

## UNIFORMITY AND IDENTITY: THE BATTLE OF RIGHTS AND DUTIES IN INDIAN CLASSROOMS

**AUTHOR** – SHUBHASHISH DWIVEDI, ADVOCATE, HIGH COURT OF DELHI

(L.L.B., UNIVERSITY OF DELHI & L.L.M. IN CRIMINAL AND SECURITY LAWS, BBD UNIVERSITY)

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### Abstract

This paper interrogates the constitutional and philosophical tensions underpinning the recent hijab controversy in Indian educational institutions, particularly within the framework of school uniforms, religious freedoms, and institutional autonomy. Drawing on Nassim Nicholas Taleb's "Minority Rule" theory, the article explores how uncompromising identity assertions by a small group can reshape public institutions, testing the delicate balance between individual rights and collective discipline. The analysis situates the hijab dispute in Karnataka within broader constitutional jurisprudence, tracing landmark decisions to contrast institutional neutrality with evolving notions of personal liberty under Articles 19, 21, and 25 of the Indian Constitution.

By critically examining the judiciary's attempts to navigate the "essential religious practice" doctrine, secularism, and educational autonomy, the article underscores the pedagogical role of uniformity in nurturing egalitarian learning environments. It argues that while religious expression is constitutionally protected, it must yield—particularly in schools—to the higher goals of inclusivity, discipline, and neutrality. Ultimately, the paper cautions against transforming schools into arenas of identity politics, urging a recalibration of rights and duties in accordance with India's constitutional ethos of unity in diversity.

### Introduction

In his provocative work *The Skin in the Game*, Nassim Nicholas Taleb puts forward what he calls the "Minority Rule": that a small, uncompromising, and intolerant group can, over time, reshape society, policy, and institutions—especially when the majority is flexible or indifferent. This is not simply a theory of social stubbornness; it's a rule of systemic transformation. When overlaid onto the recent hijab controversy in Karnataka's educational institutions, Taleb's theory assumes a profound, if unsettling, relevance.

The hijab row is no longer just a question of what a student wears to school; it is a litmus test of the balance between individual liberty

and institutional harmony, between cultural expression and educational discipline. In this context, uniforms in schools—originally intended to equalize and unify—are now caught in a crossfire of religious rights, constitutional interpretation, and identity politics.

### The Purpose of Uniforms: Equality Through Sameness

The philosophical underpinning of uniforms is simple yet profound: to create an egalitarian space where students are judged by their intellect, creativity, and conduct—not by their family income, caste, religion, or cultural expression. When all students wear the same clothes, the school levels the playing field. Uniforms are not just garments; they are

instruments of social equity, discipline, and unity.

Critics argue that such dress codes suppress individuality and cultural identity. But schools are not arenas for political expression or identity assertion. They are sanctuaries of knowledge, where young minds are moulded to become empathetic, rational, and constructive citizens. Arguments for identity assertion inside classrooms fail to acknowledge that children—especially those in early school years—are still developing their cognitive and social understanding. Expecting them to appreciate complex ideas like "unity in diversity" when they are still struggling with basic arithmetic or grammar is neither realistic nor pedagogically sound.

#### **The Legal Position: What the Courts Have Said**

India's constitutional jurisprudence on religious freedom is nuanced and clear: Article 25 guarantees the right to profess and practice religion, but this right is not absolute. It is subject to public order, morality, health, and other fundamental rights. Over the years, the Indian judiciary has developed a doctrinal test to determine the *essentiality* of a religious practice. Merely being part of a religion does not guarantee constitutional protection unless the practice is *essential* to that faith.

The Supreme Court of India in **Bijoe Emmanuel v. State of Kerala**<sup>779</sup>, upheld the importance of the freedom of expression and conscience as a core value of the Indian Constitution, and reinforced the principle that individuals have the right to hold and express their beliefs, even if they are in conflict with the majority or the state. It also emphasized the need for tolerance and respect for diversity in a democratic society.

In **Nadha Raheem v. C.B.S.E**<sup>780</sup>, the Kerala High Court's Single Judge Bench dealt with petitions by two female students belonging to the Muslim community contending that the dress code prescribed by the Central Board of Secondary

Education (C.B.S.E) of wearing half sleeve kurta/salvar would prejudice them, as their religious custom mandates them to wear a headscarf and also full sleeve dresses. The court observed that the State cannot interfere with the practice of religious affairs which would obliterate petitioners' religious identity. The environment in which one has to live is determined by the patterns of the idea formed by his conscience subject to the restrictions as referred under Article 25(1). The right of women to have the choice of dress based on religious injunctions is a fundamental right protected under Article 25(1), when such prescription of dress is an essential part of the religion. It cannot be ignored that in our country with its varied and diverse religions and customs, it cannot be insisted that a particular dress code be followed failing which a student would be prohibited from sitting for the examinations. Hence, the Court opined that no blanket orders were required in the petitions apprehending that they would be prohibited in writing the examination for the reason of their wearing a dress conducive to their religious customs and beliefs. The High Court directed the petitioners who intended to wear a dress according to their religious custom, but contrary to the dress code, shall present themselves before the Invigilator half an hour before the examination and on any suspicion expressed by the Invigilator, shall also subject themselves to any acceptable mode of personal examination as decided by the Invigilator, carried on only by an authorised person of the same sex.

