

RELIGIOUS AND CULTURAL DRESS AT SCHOOL: A COMPARATIVE PERSPECTIVE

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SUMMARY

This article investigates and compares the different approaches towards the dress code of learners¹ in South Africa and the United States of America (US), as the US mainly base litigation concerning school dress code on their freedom of speech/expression clause, while similar South African court cases focus more on religious and cultural freedom.

In South Africa, school principals and School Governing Bodies are in dire need of clear guidelines on how to respect and honour the constitutionally entrenched right to all of the different religions and cultures. The crisis of values in education arises from the disparity between the value system espoused by the school and the community, and that expressed in the *Constitution of the Republic of South Africa*, which guarantees learners' fundamental rights, including those of freedom of religion, culture, expression and human dignity. On the one hand, the *South African Schools Act* requires of School Governing Bodies to develop and implement a Code of Conduct for learners, and on the other, that they strictly adhere to the *Constitution* of the country when drawing up their dress codes. The right of a religious group to practise its religion or of a cultural group to respect and sustain its culture must be consistent with the provisions of the *Bill of Rights* (which is entrenched in the

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¹ The terms *learner/s* and *student/s* are used interchangeably in the article, since South Africa uses the one and the US uses the other to indicate school-going persons.

Constitution) and this implies that other rights may not infringe on the right to freedom of religion and culture.

In the US, although there is no legislation that protects learners' freedom of religion and culture at schools, their First Amendment guides the way. Their Supreme Court respects the religious values of all citizens provided that they are manifested *off* public school premises. While we acknowledge the existence of religious and cultural diversity at South African schools, this paper focuses on the tension among and on the existence of different approaches towards the human rights of learners from different religious and cultural backgrounds in respect of dress codes.

KEYWORDS: Religious dress; cultural dress; school discipline; learners' rights; comparison with the United States of America