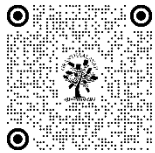


# THE RIGHT TO WEAR HIJAB: CONSTITUTIONAL ANALYSIS OF FREEDOM OF RELIGION AND EQUALITY

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## ABSTRACT

The right to wear the hijab has been at the center of law and social debates, especially in light of constitutional rights to religious freedom and equal rights. While people argue about the idea of secularism and how it should be interpreted in different law settings, the principle of equality, which says that no one should be treated differently because of their religion, is at the heart of this argument. The study stresses how hard it is to balance religious freedom with secular policies that try to make public spaces more uniform, especially in multicultural and diverse countries. The Karnataka High Court ruled that wearing the hijab is not an essential religious practice for Muslim women and upheld the State's authority to prescribe dress codes in government educational institutions, considering it a reasonable restriction under Articles 19(1)(a) and 21 of the Constitution which is a setback that takes away women's right to "freedom of choice, individual autonomy or freedom of conscience, and freedom of religion." This is despite the fact that India's Constitutional courts have made many decisions in favor of women's rights. In the controversial decision, it was said that wearing the Hijab is not a required religious practice in Islam. There are still a lot of problems that need to be fixed when looking at the issue of "freedom of conscience" under Article 25 of the Constitution.

**Keywords:** Hijab, Freedom of religion, Constitutional rights, Equality



## 1. INTRODUCTION

The right to wear the hijab is a hotly contested topic that highlights the complicated interaction of personal liberties, religious expression, and secularist ideas. The hijab has evolved in many democratic countries from a mere item of clothing to a very personal decision driven on cultural and religious relevance. Still, the wearing the hijab interacts with more general legal ideas, especially the constitutional rights to freedom of religion and equality.<sup>1</sup> Many times, these rights—which give people the ability to practice their faith without regard to discrimination—are seen as basic principles of democratic government. However, within this paradigm, one wonders: to what degree the government should interfere in controlling religious clothing, particularly in public areas like government offices and universities? This conflict considers the legal defenses for a person's freedom to wear the hijab as well as the arguments supporting secularism and public homogeneity. Examining constitutional clauses, past court rulings, and global perspectives helps one to find, if at all at conflict with secular norms driving public policy, how the right to wear religious apparel like the hijab fits. Moreover, it examines how the government balances individual liberty with its objective of maintaining a

<sup>1</sup> Taylor, C. (1994). *Multiculturalism: Examining the politics of recognition*. Princeton University Press."

neutral public space—a responsibility that sometimes tests constitutional rights.<sup>2</sup> This study last aims to help to clarify how democratic countries could preserve both freedom of religion and equality, therefore enabling more inclusive interpretations of constitutional rights in multicultural environments.

A great question that lies at the junction of personal liberties, social conventions, and government policy is whether one has the right to wear the hijab and generates major discussion all around. In many cultures, wearing the hijab shows cultural and personal identification instead than just a religious obligation. For many Muslim women, nevertheless, the hijab is a necessary statement of faith and identity shielded by their constitutional right to freedom of religion. This right is sometimes seen to include not only the freedom to have religious ideas but also the ability to show them via clothes and symbols. Therefore, the ban of religious clothing such as the hijab in public places begs questions about religious prejudice, marginalization, and the violation of human liberties. Moreover, such limitations might be seen as counterpoint to the equality principle as they disproportionately affect people from certain religious origins, therefore challenging the dedication of democratic nations to diversity and inclusion. With an eye on the constitutional values of freedom of religion and equality, the worldwide address the matter of religious clothing.

