

HIJAB BAN IN SCHOOLS: A VIOLATION OF PERSONAL LIBERTY OR A NECESSARY REGULATION?

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ABSTRACT:

Important discussion on gender rights, personal freedom and religious freedom is inspired by the legal and constitutional dispute around prohibition on hijab in Indian schools. "Articles 21 of the Indian Constitution (Right to Life and Personal Freedom) and 25 (Freedom of Religion)" are the main points of controversy. The 2022 decree of the Government of Karnataka, comprehensive demonstrations and legal challenges, implemented universities and colleges that implement universities and colleges before the university that implements a wardrobe code. Since the hijab does not follow the criteria of exemption, the Supreme Court in Karnataka retained prohibition for constitutional protection as it is not an essential religious practice in Islam. This article discusses whether the ban is in line with secularism, constitutional ethics and fundamental rights by seriously analyzing legal justification for the decision of the Karnataka High Court. To evaluate the changing meaning of religious expression in India, this case examines the law and other decisions of the Supreme Court. The study attempts to find out whether prohibition is an unfair limit on religious and personal freedom or a legitimate regulator policy by analyzing constitutional rights, judicial logic and sociological influences.

Keywords: *Hijab Ban, Religious Freedom, Personal Liberty, Article 21, Article 25, Karnataka High Court*

INTRODUCTION:

The relationship between religious freedom and institutional rules has given serious legal arguments globally. After an order was issued by the Government of Karnataka, students stopped wearing religious clothes, including hijab, in pre-university institutions, the hijab controversy attracted national attention in India. Since Hijab is not an essential Islamic religious practice, the Karnataka High Court maintained the verdict. Since then, the case has made its way to the Supreme Court of India, where constitutional disputes related to Article 21, 25 and the idea of fundamental religious activities are being discussed.

The continuous dispute around the hijab in Indian classes inspired national dialogue and brought out important social and legal issues. The conflict between institutional rules and individual rights, which is protected by the Indian Constitution, is at the core of the problem. The two main points of the dispute are Article 25, which protects religious freedom, and Article 21, in a way that protects the extreme right to personal freedom and existence.

As Muslim women fight for the right to wear their religious clothes in schools, these constitutional principles are associated with the prohibition of Karnataka on the hijab in recent court cases. Hijab problem affects gender rights, religious expression and right to education, leading to exceeding only one legal dispute. Supporters of the ban say that institutional symmetry and discipline should be given priority on specific religious symbols.

To determine whether the ban is in line with the constitutional values of religious freedom and personal freedom or if it sets an example for personal freedom in the nation, the article examines the legal, social and international approaches around the hijab ban.

BACKGROUND

The Karnataka state government essentially outlawed the wearing of hijabs in classrooms in February 2022¹ when it issued an order requiring educational institutions to prescribe uniforms. “Muslim students protested widely and challenged the prohibition in court, claiming it violated their fundamental rights under Articles 19(1)(a), 21 and 25(1) of the Constitution², including the right to privacy, freedom of expression, and religious freedom”.

The state's ban was maintained by the “Karnataka High Court,” which ruled that the uniform dress code was a legitimate restriction, and that Muslims are not required to wear the hijab as a religious requirement.

After the matter reached the Supreme Court of India, a two-judge panel issued a split decision in October 2022. Justice Sudhanshu Dhulia argued that the ban infringed on the students' rights to privacy and dignity, highlighting that requiring girls to take off their hijabs before attending school infringed upon their privacy

¹ “Supreme Court Observer (2022) *Hijab ban in Karnataka Educational Institution-* <https://www.scobserver.in/cases/hijab-ban-karnataka-educational-institutions/>”

² “Rana, U. (2022) The Hijab Ban Case: Questioning the Fundamentals of the onstitution, <https://www.mondaq.com/india/trials-amp-appeals-amp-compensation/1242504/the-hijab-ban-case-questioning-the-fundamentals-of-the-constitution>”

and denied them access to secular education, while Justice Hemant Gupta dismissed the appeals and supported the ban.

The Supreme Court upheld the state's duty to give children a quality education in November 2024 by overturning an Uttar Pradesh ban on Islamic institutions, or madrasas. This case illustrates the judiciary's role in defending educational rights, even though it is unrelated to the hijab issue³.

LITERATURE REVIEW

Under the Constitution Understanding of Personal Liberty and Religious Freedom the extent of religious freedom under Article 25 and how it intersects with personal liberty under Article 21 have been subjects of intense debate among constitutional experts asserts that the state has the authority to put reasonable restrictions on religious freedom in India since it is governed by “public order, morality, and health”

The Supreme Court established the "essential religious practice" theory in the Shirur Mutt Case (1954)⁴, holding that only religious practices that are fundamental to a faith are protected by the constitution. “The Karnataka High Court's decision,” which held that the hijab is not a necessary Islamic religious practice, was heavily influenced by this theory. Critics counter that the right to personal autonomy guaranteed “by Article 21” should preserve individual religious expression choices and that courts should not establish religious theories (Faizan Mustafa, 2022)⁵.

