

The Canadian Secular Alliance does not believe that the veil should be banned in Canada



What is the Canadian Secular Alliance (CSA)?

- The Canadian Secular Alliance is a non-profit, public policy research and advocacy organization advancing church-state separation and the neutrality of government in matters of religion. We seek to represent all Canadians, religious and non-religious alike, who believe that the Canadian government should adopt public policies consistent with a secular state.
- The CSA believes in church-state separation — the idea that the government of Canada should not favour one religion over others, or religious belief over non-belief. Our commitment is to liberal-democratic principles of equality, fairness and justice for all under the law, regardless of religious belief or lack thereof.

What is the issue?

- Some Canadian public figures and organizations, including the Muslim Canadian Congress, have recently called on the government to ban certain forms of female Muslim dress. They argue that the niqab (face covering) and burka (full body covering) – for simplicity, collectively referred to herein as “the veil” – are an affront to Canada’s commitment to gender equality, and are psychologically and physically harmful to the wearer.

What is the CSA’s position on banning the veil?

- The CSA, as an organization advancing government neutrality in matters of religion, cannot support legal prohibition of the veil. The general view of the CSA is that:
 - (1) in the absence of a compelling reason to the contrary, no person should be forced to comply with a dress code imposed by the state; and
 - (2) no person should be forced to comply with a dress code imposed by their families, religious leaders, or cultural community.
- The CSA does not believe that the law is an instrument that can effectively address (2) while respecting Canadians’ fundamental rights and freedoms. Canadian law cannot shield a woman from non-violent influence exerted by others. Coercion involving violence or the threat of violence is already prohibited under the Criminal Code and should be prosecuted to the full extent of the law.
- In short, the CSA supports both the right of women to wear the veil if they so choose, and the right of women not to wear the veil if they so choose. Instead of selectively banning some religious practices, our society should do more to ensure that girls and women in religious communities are aware of their rights as Canadians, and do more to support and enable them to exit a religious community should they so choose.

Doesn’t the CSA recognize that the veil is degrading to women?

- The CSA is in agreement with those who argue that the veil is a symbol of female subservience and oppression. However, the issue is not whether the CSA (or any other entity) likes or dislikes the veil, but whether the veil should be criminalized by the state.

Does banning the veil respect the fundamental rights and freedoms of women in a liberal-democratic state?

- No. The CSA is opposed to women wearing the veil against their will. However, a ban would also criminalize those women who freely choose to wear the veil as a political or cultural statement – a clear violation of their constitutional right to free expression.
- One of the fundamental principles underwriting a liberal state is that citizens are free to associate and form voluntary groups as they see fit, including religious groups with internal practices that are illiberal. For instance, many religions are opposed to universal human rights and the values of the modern secular state, including gender equality, democratic governance, freedom of expression, freedom of conscience, etc. In a liberal state, the illiberal internal practices of these groups would be unacceptable if they were enforced by political or legal power, but are tolerable provided that group membership is voluntary, and individuals have the option of exiting at any time. Consequently, in Canada a woman is free to participate in a religion that is deeply misogynistic and patriarchal. A woman is also free to abide by the pronouncements of religious or cultural leaders that restrict her freedoms and relegate her to the status of a second-class citizen if she chooses to accept their authority.

Isn't it obvious that any woman who wears the veil does so as a result of indoctrination (brainwashing) or coercion (force)? Isn't it obvious that wearing the veil cannot be a free choice, so the state must intervene to rescue a woman from the oppressive beliefs of her religion or culture?

- No. The CSA is cognizant of (and generally sympathetic to) the argument that some Muslim women may wear the veil as a result of indoctrination or coercion by their husbands, families, communities, or religious leaders. However, this is a general problem and not unique to the veil. Whenever a religious believer engages in religious practices that cause harm to themselves (from the perspective of non-adherents), outsiders can speculate as to whether their choice was “freely chosen” or the result of coercion or indoctrination.
- Consider the example of a Catholic who chooses to forgo birth control and to refrain from reading literature on the Vatican's “banned books” list. To a non-Catholic, it can be difficult to understand why the religious believer would consent to the imposition of these restrictions on their freedom. Nevertheless, Canadian law assumes that this individual's choices are free rather than a result of coercion or indoctrination from fellow Catholics and the Pope, and thus are not in need of government correction.
- Simply put, in the absence of compelling evidence to the contrary, the law assumes by default that adults are capable of acting in their own self-interest to avoid exploitation and oppression. Extremely strict conditions must be met to legally designate an adult as mentally unfit to make decisions in their own best interest. Such legal hurdles are not satisfied in the case of adult religious believers of sound mind, no matter how “irrational” outsiders might consider their religious behaviour.

Can the rationale underlying a ban on the veil be consistently applied?

- No. When a religious or cultural practice clearly violates the rights of non-consenting third parties, our society should not hesitate to ban it. However, the government cannot ban harmful religious practices that believers impose upon themselves, and it cannot assume that the decision to adopt such practices was not freely chosen. If the argument that the veil may be worn as a result of coercion or indoctrination were a valid rationale for banning it, it would be an equally valid rationale for banning numerous other practices within many other religions. In short, this argument cannot be applied consistently without subjecting all the world's religions to sweeping state regulation.