In **Amnah Bint Basheer v. CBSE**<sup>781</sup>, the Kerala High Court recognized wearing the hijab as an obligation under Islam. However, it stopped short of granting absolute right to wear it during examinations, balancing it with CBSE's concerns over malpractice and uniformity. The court allowed headscarves but subject to frisking by female invigilators.

<sup>779</sup> (1986) 3 SCC 615

<sup>780</sup> 2015 SCC OnLine Ker 21660

<sup>781</sup> 2016 SCC OnLine Ker 41106.

Supreme Court Ruling on Dress Code for Teachers: *Avinash Mehrotra v. Union of India*, (2004) SCC OnLine SC 460.

Conversely, in **Fathima Thasneem v. State of Kerala**<sup>782</sup>, the same court prioritized the institutional autonomy of a school over the petitioners' religious expression. The court stated that the rights of an individual cannot override the rights of an institution to maintain discipline, decorum, and uniformity.

Such decisions reveal an important trend: Indian courts increasingly recognize the need to balance religious rights with the functional integrity of secular institutions. It is not about denying religious freedom but about limiting its expression in certain contexts where other societal interests—like education and discipline—must prevail.

### **Rights vs. Duties: The Indian Constitutional Ethos**

The Western liberal tradition, especially that of the United States, emphasizes individual rights in an almost absolutist manner. However, the Indian Constitution strikes a careful balance between rights and duties. The Preamble itself speaks of fraternity, unity, and integrity of the nation—values that often require individuals to subordinate personal preferences for the greater good.

Freedom of religion, like all fundamental rights in India, is qualified. The hijab controversy thus cannot be adjudicated solely on the metric of individual liberty. Public education is a state interest. It must prioritize discipline, inclusion, and neutrality. No fundamental right is an unqualified license to disrupt public order or institutional harmony.

### **Hijab, Identity Politics, and the Domino Effect**

To frame the Karnataka hijab controversy purely as a battle for religious freedom is to ignore the broader political context. The initial protests were localized and sporadic, but they soon snowballed into a statewide issue—thanks in part to student and political organizations with communal leanings. The **Campus Front of India (CFI)**, with ties to the now-banned **Popular**

**Front of India (PFI)**, played a pivotal role in orchestrating coordinated protests.

Predictably, identity begets counter-identity. In reaction to hijabs, some Hindu students started wearing saffron scarves. Soon, what was once a policy issue regarding uniforms turned into a cultural standoff. The slippery slope was no longer theoretical—it was real and palpable.

Should we now allow blue scarves representing Ambedkarite ideology, Christian crosses, tilaks, turbans, or Jain white robes into the school dress code in the name of diversity? If yes, we risk turning our educational institutions into arenas of identity display and contestation—undermining their core purpose.

The Supreme Court of India in **Mohammed Zubair Corporal No.781467-G vs Union Of India & Ors.**<sup>783</sup> held that the constitutional framework recognizes the need to balance individual religious rights with the discipline and security requirements of the armed forces. The Parliament has the authority to restrict and duly modify certain fundamental rights of armed personnel to ensure proper functioning and discipline in the Force maintaining its uniformity without any distinction of caste, creed, religion and sex.

### **Schools Are Not Political Battlegrounds**

To teach and to learn are among the most sacred social acts in a democracy. The right to education became a fundamental right in the Indian Constitution in 2002 and Article 21A which provides that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine. The right to education to include the right to the provision of a safe environment in schools.

In **Avinash Mehrotra v. Union of India & Others**<sup>784</sup> the Court decided that there is a fundamental right to receive education free from fear of security and safety, and the right to education incorporates the provision of safe

<sup>782</sup> 2018 SCC OnLine Ker 5260

<sup>783</sup> 2016 SCC OnLine SC 1472

<sup>784</sup> Writ Petition (Civil) No.483 of 2004, (2009) 6 SCC 398

schools pursuant to Articles 21 and 21A of the Constitution. The State must ensure that children suffer no harm in exercising their fundamental right to education in all schools including private schools.