The right to personal choice in areas of religion and personal preference was highlighted by the Supreme Court in its Shafin Jahan v. Asokan K.M. (2018)⁶ ruling as a component of constitutional morality. Legal experts frequently use this case, which supported a Muslim woman's freedom to convert and marry if she so chooses, to support their claims that a prohibition on the hijab infringes on a person's right to autonomy and dignity

³ “Sebastian, M. (2022). Asking girls to take off hijab at school gate is invasion on her privacy and dignity, denial of secular education: Justice Sudhanshu Dhulia <https://www.livelaw.in/top-stories/asking-girls-to-take-off-hijab-at-school-gate-is-invasion-on-her-privacy-dignity-denial-of-secular-education-justice-sudhanshu-dhulia-211569>”

⁴ “The Commissioner, Hindu Religious Endowments, Madras v. Shri Lakshmindra Tirtha Swamiyar of Shirur Mutt, (1954) SCR 1005 <https://indiankanoon.org/doc/1430396/>”

⁵ “Mustafa, F, (2022) The problem with Karnataka’s HC Hijab ruling. <https://indianexpress.com/article/opinion/columns/the-problem-with-the-hijab-ruling-karnataka-high-court-muslim-women-religious-practice-7821512/>”

⁶ “Supreme Court of India (2018) Shafin Jahan v. Asokan K.M., (2018) 16 SCC 368 - <https://link.springer.com/article/10.1007/s41020-019-00101-5>”

When speaking of gender rights and hijab protection, Muslim women are disproportionately impacted by restrictions on the hijab in educational institutions, according to feminist legal scholars, which compromises their equality, dignity, and access to an education. According to scholars like Flavia Agnes (2022)⁷, enforcing a dress code that compels women to forgo their religious clothing is an example of forced assimilation, restricting their access to public life and education.

According to a few studies, women are disproportionately affected by clothing codes compared to men. The UNESCO Global Education Monitoring Report (2022)⁸ states that nations with clothing codes frequently have higher dropout rates among female students from under-represented groups.

RESEARCH GAP

There is still no agreement on how judges should interpret fundamental religious practices, notwithstanding debates about religious freedom and individual rights. Concerns over judicial overreach and its social effects are raised by the “Karnataka High Court's” decision regarding the hijab. The ban's long-term consequences on Muslim women's education and worldwide legal comparisons have not been thoroughly studied. By investigating the legal, cultural, and constitutional facets of the hijab ban, this paper fills in these gaps

AIMS AND OBJECTIVES

- To examine the constitutional and legal ramifications of the school hijab ban, with a particular emphasis on Muslim women's recent appeal under Article 21 and how it conflicts with Article 25 in India.
- To discover whether limiting the hijab infringes upon religious and personal freedom.
- To evaluate the Karnataka High Court's decision and how it interpreted fundamental religious rituals.
- To evaluate how the prohibition affects Muslim women's education and identity on a sociocultural and legal level.

⁷ “Desai, S, (2022). Education should be priority, not banning of Hijab, The Indian Express <https://indianexpress.com/article/opinion/columns/education-should-be-priority-not-banning-of-hijab-karnataka-muslim-women-7791337/>”

⁸ “Global Education Monitoring Report 2022: gender report, deepening the debate on those still left behind <https://unesdoc.unesco.org/ark:/48223/pf0000381329>”

METHODOLOGY

Adopting a qualitative method to legal research, this study examines the legal implications of the hijab ban under “Articles 21 and 25 of the Indian Constitution” by concentrating on case law, legislative interpretation, and constitutional analysis.

To evaluate how the Karnataka High Court ruling interprets basic religious practices, a doctrinal examination is carried out. Using cases as examples, comparative research examines judicial viewpoints around the world regarding religious clothing in schools.

This study offers a thorough understanding of the legal and societal aspects of the hijab ban by combining constitutional, comparative, and socio-legal perspectives.

RESULT AND DISCUSSION

Many legal and social discussions have taken place to maintain prohibition on hijab in educational institutions as a result of the decision of the Karnataka High Court. Many Muslim students have been forced to either compromise their religious identity or stop their studies due to the decision, stating that wearing headscarf is not an important religious practice under Article 25.

Concerns about concerns about Article 21 of Muslim girls have been raised by reports that more than 1,000 of them had abandoned east-university institutions in Karnataka due to prohibition. Critics say that Muslim women are inconsistently affected by the verdict, which strengthens structural obstacles for civil engagement and education. Many Democratic nations recognize the junction of religious and personal freedom, according to comparison with the international legal framework and allow religious clothing within school dress standards.

This emphasizes that there is a need to guarantee a proper strategy and diversity in educational settings that further constitutional rights. The hijab ban in schools can be re-examined to preserve institutional discipline and religious freedom, which will eventually promote a more accepted society.

CONCLUSION:

Discussion on religious freedom and institutional discipline has been started with the ban on Karnataka on Hijab. Critics say that the state emphasizes uniformity and limits access to the education and religious identity of Muslim women. This decision goes against earlier court decisions that supported personal freedom. To maintain secularism and personal freedom, one needs to reevaluate legal interpretations and pursue inclusive policies, guarantee a proper strategy that respects both institutional norms and religious pluralism.

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