Not too long ago, Karnataka was the site of a new fight that, like many others in recent months, was over a religious issue. In India, there have been more cases of attacks on religious views and practices in the past few years, and each new case sets a new standard for what can happen. The current uproar in Karnataka started when the state government there said that people couldn't wear headscarves at any college level below university. Muslims women who choose to wear the hijab were not allowed to go to Government Colleges because of this. The State said that this ban was necessary because wearing these clothes goes against basic rules of fairness and public order.<sup>3</sup> As part of the Karnataka Education Act of 1983, rules were made that say all Karnataka students must wear the same clothes.<sup>4</sup> This rule was first put in place in Udupi, Karnataka. It has since spread to other universities, where Muslim students who choose to wear the Hijab are being treated similarly. A Muslim girl has gone to the Karnataka High Court to complain about this unfair government order. It has become a question of whether Article 25 of the Constitution protects the right to wear a turban in a school setting because of this event. In reaction, people who support the hijab said that it is an important part of Islam's religion. Positively, both SCI judges divided ruling deemed the ERP theory to be useless in determining whether the Government Order (GO) imposing a uniform dress-code [125G, 17D] is constitutional. Public order, morality and health, and other basic liberties in the Constitution define freedom of religion in relation to other rights.<sup>5</sup> Under Art. 25(2) the State therefore has the authority to control a religious practice and to make legislation restricting religious freedom for social welfare and reform under Art. 25(2)<sup>6</sup> and to place reasonable limits on basic rights.

Justice Gupta seized to defend the GO as advancing equality, homogeneity, and a secular atmosphere [89G]. He said that even if the hijab is an ERP, religious beliefs and symbols belong nowhere in a secular public space like a state school [125G]. He changed the problem from one of equality before the law to one of equality seen from a strongly formalistic standpoint [118G]. Justice Gupta used the erroneous dichotomy of secular-religious as equal-unequal, arguing that allowing hijab wearing females goes against the spirit of Art. 14 by resulting in differing treatment of pupils depending on their religious views [185G]. By keeping Muslim females out of the public universities, this dependence on homogeneity and sameness as equality and justice hides the intersectional and institutional discrimination the court is enforcing. Justice Gupta found no infringement or deprivation of rights in a dubious twisting of reasoning because they are (probably) freely choosing not to attend lessons owing to the prohibition [169G].

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<sup>2</sup> "African Charter on Human and Peoples' Rights: (Ratification and Enforcement) Act, Chapter A9, (No. 2 of 1983). (Chapter 10 LFN 1990). Retrieved March 30, 2023.

<sup>3</sup> Supreme Court Observer. (2022). *Hijab ban judgment summary: Karnataka HC*. Retrieved from <https://www.scobserver.in/reports/hijab-ban-judgment-summary-karnataka-hc/>

<sup>4</sup> "Supreme Court Observer. (2022). Karnataka government order on dress code for students. Retrieved from <https://www.scobserver.in/journal/karnataka-government-order-on-dress-code-for-students/>

<sup>5</sup> Frontline. (2022). Understanding the split verdict on hijab ban. Retrieved from <https://frontline.thehindu.com/news/understanding-the-split-verdict-on-hijab-ban/article66014782.ece>

<sup>6</sup> Ibid"

Justice Dhulia set ERP precedents apart by ruling that under Art. 25(1), a person claiming their right to religion does not have to justify the essentiality of the practice [28D]. ERP theory therefore only applies when addressing Art. 25(2), Art. 26 or the interaction between the two clauses [33D]: "If the belief is sincere, and it harms no one else, there can be no justifiable reasons for banning hijab in a classroom." [34D]. He attacked the inclination of the courts to become caught in addressing religious concerns in deciding what defines an ERP, pointing that they should only "interfere when the boundaries set by the Constitution are broken, or where unjustifiable restrictions are imposed" [36D]. Furthermore, neglected by the HC was how wearing a hijab in the classroom violated public order, morality, health, decency, or any other basic right [67D]. Justice Dhulia therefore saw fraternity as needing tolerance and fair acceptance of the beliefs and religious practices of others [79D], thereby challenging the positive characterizing of uniformity and eradication of distinctions as "fraternity".<sup>7</sup>

