islam, they may also be a contributing factor to harassment and acts of violence. A Muslim woman living in the Italian-speaking part of Switzerland told Amnesty International, "Muslims are held responsible for what happens in Middle East and North Africa. It is also because of the stereotypical portrayal of Muslims in the media. For instance, I remember that after September 11 a colleague of mine said that all Muslims should be set fire to. People called me names in the street or made unpleasant remarks. Recently I have been insulted in the street by a man who identified Islam as the cause of what was happening in Libya and who told me to return to my own country. Another time another man started shouting at me saying that I had to remove the sheet I was wearing on my head. I have been raised in Switzerland and I believe this is my country. I do not understand how other citizens assume they have the right to treat me like that."⁴¹

³⁷ European Commission against Racism and Intolerance (ECRI), Fourth Report on Belgium, 26 May 2009.

³⁸ See Nadia Ben Mohammed, "Les femmes musulmanes voilées d'origine marocaine sur le marché de l'emploi," Free University of Brussels, 2006 ; F. Brion & U. Manço, "Exclusion and the job market: An empirical approach to Muslim women's situation in Belgium," *Muslim Voices*, 1998, pp. 18–19; Ilke Adam, Andrea Rea, "La diversité culturelle au travail. Pratiques d'aménagements raisonnables: adaptation du code vestimentaire," 2010, pp. 80–92 (including 71 examples of policies implemented by public and private employers and relating to the accommodation of specific forms of dress code).

³⁹ See Amnesty International, *Choice and Prejudice: Discrimination against Muslims in Europe* (London: Amnesty International, 2012), pp. 47, 51.

⁴⁰ See *id.*, pp. 58–78.

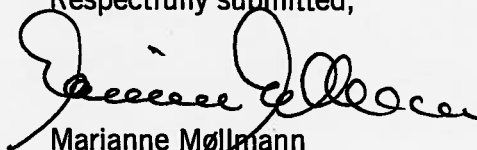
⁴¹ *Id.*, p. 13.

Conclusion

41. Public debate about restrictions on religious and cultural symbols and dress perceived as Muslim has focused largely on the headscarf or full-face veil worn by women. Sometimes anxiety about women's status in Islam is offered a justification for such measures. States are required to bring an end to discrimination against women in the enjoyment of their rights, which includes eradicating all forms of violence against women, irrespective of the religion, culture, or racial and ethnic identity of the victim or perpetrator, and effective prevention consists in states offering appropriate services to women at risk. But it is an expression of gender- and religion-based stereotyping to assume that women who wear certain forms of dress do so only under coercion.
42. Ending discrimination requires a more nuanced approach. It requires, for example, that states make space for women and girls in diverse religions and traditions to debate and inform others about the reality of their lives. They should be free to challenge religious and cultural practices or not to, to discuss how they can be changed or maintained without pressure or constraints imposed by the state or by any non-state actor likely to strengthen prejudices instead of counteracting them. States should adopt an approach to concerns about women's equality in minority religions and cultures that is based on the views and preferences of the women themselves and their experience of discrimination either by those who claim to be in their community, or those from other parts of society.
43. Whatever the measures taken, they must be consistent with the principle of non-discrimination and must not destroy or impair other human rights. Limitations must be narrowly tailored, demonstrably necessary to achieve a legitimate aim, and proportionate. A blanket ban can never meet these strict requirements.

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