
KARNATAKA HIJAB BAN CASE: BALANCING RELIGIOUS FREEDOM (ARTICLE 25) WITH UNIFORM DRESS CODES IN EDUCATIONAL INSTITUTIONS

Aditya Raj, BA.LLB, KIIT School of Law, Bhubaneswar, Odisha

Introduction

The Karnataka hijab ban controversy, erupting in December 2021, spotlighted the complex intersection of religious freedom and uniform policies within educational institutions. Sparked by denying Muslim girls entry for wearing hijabs, the ban swiftly expanded across Karnataka, igniting protests grounded in Article 25 of the Indian Constitution. Counter-protests, marked by saffron scarves, amplified communal tensions, particularly in sensitive coastal regions. The Karnataka government's subsequent strict enforcement of uniform codes, disallowing religious attire, led to widespread unrest, challenging the balance between equality and religious expression. This pivotal case, addressing religious freedom, education rights, minority rights, secularism, and gender justice, awaits a final verdict.

Background

The hijab ban controversy in Karnataka began in December 2021 when several Muslim girls were denied entry to classrooms in Udupi for wearing hijabs, violating the colleges' uniform policies. This ban soon spread statewide, sparking protests by Muslim students asserting their right to wear the hijab under Article 25 of the Indian Constitution. Hindu students counter-protested with saffron scarves, escalating communal tensions, especially in coastal Karnataka.

On February 5, 2022, the Karnataka government ordered strict enforcement of uniform codes, disallowing religious attire like the hijab to maintain equality and public order. The Karnataka High Court upheld this ban on March 15, 2022, ruling that the hijab is not an essential religious practice under Islam and emphasizing secularism and uniformity in schools.¹

¹ Supreme Court Observer. (2023, October 9). SCO Daily: Supreme Court issues split verdict in hijab ban case - Supreme Court Observer. <https://www.scobserver.in/journal/sco-daily-supreme-court-issues-split-verdict-in-hijab-ban-case/>

The case reached the Supreme Court, which on October 13, 2022, delivered a split verdict. Justice Hemant Gupta supported the ban, prioritizing fraternity and equality, while Justice Sudhanshu Dhulia opposed it, highlighting individual choice, education rights, and freedom of expression. The matter was referred to a larger bench for final resolution.

The ban has led to many Muslim girls missing classes or exams, with some transferring or dropping out, deepening social divides. After the 2023 state elections, the new Congress-led government announced plans to lift the ban, though no official order has been issued. The controversy continues to spotlight the delicate balance between religious freedom, gender justice, and institutional uniformity in India's diverse society.²

Arguments For the Hijab Ban

1. Promoting Uniformity and Equality

Proponents of the ban argue that uniforms in educational institutions are meant to create a sense of equality among students, regardless of their religion, caste, or socioeconomic background. Allowing religious symbols like the hijab could disrupt this uniformity and lead to divisions within classrooms.

2. Secularism and Neutral Spaces

Supporters believe that public educational institutions should remain secular spaces where no religious identity is overtly displayed. The ban is seen as a way to uphold secularism by preventing any one religion from being visibly dominant in shared spaces.

3. Not an Essential Religious Practice

The Karnataka High Court ruled that wearing the hijab is not an "essential religious practice" under Islam. This interpretation allows the state to regulate its use without violating constitutional protections under Article 25.

² Jahnavi, J. (2023). Unveiling Justice: Analysing the impact and controversy of the hijab ban case. In ICFAI Law School, Hyderabad & Google, International Journal of Research Publication and Reviews (Vol. 4, Issue 12, pp. 4252–4255) [Journal-article]. <https://ijrpr.com/uploads/V4ISSUE12/IJRPR20689.pdf?utm>

4. Preventing Communal Tensions

The ban is also justified as a measure to maintain public order and prevent communal tensions. The protests and counter-protests involving hijabs and saffron scarves illustrate how such symbols can polarize communities.³

Arguments Against the Hijab Ban

1. Violation of Religious Freedom

Critics argue that the ban infringes on Article 25 of the Indian Constitution, which guarantees the right to freely practice and profess one's religion. For many Muslim women, wearing the hijab is a deeply personal expression of faith, and banning it forces them to choose between education and their religious beliefs.