Though they theoretically interact in significant ways, the confusion of the many rights safeguarding against religious discrimination and guaranteeing religious freedom has resulted in an obvious dependence on the ERP (Essential Religious Practices Test) test.<sup>8</sup> Rather, the emphasis should have been on proving that by excluding Muslim females from admission if they wore hijabs, a sign of their religious and cultural identity, government institutions and the GO discriminated against them. The debate strips the petitioners of agency by centering what Islam demands of these girls in order to offer them constitutional protection over their own bodies, instead of listening to their rights claims. As Bhatia<sup>9</sup> points out, ERP tests naturally have this purpose. In this regard, the irrelevance of ERP in both the SC rulings is a progress as it helps to concentrate the focus on whether the state is justified in limiting a right considering the constitutional limits.

But Justice Gupta's support of homogeneity and formal equality between many religious symbols at the expense of heterogeneity, Muslim girls' choice, agency, and substantive equality exposes the perils of a low justifiable threshold. Although the non-reliance on ERP is a good change, the flaws in the idea and definition of Indian secularism are obviously evident. Though the Indian government has adopted the "equidistant, or principled," secularism in which the state actively interacts with religion in public exercise of powers, the HC and Justice Gupta have approved uniformity and sameness as a characteristic of secularism. While claiming another version of secularism prohibiting the wearing of hijab by consenting students for being antithetic to uniformity, unity, and equality, the state cannot claim one version of secularism defending the existence or encouragement of majority religious practices.

## 2. UNDERSTANDING THE HIJAB

Usually connected with the headscarf worn by Muslim women, the hijab has great religious, cultural, and personal meaning. Depending on the place and culture, the hijab might take many shapes and names, therefore reflecting local customs and views of modest clothing. This range of expression highlights the adaptability of the hijab and the many ways in which women all over cherish and know it. However, the hijab is not a monolithic symbol, hence its meaning will vary much depending on the individual and the culture. These many interpretations complicate policy-making on religious clothing as it requires balancing constitutional rights with society expectations of gender equality, freedom of expression, and cultural inclusiveness. For those who prefer to wear the hijab, it is directly associated with identity, autonomy, and spirituality, therefore surpassing the concept of simple attire.

The hijab, derived from the Arabic word for "cover or barrier," generally refers to a headscarf that covers the hair and neck but leaves the face visible. It is a form of modest dress, typically rooted in the principles of Islam, although similar forms of head coverings exist in other cultures and religious traditions. Some women may choose to wear other forms of veiling, such as the niqab (which also covers the face, except for the eyes) or the burqa (a full-body covering). In this way, "hijab" can also broadly signify the concept of modest dressing and behavior, guided by cultural and religious values.

<sup>7</sup> "Supreme Court of India. (2022). Aishat Shifa v. State of Karnataka - Split Verdict on Hijab Ban. Retrieved from <https://www.livelaw.in>

<sup>8</sup> The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt (1954 AIR 282)

<sup>9</sup> Bhatia, G. (2016). Freedom from community: Individual rights, group life, state authority, and religious freedom under the Indian Constitution. SSRN. Retrieved from [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2739235](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2739235)

In Islamic tradition, modesty is seen as an important virtue, and the Quran advises both men and women to dress modestly. For many Muslim women, the hijab is a personal expression of this value, symbolizing their commitment to God, religious identity, and personal principles.

There is no singular reason why Muslim women choose to wear the hijab; instead, each woman has her own motivations and experiences. Some of the most common reasons include:

- **RELIGIOUS BELIEF:** Many women see the hijab as a form of worship and believe that it is part of their faith to cover their hair. It's often seen as a tangible expression of devotion and piety.
- **CULTURAL IDENTITY:** For some, the hijab is tied to cultural heritage and offers a way to maintain a connection to one's cultural or familial roots, especially for those living in non-Muslim-majority societies.
- **PERSONAL AUTONOMY AND EMPOWERMENT:** Contrary to stereotypes, many women view the hijab as a means of empowerment, allowing them to control how they present themselves. It can give them the freedom to be recognized for their ideas and personality rather than for physical appearance.
- **POLITICAL AND SOCIAL IDENTITY:** In some contexts, the hijab has taken on political meaning, serving as a symbol of resistance against discrimination or marginalization. In countries where Muslims face social or legal pressures, some women may wear the hijab as an assertion of their rights and identity.