Is the veil the only religious practice that, from the perspective of outsiders, is harmful to women?

- No. For instance, the following religious practices are accepted as legal in our society despite the fact that a non-adherent might have legitimate cause to believe that they (like the veil) are oppressive to women:
 - The women of some religions are forbidden by religious authorities from using contraception; from an outsider's perspective, it appears as if these women renounce the right to control their own reproductive cycle.
 - In some houses of worship, the proceedings cannot begin until a minimum number of people are present, and women do not count towards this total; from an outsider's perspective, it appears as if these women accept that they are inferior to men (or do not count as people).
 - In many religions, women are forbidden from joining the religious hierarchy (becoming a priest, imam, rabbi, etc); from an outsider's perspective, it appears as if these women accept that they are inferior to men.

Is the veil the only religious practice that, from the perspective of outsiders, inflicts psychological harm on religious adherents?

- No. For instance, the following religious practices are accepted as legal in our society despite the fact that a non-adherent might have legitimate cause to believe that they (like the veil) cause psychological harm to the religious believer:
 - Some religious adherents are forbidden by religious authorities from reading certain books and watching certain films; from an outsider's perspective, it appears as if these people are subject to censorship.
 - Many religious adherents are governed by an autocratic religious hierarchy in which officials are appointed to positions of power without accountability to the membership; from an outsider's perspective, it appears as if these people are subject to dictatorial and undemocratic rule.
 - Many religious adherents are taught a philosophical framework for knowledge and ethics in which propositions are true and behaviour is moral because an authority figure asserts that they are; from an outsider's perspective, it appears as if these people are being denied the opportunity to think critically and develop their own conscience.

Is the veil the only religious practice that, from the perspective of outsiders, inflicts physical harm on religious adherents?

- No. For instance, the following religious practices are accepted as legal in our society despite the fact that a non-adherent might have legitimate cause to believe that they (like the veil) cause physical harm to the religious believer:
 - Some religious adherents engage in ritual religious fasting despite having a medical condition like diabetes that can cause dangerous complications; from an outsider's perspective, it appears as if these people are seriously jeopardizing their health.
 - Some religious adherents are forbidden by religious authorities from accepting life-saving medical treatments involving a blood transfusion; from an outsider's perspective, it appears as if these people choose to die unnecessarily because of their religious beliefs.

Is there a coherent argument for why the veil, alone amongst all the illiberal and potentially harmful religious practices in our society, should be banned?

- No. The veil cannot be meaningfully differentiated from any of the other religious practices listed above. There is no coherent case for why the veil is "special" and should be singled out for criminalization. In particular, it is unclear why our society would allow a religious woman to choose death by refusing a blood transfusion in accordance with her religious beliefs (the ultimate self-inflicted harm), but not allow another religious woman to potentially "oppress herself" by wearing a veil in accordance with her religious beliefs (a much lesser harm in comparison).

Would a ban on the veil fix the injustice that it is intended to resolve?

- No. For women who wear the veil against their will, the root problem is the systemic, institutionalized gender inequality embedded in certain religious and cultural communities. Other means must be employed to address this problem, such as educational outreach programs to ensure that girls and women in insular religious communities are aware of their rights as Canadians, and of the social support mechanisms available to help them leave abusive relationships. Ultimately, cultural acceptance of gender equality must be achieved through a reform movement from within – it cannot be externally imposed by government action criminalizing specific practices like the veil.

Is it potentially harmful to grant the state the power to ban the veil?

- Yes. The harm associated with the possibility that some women may wear the veil against their will must be weighed against another, greater harm – that of setting a precedent in which the state is given the sweeping power to determine when adult Canadians' decisions are not "freely chosen" and can therefore be subject to government correction. As noted above, this would be a glaring exception to the state's default assumption that adults of sound mind are capable of acting in their own self-interest.

Should the veil receive a special religious exemption from generally applicable laws and policies?

- No. The veil should not be singled out for special restriction, but nor should it receive special privilege relative to any other face-obscuring mask – wearers should be required to remove it in any situation where identification would normally be required (obtaining photo identification, casting votes in elections, testifying in court, serving as a public official, etc).
- This position is consistent with the CSA's overall stance on the general issue of religious accommodation (the practice of granting exemptions from the law to individuals whose desire not to comply is rooted in religion). The CSA's overarching policy on religious accommodation is that the Canadian government and judiciary should uphold one law for all Canadians, by not granting religious believers special exemptions from generally applicable laws and policies that all other citizens must obey. (See the CSA's policy on "[Religious Accommodation](#)" for more information.)

Isn't it permissible to ban the veil because some Muslim religious authorities say that the veil is a "cultural" practice, and not required by Islam?

- No. Whether the veil is required by Islam is a question for debate within the Muslim community, and not an issue for the state to decide. Canadian law should not be used to settle a religious community's internal theological disagreements.
- Furthermore, whether or not the veil is required by Islam is irrelevant to the question of whether it should be banned. Framing the debate around whether the veil is required by Islam suggests that if the veil *were* religiously required, it would somehow be above the rule of law. Hypothetically speaking, if there were a compelling public-security reason for banning all face-obscuring masks in public, the CSA would support a prohibition that included the veil regardless of whether it was required by Islam. However, at present no such compelling reason exists, so the state has no business in the wardrobes of the nation.

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