Proceedings of the 2027 International Conference on Education, Law and Institutional Adaptation
DOI: 10.54254/2753-7048/2027.38905

Formally Neutral Dress Codes and Substantive Equality for Religious and Cultural Minorities: An Equality Law Perspective

Yichen Chen

Law School, University of International Relations, Beijing, China
liqing19881010@outlook.com

Abstract. In modern times, countries generally no longer issue explicit dress codes targeting specific groups, but instead widely adopt seemingly neutral dress codes in public institutions. Such policies claim to apply uniformly to all citizens, yet they often bring about real conflicts for religious and cultural minorities who require special clothing for their own identities. This article takes seemingly neutral dress codes as the research object, explores the tensions between formal equality and substantive equality, and compares the dress-related predicaments faced by minority groups in the contexts of China and Western countries. The research employs methods such as comparative study, case analysis and literature review to distill the differentiated adverse consequences brought about by facially neutral dress codes. The research conclusion holds that formal fairness at the textual level does not equal true equality. When evaluating dress codes, one should not merely look at the literal meaning but also take into account the actual situation of minority groups. Only by balancing the demands of public order with the cultural and religious dress codes can society achieve inclusive substantive equality.

Keywords: Formal equality, substantive equality, dress codes, religious and cultural minorities

1. Introduction

The governance of public dress codes has become a subtle yet crucial issue in the field of equality rights and minority rights in contemporary society. In recent decades, explicit discriminatory legislation targeting specific religions or ethnic groups in modern legal systems has gradually disappeared. Governments around the world are more inclined to adopt neutral and universal dress codes, ostensibly treating every citizen equally. However, a large number of practical disputes have continuously exposed the hidden dangers behind this form of neutrality. In Western Europe, France's long-standing ban on prominent religious signs in public schools has continuously sparked debates over the rights of Muslim female students. Many adolescent minority members are faced with a dilemma: either take off their religious headscarves to receive public education, or stick to their beliefs and thus be excluded from mainstream campus life. In North America, the issue of minority

© 2026 The Authors. This is an open access article distributed under the terms of the Creative Commons Attribution License 4.0 (https://creativecommons.org/licenses/by/4.0/).

DOI: 10.54254/2753-7048/2027.38905

students wearing traditional religious accessories has also repeatedly conflicted with campus security rules and uniform dress codes.

In the social context of China, although there are no national laws restricting ethnic or religious clothing, minor conflicts still occur from time to time in campus settings, job-hunting and recruitment, as well as in daily public administration. Many minority students and job seekers encounter unwritten pressure to abandon traditional or religious clothing in order to conform to a unified institutional image. These practical disputes raise a legal issue worthy of in-depth exploration: Why do the rules originally formulated to achieve equality for all still bring structural injustice to religious and cultural minorities? Formal equality has long been regarded as the fundamental standard of modern rule of law. However, simplistic equal treatment neglects the objective differences among various social groups in terms of cultural traditions, religious obligations, and identity demands. Based on this issue, this article will first define the two major legal concepts of formal neutrality and substantive equality, compare the institutional differences and common predicaments of dress-code governance models in China and the West, analyze the limitations of governance that relies solely on formal equality, and put forward targeted optimization suggestions.

2. Basic concepts

In the face of the increasingly intense conflicts arising from public dress codes, it is necessary to first sort out the possible theories before conducting further analysis. This is also to lay a theoretical foundation for the subsequent case studies.

2.1. Core terms and definitions

To make the following analysis more rigorous, this article first needs to clarify three core concepts. First, religious and cultural minority groups refer to social groups that require fixed and unique dress styles due to their traditional customs or religious doctrines, and such styles differ from the mainstream aesthetic and dressing habits of society. Second, seemingly neutral dress codes refer to the uniform grooming management regulations formulated by public institutions such as schools, government agencies, enterprises and public institutions. Such provisions do not explicitly mention, target or prohibit the clothing of a specific religious, ethnic or cultural group. From the perspective of the text, they apply uniformly to all personnel within the jurisdiction without any differential treatment. Thirdly, substantive equality is an equality-law concept that differs from traditional formal equality. It focuses on the actual effects after the implementation of the rules rather than merely the wording of the provisions, emphasizing the correction of structural unequal impacts and ensuring that groups with different cultural backgrounds receive fair and inclusive treatment in real social life.