### 3. LEGAL AND SOCIAL PERSPECTIVE

Legally speaking, the right to wear the hijab is usually grounded on basic liberties to freedom of religion, personal autonomy, and equality. Embodied in the constitutions of many democratic nations, these rights confirm that people have the freedom to express their religious views without regard to persecution or official intervention.<sup>10</sup> In these settings, religious symbols—including the hijab—are sometimes limited on the justification that such displays violate the neutrality anticipated in common public areas.

Legal cases from several countries expose the complexity of these issues. For instance, the European Court of Human Rights (ECHR)<sup>11</sup> has presided over cases in Europe when official bans on religious symbols—including the hijab—were contested on grounds of religious freedom. From a societal standpoint, the control of the hijab usually takes front stage in political and cultural discussions as the garment represents many, often conflicting, values. The hijab is perceived by certain sections of society as a threat to secular principles and even as a sign of oppression, therefore supporting preconceptions about the autonomy of Muslim women.<sup>12</sup> Such prejudices support an atmosphere of intolerance and help to explain social exclusion as Muslim women who wear the hijab could be subjected to more scrutiny, discrimination, or marginalization in their everyday life.

The worldwide media, where the hijab is often shown within stories of political or cultural strife, complicates the social and legal aspects of the problem as well. This representation may affect public opinion, therefore transforming the view of the hijab from a personal decision to a public issue. As such, the legal right to wear the hijab is often contested not just in courts but also in the media and public debate, where it becomes entwined with more general debates on immigration, identity, and national values. Many proponents reply that by promoting variety in public places—including the ability to wear religious attire—by means of inclusiveness and mutual respect enhances society cohesion. At the crossroads of public policy and personal rights, the hijab finds space where legal systems and social values occasionally collide. Legally, the right to wear the hijab is covered by more general religious freedom, safeguarded in several international human rights treaties notably the International Covenant on Civil and Political Rights (ICCPR)<sup>13</sup> and the Universal Declaration of Human Rights (UDHR).<sup>14</sup>

<sup>10</sup> "Commissioner of Police vs Acharya Jagadishwarananda Avadhuta, (2004) 12 SCC 770. Supreme Court of India.

<sup>11</sup> European Court of Human Rights. (2005). Leyla Şahin v. Turkey (Application No. 44774/98). Retrieved from <https://hudoc.echr.coe.int>

<sup>12</sup> Modern Dental College & Research Centre vs State of Madhya Pradesh, (2016) 7 SCC 353. Supreme Court of India."

<sup>13</sup> "United Nations. (1966). International Covenant on Civil and Political Rights. Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

<sup>14</sup> United Nations. (1948). Universal Declaration of Human Rights. Retrieved from <https://www.un.org/en/about-us/universal-declaration-of-human-rights>



That legal posture is not without debate, however, critics contend that such limitations violate the person's freedom to freely express their religious identity, therefore restricting Muslim women who choose to wear the hijab from full engagement in public life. Furthermore, these laws might be seen as a kind of indirect discrimination as apparently unbiased regulations disproportionately affect certain groups. Legal conflicts with the hijab often draw attention to more general issues regarding whose beliefs public policy gives top priority. Secular policies impose a limited definition of neutrality, therefore marginalizing religious minority, or do they act as a uniting factor encouraging equality?

At its core, the issue of the hijab is about choice. Just as the hijab can be a personal statement of faith and identity, not wearing it can be a choice that reflects the same autonomy and self-expression. Respecting this choice is central to respecting women's rights, regardless of one's own beliefs or background. When women are free to decide for themselves, the hijab becomes an expression of their individuality rather than a marker imposed by external pressures, whether societal, familial, or governmental.