2. Impact on Education

The ban disproportionately affects Muslim girls, many of whom have stopped attending classes or dropped out altogether. This raises concerns about their right to education under Article 21A and their ability to access equal opportunities.

3. Discrimination Against Minorities

Opponents see the ban as discriminatory, targeting a specific religious group while other cultural practices are accommodated in India's pluralistic society. For example, exceptions have been made for Sikh turbans or Hindu symbols in other contexts.

4. Erosion of Personal Liberty

The right to wear the hijab is also framed as an issue of personal liberty and autonomy under Article 21. Critics argue that clothing choices should not be dictated by the state or institutions unless they pose a clear threat to public order.

³ Tella, K. K. (2024). Challenging the hijab ban in India: plural embodiment and secular constitutionalism. *International Journal of Law in Context*, 21(1), 139–156. <https://doi.org/10.1017/s1744552324000417>

5. Flawed Secularism Argument

Detractors contend that true secularism does not mean erasing religious identities but rather accommodating them within public spaces. They argue that banning the hijab undermines India's ethos of diversity and tolerance.⁴

Justice Hemant Gupta's Perspective: Upholding the Ban

Justice Hemant Gupta supported the Karnataka High Court's earlier decision that wearing the hijab is not an "essential religious practice" under Islam. He argued that public educational institutions funded by the state must maintain secular spaces free from overt religious symbols. According to him:

- The ban was necessary to promote uniformity and foster a secular environment in classrooms.
- Religious beliefs should not interfere with policies designed for equality and discipline in state-run schools.
- He dismissed appeals challenging the ban, framing 11 questions and systematically rejecting arguments that linked the hijab to fundamental rights such as freedom of religion (Article 25) or freedom of expression (Article 19).

Justice Gupta's judgment emphasized that while individuals may have religious practices, these cannot override institutional rules aimed at creating neutral spaces for all students.⁵

Justice Sudhanshu Dhulia's Perspective: Overturning the Ban

Justice Sudhanshu Dhulia took a diametrically opposite stance, striking down the Karnataka High Court's order and advocating for the removal of restrictions on wearing hijabs in classrooms. His reasoning centered around individual rights and dignity:

- He argued that wearing a hijab is a matter of personal choice and should be protected under Articles 19(1)(a) (freedom of expression) and 21 (right to privacy and dignity).

⁴ Ibid,3

⁵ Ibid,1

- He criticized the focus on whether hijab is an essential religious practice, calling it irrelevant to this dispute. Instead, he emphasized that denying girls education due to their attire was unjust.
- Justice Dhulia highlighted the unique struggles faced by girl students in accessing education and questioned whether imposing such restrictions truly improved their lives.

His judgment underscored that education should take precedence over dress codes and that forcing young girls to remove their hijabs at school gates was an invasion of their privacy and dignity.⁶

The Supreme Court's split verdict

The Supreme Court's split verdict on the Karnataka hijab ban has left the issue unresolved, reflecting India's ongoing debate over secularism, religious freedom, and minority rights. Justice Hemant Gupta upheld the ban, emphasizing institutional uniformity and secularism, while Justice Sudhanshu Dhulia struck it down, focusing on individual choice, dignity, and the right to education. With no consensus, the case has been referred to a larger bench, and until a final decision is reached, the Karnataka High Court's order upholding the ban remains in force.

This inconclusive outcome has real consequences for Muslim students in Karnataka, many of whom now face barriers to accessing education if they choose to wear the hijab. The split verdict has heightened uncertainty, forcing students to navigate complex questions about their identity and rights while waiting for clarity from the courts. The case has become a focal point for national discussions on how to balance individual freedoms with institutional policies in a diverse society, highlighting the urgent need for a nuanced, rights-based approach that respects both personal faith and collective harmony.⁷

Conclusion

The hijab ban controversy embodies the inherent tension between institutional aims for equality and individual freedoms tied to personal identity. The Supreme Court's split verdict emphasizes the need for nuanced legal interpretations of fundamental rights within India's diverse society.

⁶ Ibid,1

⁷ Ibid,1

As a larger bench deliberates, the controversy continues to affect Muslim women's access to education and compels critical reflections on how India reconciles secularism with its commitments to diversity and inclusion. The path forward demands thoughtful engagement, upholding both institutional integrity and individual liberties.