2.2. The connotation of formal equality and its manifestation in dress codes

Formal equality is the most fundamental and traditional form of equality in the modern legal system, with the core connotation of "the same rule, equal treatment". It demands that public power formulate universal and unified norms, prohibit explicit discrimination based on identity, race, religion and ethnicity, and ensure that all citizens are equal before legal provisions. The greatest advantage of formal equality lies in its clarity and stability, which can effectively prevent public

DOI: 10.54254/2753-7048/2027.38905

institutions from arbitrarily implementing discrimination and introducing policies with exclusive or special preferential natures.

From the perspective of legal basis, formal equality is a fundamental principle of modern constitutional and administrative law. Article 33 of the Constitution of the People's Republic of China stipulates that all citizens of the People's Republic of China are equal before the law, establishing the legal requirement for the uniform application of rules [1]. In the Western legal system, the principle of formal equality is embedded in the equal-protection clause, requiring public institutions to implement neutral rules and not to subjectively discriminate against specific groups. In the practice of administrative governance, public dress codes are a typical product of the logic of formal equality. Managers formulate uniform standards for appearance, uniforms and grooming applicable to all, believing that rules that do not take into account identity differences conform to the requirements of procedural justice in the rule of law.

Judicial practice has further demonstrated the operational logic of formal equality in the governance of dress codes. The court recognized that the general ban on large religious symbols in public met the requirements of formal equality. These rules apply equally to Christians, Jews, Muslims and all religious groups, without making legal distinctions based on religious identity. From the perspective of formal equality, such regulations are legal because they avoid explicit discrimination and maintain a unified public education order.

In China, a large number of disputes over school uniforms and employee appearance management also follow the principle of formal equality in adjudication. Grassroots administrative rulings often support the uniform dress codes of institutions on the grounds that "this standard applies equally to all students or staff". This legal logic strictly adheres to procedural neutrality. As long as the rule text does not target minority groups, it is recognized as conforming to the principle of equality. However, this approach prioritizes procedural fairness in the rule-making stage, but to a large extent neglects the differentiated living conditions and cultural identity demands of different social groups, thus sowing the seeds of substantive injustice.

2.3. The connotation of substantive equality and the problem of "neutrality on paper and injustice in practice"

Unlike the single and fixed standard of formal equality, substantive equality takes social equity at the practical level as the ultimate goal of legal governance. It fully acknowledges that there are objective differences between the mainstream group and the minority group in terms of cultural traditions, religious responsibilities and social living environments. Many uniform norms designed based on the living habits of the mainstream group will impose an unreasonable and excessive burden on disadvantaged minority groups. Even if managers have no subjective intention of discrimination, objective unequal results will still occur. This is a typical predicament of "neutrality on paper but injustice in practice".

Substantive equality is clearly regulated and supported in modern anti-discrimination laws and constitutional interpretations. Contemporary equality laws, represented by anti-discrimination legislation in the UK and Europe, explicitly recognize disparate-impact discrimination. If formally neutral rules cause disproportionately adverse consequences for protected minority groups, such rules should be deemed discriminatory. In the theory of Chinese constitutional law and the practice of judicial reform, substantive equality has gradually become an important yardstick for reviewing administrative discretionary acts. The Supreme People's Court has repeatedly pointed out that judicial review should not be confined to the compliance of the formal provisions, but should take

DOI: 10.54254/2753-7048/2027.38905

into account group differences and actual effects to examine the substantive equality of administrative measures.