#### **4. CONSTITUTIONAL PERSPECTIVE**

The constitutional viewpoint on the hijab covers a spectrum of values mostly emphasizing the rights to freedom of religion, personal autonomy, and equality. Many democratic nations have constitutions that safeguard these liberties, therefore enabling people to freely and without prejudice express their religious views. Fundamentally, the constitutional protection of religious freedom spans public display of religion via symbols, clothing, and behavior, not just personal conviction.<sup>15</sup> For people who wear the hijab, this safeguard upholds their freedom to represent their religious and cultural identity, a decision at the nexus of personal liberty and religious practice. In this sense, constitutions frequently provide the basis for protecting many manifestations of religion, therefore enabling people to freely communicate their ideas without regard for governmental penalizing or exclusion.

Nonetheless, the way constitutional rights over the hijab are interpreted differs greatly, especially in secular democracies where public areas are usually supposed to remain neutral. Secularist constitutional values—especially in nations like France—are often used to defend restrictions on religious clothing in public buildings. Such limitations, according to supporters, foster equality by keeping religious symbols out of places where objectivity is valued, such government offices, courts, and schools, therefore preventing influence of such symbols. This posture, however, creates constitutional questions as it usually burdens people from certain religious origins disproportionately. Policies prohibiting the hijab in workplaces or classrooms, for instance, might unintentionally limit Muslim women's access to education or employment, therefore compromising their constitutional right to equality. Under such circumstances, the courts are often asked to decide how secularism, religious freedom, and equality ought to coexist under the framework of constitutional law. Moreover, constitutional guarantees of equality demand that every person should be treated equally and without discrimination depending on religious origin, gender, or ethnicity. Courts have answered these constitutional issues in various historic decisions by upholding the freedom to wear the hijab while also acknowledging the state's need in preserving secular public venues.<sup>16</sup>

#### **5. JUDICIAL PERSPECTIVE**

From the legal standpoint, the hijab offers a necessary prism through which the difficult balance between personal liberties and state interests is seen and enforced. Court decisions on the hijab throughout several countries usually reflect the particular constitutional principles, cultural values, and historical background of every community. As they relate to the hijab, these court rulings have been crucial in establishing the legal limits of religious expression, equality, and secularism as they apply to the public domain and therefore provide significant precedents for how religious clothing is seen and controlled. Asserting that people should have the liberty to express their beliefs via their choice of attire, courts in various nations have maintained the right to wear the hijab as a basic element of personal and religious freedom. Such decisions underline the preservation of human liberty and the need of appreciating many ways of manifestation of

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<sup>15</sup> Ezeonu, O. (2017). The school, the hijab and the human rights question: *Abdulkareem v Lagos State Government*. *African Journal of Law and Human Rights*, 1. Retrieved July 26, 2022."

<sup>16</sup> "Garba, A. (2020). Permissible limitations to freedom of religion and belief in Nigeria. In *Religion and Human Rights* (pp. 57-76). Retrieved September 12, 2022."

identity, therefore supporting the view that a pluralistic society can and ought to allow many cultural and religious activities. This strategy highlights the importance of personal liberties as it is often seen in countries where religious liberties are tightly maintained and regarded as essential component of the social fabric. In other nations, on the other hand, the legal attitude to the hijab has been more limited; courts approving prohibitions or limits on religious symbols, including the headscarf, in certain public areas. Though they differ greatly, judicial rulings on the hijab usually touch three primary constitutional concerns: the right to religious freedom, the secularism principle in public places, and the equality right free from discrimination. Interpreting these rights helps courts significantly shape the social and legal environment in which people exercise their personal liberty and convey their religious identities.

Under Articles 14 (right to equality and fraternity) 19 (1)(a) (right to choose and freedom of expression) and 25(1) (right to religion) of the Constitution, wearing a hijab is a matter of choice, said Justice Dhulia,<sup>17</sup> who quoted the French Constitution and referred to its link to the Indian Constitution.