Schoolchildren, however, are still forming their ideas of society, self, and other. Imposing identity markers—be they religious, cultural, or political—at this impressionable stage risks indoctrination and division. While students have a right to education under Article 21, it does not insist on wearing identifiers of their faith to the uniform in a secular institution. School uniforms were never about erasure of identity rather they intended to defer identity to a more mature age when its expression can be better contextualized and critically examined. Thus, the purpose of uniform is to foster a sense of 'equality' amongst students—instils a sense of oneness, diminishes individual differences, helps focus on learning as students would not be bothered about their social status, improves discipline, fewer conflicts in school, promotes school spirit—generates a sense of belonging, pride, loyalty towards the school, relieves economic pressure on the parents, ensures equality before the educational institution, serves the need of a diverse community and promotes a positive sense of communal identity and does not lead to the growth of disparities of wealth and style.

To summarise, schools should not be battlegrounds for religious or political expression. There is a time and a place for such expressions—colleges and universities, with their older, more mature students, are better equipped to handle debates on diversity, rights, and cultural plurality.

### **The Argument for Institutional Autonomy**

The Supreme Court has often upheld the rights of institutions to regulate their internal affairs. In **T.M.A. Pai Foundation v. State of Karnataka (2002)**<sup>785</sup>, the court held that educational institutions have a right to administer

themselves. This autonomy is not unchecked, but it includes decisions on dress code, discipline, and academic environment.

In **The Commissioner Hindu Religious Endowment Madras v. Shri Laxmindar Tirtha Swamiyar of Shirur Mutt [Shirur Mutt Case]**<sup>786</sup>, the apex court ruled that religious institutions had the right to manage their affairs independently, as long as they did not engage in activities contrary to public order, morality, or health. It clarified the scope of religious denominations related to religious freedom (Article 25) and their rights to administer property and practice their faith, religious denominations (Article 26) and the taxation of religious institutions. The case carved an important precedent for the protection of religious freedoms and property rights in India.

In **Asha Ranjan v. State of Bihar**<sup>787</sup>, the apex court ruled that individual rights must sometimes yield to larger public interests. This logic must apply to school dress codes as well. Institutional cohesion and harmony cannot be sacrificed at the altar of religious expression—especially when the expression is neither forbidden nor persecuted outside the school gates.

As Justice Hemant Gupta in **Aishat Shifa v State of Karnataka**<sup>788</sup> observed that, "Secularism is applicable to all citizens, therefore, permitting one religious community to wear their religious symbols would be antithesis to secularism. The right to education under Article 21 continues to be available but it is the choice of the student to avail such right or not. The student is not expected to put a condition, that unless she is permitted to come to a secular school wearing a headscarf, she would not attend the school. The decision is of the student and not of school when the student opts not to adhere to the uniform rules." If the students of one faith insist on a particular dress, there is no stopping for the others to carry their faiths and beliefs to the

<sup>786</sup> 1954 AIR 282, 1954 SCR 1005

<sup>787</sup> (2017) 4 SCC 397

<sup>788</sup> AIR 2022 SC 842

<sup>785</sup> (2002) 8 SCC 481

schools which would not be conducive for the atmosphere of educational institutions.

On the other hand, the views by Justice Sudhanshu Dhulia in the instant case merit careful and serious contemplation regarding the scope of Articles 19(1)(a), 21 and 25(1) of the Constitution of India. According to him, ban on wearing hijab is an attack on their dignity and denial of their fundamental right in a secular institution. Under the Constitutional scheme, wearing a hijab should be simply a matter of choice whether or not it is an essential religious practice, but it is still a matter of conscience, belief, and expression.

Thus, the court rightly refrained from adjudicating the matter solely through the lens of essential religious practice, recognizing that such a test is pertinent only where state interference in religious rites is contested. Instead, the issue was anchored in the broader constitutional guarantees of personal liberty, freedom of expression under Article 19(1)(a), and the right to privacy. Given that the wearing of the hijab neither disrupts public order nor contravenes morality or health, imposing restrictions on its use in educational institutions would constitute an unwarranted infringement on individual rights. Thus, the judgment strikes a balance between institutional neutrality and fundamental freedoms, reinforcing the constitutional ethos of inclusivity and equality.

### **Conclusion: Preserving the Idea of India**

The hijab controversy is not a trivial matter about a piece of cloth. It underscores the delicate interplay between religious freedom, constitutional rights, and state regulation in a secular democracy. The ruling affirms that in a pluralistic society, the state must uphold secularism without suppressing personal expressions of faith, ensuring that students are not unjustly barred from education based on attire. The issue is more complex; it is about competing visions of India. One vision prioritizes individual assertion and identity politics—even at the cost of collective harmony and institutional discipline. The other vision respects

diversity but believes that unity must come first, especially in formative spaces like schools.

It is time to stop valorising obstinacy in the name of principle. When the most unreasonable begin to dictate the terms of public discourse, as Taleb warned, the result is not freedom but fracture. India's constitutional ethos does not promise absolute freedoms; it guarantees freedoms with responsibility, liberty with limitations, and diversity with discipline.

Let the schools teach this lesson first—not through textbooks, but through the lived experience of every child wearing the same uniform and sitting side-by-side, not as Hindus or Muslims, not as rich or poor, but simply as students of India.