The landmark case shows the need to introduce substantive equal thinking in the dress code dispute. In the famous Multani v. In the case of the committee school Marguerite-Bourgeoys in Canada, the school invoked a formally neutral campus safety regulation that prohibited all sharp objects from entering the campus. This basically prohibits Sikh students from carrying ritual swords required by the doctrine [2]. Although the rule is textual and uniformly applicable to all students, the Canadian Supreme Court ruled that such a one-size-fits-all ban constituted indirect discrimination against religious minorities. The judgement pointed out that formal equal treatment ignores the unique religious obligations of minorities and imposes a targeted burden on vulnerable groups, which violates substantive equality and the protection of religious freedom. The court further explained that public institutions should make reasonable adjustments instead of strictly prohibiting all risks in cases where public order risks can be ignored.

Disputes in grassroots governance in China also reflect the practical defect of over-reliance on formal equality. Among the many disputes over campus and employment dress codes that have not entered the judicial process, the uniform-image and uniform rules do not explicitly exclude the costumes of ethnic minorities, but they force individuals of minority groups to abandon their own identity-based dress habits in exchange for equal educational and employment opportunities. From the perspective of substantive equality, such administrative enforcement actions constitute implicit institutional discrimination.

The mainstream social group can easily adapt to the uniform dress codes without sacrificing personal beliefs and cultural identities. Complying with dress codes will not cause mental stress or loss of identity. In contrast, for religious believers and ethnic minorities, giving up their unique clothing often means going against religious doctrines or giving up cultural customs that have been passed down from generation to generation. When formal neutral rules force minorities to choose between public participation and their own cultural and religious identity, the mechanism of formal equality evolves into implicit institutional discrimination. The concept of substantive equality requires the legal system to get rid of a single textual judgement and pay attention to the actual adverse impact of rules on minorities.

3. Real-world dilemmas of formally neutral dress codes: China and the West comparison

After clarifying formal equality and substantive equality, we need to shift the focus to the actual reality. Theoretical concepts can only be explained in a specific social context. Comparing the situation of different countries helps to reveal the common problems behind different social systems.

3.1. The West: direct restrictions on religious attire under secularism

Secularism forms the ideological basis for most Western countries to formulate public dress codes. Many European countries, influenced by the separation of church and state, have imposed relatively clear institutional restrictions on some religious clothing in public institutions.

France is the most typical example. Legally speaking, it prohibits the use of conspicuous religious symbols in public primary and secondary schools. However, in practice, this restriction mainly affects religious minorities, such as Muslim schoolgirls wearing headscarves and Sikhs. In the case of Dogru v. France, a Muslim student refused to take off her turban in physical education class. When told to leave the school, the European Court of Human Rights supported the school's decision. It cites the equal application of secular educational order and rules [3]. In S.A.S. v. France,

DOI: 10.54254/2753-7048/2027.38905

the European Court further reviewed France's ban on masks in public places. The court accepts "living together" as an effective goal of national policy and recognises broad legislative power. This judgement shows the conflict between formal equality and substantive equality in judicial reasoning [4]. Under such a regulatory system, people from religious minorities often face difficult choices. They can take off their religious clothes to receive public education and services, and they can also maintain their religious beliefs but cannot obtain these rights. Except for France, several other European countries have adopted similar policies in public administration and civil service recruitment. In judicial practice, some rulings from the European Court of Human Rights have upheld these prohibitions.

They rely on formal equality and the need to keep secular public order. Many international human rights research and comparative law works criticise these "neutral" rules based on secularism. Christian Joppke believes that S.A.S. There is no clear legal definition of the idea of "living together" used in the case. In fact, this turns mainstream social preferences into a legally binding obligation. It forces religious minorities to adjust their cultural expression to meet majority expectations [5]. In his study of religious freedom, Abraham pointed out that some European countries restricted religious clothing under the pretext of secular security. They confuse prejudices against cultural symbols with real public safety risks. They indirectly legitimise unfair treatment of the Muslim community [6]. These criticisms show that neutral dress codes built around secularism place nearly all the burden of keeping secular public space on religious minorities. The law does not target any specific religious group. Even so, religious minorities have to carry most of the sacrifices demanded by secular norms.