In the landmark decision of "*Bijoe Emmanuel vs State of Kerala*, the Supreme Court held that it is the duty and function of the courts to protect the fundamental right to freedom of conscience and to profess, practice and propagate religion.<sup>18</sup> In the case of *Nadha Raheem vs C.B.S.E.*, the uniform as per the norms of the Central Board of Secondary Education (C.B.S.E.) for sitting in the All-India Pre-Medical/Pre-Dental Examination (A.I.P.M.T.) was in question.<sup>19</sup> In order to appear in this examination, the Board only allowed the candidates to wear a half-sleeve kurta and salwar. Two Muslim female candidates moved to the Kerala High Court, claiming that the dress code as per the norms of C.B.S.E. is a discriminative one against them because their religious standards require them to mandatorily wear headscarves and full-sleeved clothes. The Court pointed out that in our country, where different kinds of religion with varied traditions and customs are practiced, it is very difficult to impose a strict dress code or uniform, failing which a candidate would be barred from writing the exams. Therefore, the court denied issuing any blanket order; instead, he issued some directions to C.B.S.E. that the petitioners who wish to dress in a manner consistent with their religious beliefs but not in violation of the uniform/dress code as per the norms prescribed by C.B.S.E., they have to appear before the invigilator at least half an hour before the time mentioned in the admit card. Also, the examiners are authorized to examine the headscarves and the full sleeves. The Court attempted to balance the rights of Muslim female students to wear headscarves" (hijab) and full-sleeves while maintaining the integrity of the examinations that C.B.S.E. tend to achieve through its dress code. But the court did not reach any conclusion about whether wearing hijab or headscarves by Muslim females is an integral part of Islam and hence safeguarded under Article 25.

In the same way, a female candidate put in a petition to the High Court of Kerala about the dress code for the A.I.P.M.T. test in the case of "*Amnah Bint Basheer vs. C.B.S.E.*" In this case, the question that was looked at was whether Article 25(1) says that Muslim women must wear the hijab as an important part of their faith. There are rules in the Quran and Hadiths that say it is farz (required) to cover your head and wear long sleeves except for your face, and that showing your body in any other way is haram (immoral). The Court looked at these and said that the Board's reasoning for setting a dress code for the exam was to stop cheating. The plea was granted, and the invigilator was allowed to check on those students by unfolding their scarves to protect the interests of the C.B.S.E.

In another case of *Fathima Thasneem vs. State of Kerala*? the High Court of Kerala said that wearing a headscarf or hijab is an essential practice of Islam. This is right enforceable against all state actions.

<sup>17</sup> "Article-14. (2022). *The right to choose vs. the need for discipline: How justices differed on hijab ban verdict*. Retrieved from <https://article-14.com>

<sup>18</sup> Supreme Court of India. (1986). *Bijoe Emmanuel & Ors. v. State of Kerala & Ors.*, AIR 1987 SC 748. Retrieved from <https://www.sconline.com>

<sup>19</sup> Kerala High Court. (2015). *Nadha Raheem v. Central Board of Secondary Education (CBSE)*, WP(C) No. 21658 of 2015. Retrieved from <https://indiankanoon.org/doc/68622350/>

- **M.AJMAL KHAN VS THE ELECTION COMMISSION OF INDIA ON SEPTEMBER 7, 2006<sup>20</sup>**  
This case involved the Election Commission of India's regulations regarding electoral symbols and practices. M. Ajmal Khan challenged certain procedural requirements, citing issues of fairness and representation. The court addressed the balance between administrative efficiency and individual rights in electoral processes.
- **AISHAT SHIFA VS THE STATE OF KARNATAKA ON OCTOBER 13, 2022<sup>21</sup>**  
This case challenged the Karnataka government's ban on wearing hijabs in state educational institutions. The Supreme Court delivered a split verdict on whether the ban violated the constitutional rights to religious freedom and equality. The Essential Religious Practices (ERP) doctrine was a central point of debate.
- **AYESHA HAJEERA ALMAS VS CHIEF SECRETARY ON MARCH 15, 2022<sup>22</sup>**  
Filed in the Karnataka High Court, this case contested the state government's order mandating a uniform dress code in educational institutions, which effectively banned the hijab. The court upheld the government's decision, ruling that wearing the hijab was not an essential religious practice protected under Article 25 of the Constitution.
- **RESHMA VS THE COMMISSIONER OF POLICE ON MARCH 1, 2024<sup>23</sup>**  
This case involved public protests against dress code policies, where Reshma argued that the enforcement of a uniform dress code infringed upon personal liberties and religious freedom. The Delhi High Court examined the broader implications of such restrictions on public order and individual rights.
- **ZAINAB ABDUL QAYYUM CHOUDHARY VS CHEMBUR TROMBAY EDU, 2023<sup>24</sup>**  
This case focused on a dispute about educational institutions enforcing clothes policies against religious convictions. Claiming her rights to religious freedom and equality infringed, Zainab Abdul Qayyum Choudhary opposed the policy. The Bombay High Court examined the matter using constitutional protections as its guide.

In the Karnataka Hijab Ban case, Supreme Court was divided its opinion in line with the ruling of the Karnataka High Court. Justice Hemant Gupta, agreed with maintaining the Hijab Ban whereas Justice Dhulia, reversed the High Court's ruling. Justice Gupta said the Karnataka government was well within its powers to prohibit the Hijab in schools. He said that the policies of the State administration maintained brotherhood among several groups. Let students wear the Hijab at a secular university, then various pupils would feel unequal.

Justice Dhulia said during the judgment delivery that his first concern was the education of the female child. It is a question of taste. Nothing more or less, he said. In his judgment, he underlined that the rights to equality and freedom of expression should have taken front stage in the proceedings.

Regarding Muslim female students, the Hijab Ban case addresses a broad spectrum of rights. These include the Rights to Equality, the Right to Practice Religion, the Right to Access Education, the Right to Speak, the Right to Privacy, and the Right to Dress with Dignity. This divided ruling underlined difficult legal issues regarding religious freedom, equality, and the extent of personal rights in educational environments.

The split verdict meant that no definitive ruling was issued, leaving the Karnataka High Court's order in place but allowing the matter to be referred to a larger bench. The implications of this judgment are wide-ranging, touching on constitutional interpretation, religious freedom, and educational policy.

<sup>20</sup> "M. Ajmal Khan v. The Election Commission of India, WP(C) No. 20515 of 2006 (Madras High Court, September 7, 2006). Retrieved from <https://indiankanoon.org>

<sup>21</sup> Aishat Shifa v. The State of Karnataka, Civil Appeal No. 7095 of 2022 (Supreme Court of India, October 13, 2022). Retrieved from <https://www.scobserver.in>

<sup>22</sup> "Ayesha Hajeera Almas v. Chief Secretary, WP(C) No. 2347 of 2022 (Karnataka High Court, March 15, 2022). Retrieved from <https://indiankanoon.org>

<sup>23</sup> Reshma v. The Commissioner of Police, WP(C) No. 3145 of 2024 (Delhi High Court, March 1, 2024). Retrieved from <https://www.scobserver.in>

<sup>24</sup> Zainab Abdul Qayyum Choudhary v. Chembur Trombay Education, WP(C) No. 1263 of 2023 (Bombay High Court, date unknown). Retrieved from <https://indiankanoon.org>