The situation in North America is more complicated. It is manifested in the court that it is usually more willing to accept requests for reasonable and convenient. The above-mentioned Multani case is a good example. In workplace disputes, the case of Eweida and others v. UK also reflects this trend. British Airways has internal unified rules. Flight attendants are not allowed to wear visible cross necklaces on their work clothes. This rule is considered neutral. When an employee refused to comply with the rules and was reassigned, the European Court of Human Rights ruled that the airline did not fully consider the employee's religious needs and did not provide reasonable facilities. This case proves that school uniforms, security checks and workplace appearance rules sometimes conflict with traditional accessories and clothing worn by religious and cultural minorities. Even the dress code within the company may cause equality disputes [7]. When public safety and administrative efficiency are considered as priorities, applications for reasonable convenience are often rejected, and formal neutrality still dominates.

3.2. China: no legal prohibition, but implicit pressure in practice

China's legal system has no national laws or administrative rules that explicitly ban distinctive ethnic or religious clothing. The Constitution protects all ethnic groups' cultural freedom and religious freedom [1]. On the level of written law, people from all ethnic and religious communities enjoy equal rights to wear traditional clothing in public life.

Even without clear legal bans, subtle pressure still exists in institutions such as schools, public job recruitment and daily administrative management. For instance, in interviews for some government agencies and public institutions, internal grooming rules do not directly forbid ethnic minorities' traditional clothing. Still, interviewers may view candidates in traditional ethnic costumes as unable to meet the professional image standard for civil servants. This perception harms their chances of being hired. Similarly, some primary and secondary schools carry out uniform rules that only require students to wear school uniforms and do not specifically prohibit ethnic traditional

DOI: 10.54254/2753-7048/2027.38905

dress. However, during daily management, teachers require ethnic minority students to wear complete standard school uniforms, and are not allowed to wear traditional headdresses on school uniforms. Many organisations set appearance and dress codess according to mainstream social norms. These rules do not directly target ethnic or religious clothing, but in practice, they implicitly promote ethnic minorities to follow mainstream aesthetic standards. If ethnic minorities insist on wearing clothes with cultural or religious significance, they may be considered unconforming with the image requirements. They must choose between the external manifestation of identity and access to education, work and other public resources.

Chinese scholars in constitutional law and human rights have reflected on these problems. Scholar Li Xiong pointed out that China's anti-discrimination work mainly focusses on obvious discrimination cases. There are few tools that can identify indirect discrimination caused by administrative discretion. And this kind of discrimination is hidden and rarely examined by the court [8]. Since most of these conflicts have not entered the judicial process, personal disputes are usually resolved through negotiations and compromises between the two parties. If there is no court ruling to explain how neutrality rules cause indirect discrimination, the negative reality of the uniform dress codes will be hidden. Legal formal equality cannot turn into real equal opportunities for cultural and religious minorities in daily life.

3.3. A comparison between two contexts

Western countries and China have different institutional frameworks in regulating dress code. Represented by France, Western countries make rules based on secularism and adopt clear written prohibitions in public institutions. For example, France passed a law in 2004 prohibiting the use of religious symbols in public schools and the use of masks in public places in 2010. In contrast, China does not have a top-down legal ban. Unfair results are mainly manifested in implicit pressure during administrative implementation.

Despite these differences, they still have similar root causes. For the sake of administrative convenience, order and formal equality, public institutions will adopt rules that seem to apply to everyone. Rulemakers do not mean to discriminate against minorities. They may simply overlook cultural and religious differences when writing policies from a mainstream perspective.When these rules are widely enforced, religious and cultural minorities will bear a heavier burden.

In a comparative study of legal limits on religious clothing, Mao Junxiang argues that Western and Chinese governance differs in where conflicts appear. Yet their underlying essence remains similar. In Western countries, there are usually contradictions in legislation. In China, conflicts mainly occur in the administrative implementation stage. Without review from the perspective of substantive equality, even neutrality rules would inhibit cultural diversity [9]. This common difficulty shows that relying on formal equality alone does not solve the problems associated with ethnic minority religious groups.