1. **RELIGIOUS FREEDOM AND PERSONAL CHOICE:** The differing opinions highlighted an ongoing debate about the nature of religious freedom and whether the state can limit expressions of religious identity in public institutions. Justice Dhulia's focus on personal choice underscores an individual-centric approach to religious freedom, which could set a precedent for other personal rights cases.
2. **ESSENTIAL RELIGIOUS PRACTICES DOCTRINE:** This case brought the "essential religious practices" doctrine into question. Critics argue that it places the judiciary in the position of interpreting religious practices, which can be subjective and divisive. Justice Dhulia's critique of this doctrine suggests that future cases may move toward a more individual-rights-oriented approach rather than assessing the religious centrality of specific practices.
3. **EDUCATIONAL EQUITY AND ACCESS:** Justice Dhulia's emphasis on educational access highlights the importance of ensuring that dress codes or similar policies do not become barriers to education for specific groups. This could influence future policies to be more inclusive, particularly for minority groups, to ensure equal access to education.
4. **SECULARISM IN PUBLIC INSTITUTIONS:** The case highlights how secularism is interpreted in India—that is, whether it signifies the lack of all religious symbols or encourages a pluralistic and inclusive attitude. One viewpoint favors a unified, religion-neutral framework while the other supports allowing different religious expression.
5. **FUTURE JUDICIAL REVIEW:** A bigger bench is likely to review the matter should a definitive ruling remain elusive. This could lead to a landmark judgment that could redefine the scope of religious freedom, individual autonomy, and the limits of state interference in religious expression.

## 6. CHALLENGES

The problem of the hijab highlights the difficulty of juggling personal liberties with society expectations and rules as it provides a variety of complicated issues based on legal, social, and cultural aspects. Such limitations would disproportionately affect their access to public services, employment, and education, therefore disadvantaging them relative to their colleagues. Furthermore, to the difficulties faced by persons who wear the hijab—who might run against stereotyping, discrimination, or even violence—because of their visibly religious attire—are society prejudice and Islamophobia. This challenge is worsened in places where media depictions of the hijab frequently accentuate violence or cultural problems, therefore promoting negative stereotypes and creating an atmosphere of distrust and dread. The hijab begs difficult questions on gender, autonomy, and human agency.

## 7. CONCLUSION

A few fundamental strategies might be taken into account to negotiate the difficult problems related to the hijab and forward an inclusive society. First, governments and legislators should try to build legal systems that protect personal liberties while nevertheless balancing secular values. Promoting understanding and destroying preconceptions about the hijab also depends critically on awareness and education. By providing correct information about the many interpretations of the hijab and the personal liberty of people who wear it, public awareness campaigns and educational activities may assist to lower discrimination.<sup>25</sup> Moreover, it is essential to include those who wear the hijab in the process of policy-making. Including Muslim women in conversations on issues that directly affect their life would help governments guarantee that their policies reflect the needs and experiences of people they influence. This inclusive approach helps generate rules that are not only fair but also sensitive to culture and attentive to the variation among Muslim groups. Prohibition on wearing Hijab raises questions about the manifestly high levels of sexist and patriarchal mindset that generate a legal fiction clearly denying women any influence in the subject.

The courts should concentrate on the urgent and pragmatic problems in these current times instead of delving farther. Women need to be given their right to make choices for themselves; the court should consider all of this. Under the constitution, one guarantees their rights to education, equality, and freedom to practice their religion; none of these is given more importance than the others. The answer is hence the "middle way" the Indian Constitution promotes. All conflicts will finally resolve in this manner if people protecting the Constitution stay dedicated to it. The split vote of the jury will create some delay before the ultimate ruling of the case is rendered. Ultimately, one should remember that the

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<sup>25</sup> "Chude, A. (2023, January 2). The killing of Deborah Samuel. The Guardian".



State is responsible for the girl's education, future, and maintenance of India's secular fabric. Thus, it is imperative for the government, society, religious, and student organizations to cooperate to identify a peaceful, out-of-court solution to the issue that is in everyone's best interests and also reduces dependence on the legal system for social reforms. Every coin has two sides; similarly, every topic has two arguments. It implies that we have to arrive to the meeting point considering the constitutional requirements as well as to monitor that no one's basic right or any other kind is being violated. Academic environments will continue to revolve on this divisive topic—religious freedom, secularism, and the hijab—until more authoritative voices weigh in. The way India approaches diversity and inclusion will help to define religious freedom and personal liberty in that nation.

## **CONFLICT OF INTERESTS**

None.

## **ACKNOWLEDGMENTS**

None.