4. Legal reflections on dress equality and recommendations for improving public dress codes

The above practical problems show the risk of over-reliance on formal equality. In order to establish inclusive equality for religious and cultural minorities, public governance needs to follow the concept of substantive equality. On the contrary, they should focus on true equality outcomes and balance public order with the cultural and religious needs of minorities. For this reason, this article provides the following suggestions.

DOI: 10.54254/2753-7048/2027.38905

Public institutions should set double review standards for dress codes. The standard should be combined with formal text check and actual impact assessment. When schools, government agencies or public service organisations develop uniform dress regulations, they should study whether universal standards put too much pressure on religious and cultural minorities. If potential discriminatory hazards are found, policymakers should re-examine the relevant provisions and make adaptive changes.

It is difficult to solve all the problems by relying on this kind of review method alone. It is also of great significance to build a reasonable adaptation mechanism. Reasonable convenience is an important component of the principle of substantive equality. Public institutions can flexibly adjust the existing management rules without harming the public interest. The judicial judgement in the Multani case can confirm this view. During the trial of the case, the court adopted a compromise treatment. Sikh religious ritual knives can be fixed on clothes or properly stored. This treatment not only maintains the public safety of the campus, but also fully respects the religious beliefs of Sikhs. Reasonable convenience is not a special preferential treatment for minorities. The core value of this mechanism is to guarantee the basic right of minorities to participate in public life equally. When the court examines the dress management rules, it cannot only consider the universal applicability of the rules. The trial process needs to be fully combined with the actual situation of the affected group for comprehensive judgement [10].

5. Conclusion

Most modern legal systems have abolished explicit dress codes for specific religious or ethnic groups. Nevertheless, the seemingly neutral universal dress codes has become a new source of conflict in protecting the rights of minorities. Formal equality is effective against direct discrimination based on identity. However, it often ignores the cultural and religious differences between social groups. Rules that seem fair on paper may cause inconvenience to religious and cultural minorities. This has resulted in the phenomenon of neutral rules on paper, which has unfair results in practice.

There are challenges in secular Western society and China's institutional practises, even if they take different forms. The equality of religious and cultural minorities cannot be limited to formal fairness in statutory law. Substantive equality requires legal interpreters to go beyond the literal text of the law and study the actual social impact of the law. When designing dress codes, public institutions should conduct a substantive impact assessment. They need to establish a reasonable facility mechanism for legal cultural and religious clothing practises and improve dispute resolution channels. Only by balancing public order and respecting the cultural and religious identity of minorities can we transcend formalism and realise true, inclusive and substantive equality for all members of society.

References

[1] National People's Congress of the People's Republic of China. (2018). Constitution of the People's Republic of China.
[2] Multani v. Commission scolaire Marguerite-Bourgeoys. (2006). 1 SCR 256, 2006 SCC 6.
[3] Dogru v. France. (2008). App. No. 27058/05, ECHR 4 December 2008.
[4] S.A.S. v. France. (2014). App. No. 43835/11, ECHR 1 July 2014 [GC].
[5] Joppke, C. (2021). What happened to "Vivre ensemble": Developments after SAS v France. *Oxford Journal of Law and Religion, 10*(2), 185-205.

DOI: 10.54254/2753-7048/2027.38905

[6] Abraham, I. (2006). Hijab in an age of fear: Security, secularism, and human rights. *Journal for the Academic Study of Religion, 19*(2), 169-188.
[7] Eweida and Others v. the United Kingdom. (2013). App. Nos. 48420/10, 36516/10, 51671/10, 59842/10, ECHR 15 January 2013.
[8] Li, X. (2017). On the construction of the judicial remedy system for the right to equal employment. *Hebei Law Science, 35*(10), 2-18.
[9] Mao, J. X. (2017). Legal reflections on the ban on face-covering clothing in public places: Inspiration from the ECHR case S.A.S v France. *Chinese Journal of European Studies, 35*(1), 52-69+6.
[10] Howard, E. (2019). *Law and the wearing of religious symbols in Europe*. Routledge.