



Case Study: Hijab Politics

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Abstract

The purpose of this study is to analyse the cause of Hijab politics in the Udupi district of Karnataka. The study is composed of an analysis of various court orders on this issue and the speeches of various political leaders. This study is also important as this study analyses the practice of freedom of speech and liberty to practise their religious freedom in India.

Keywords: Hijab, Muslim, Court, Violence

Introduction

Shaheen Bagh is no longer a Muslim quarter in South Delhi. So it became a symbol of constitutional rebellion. This study examines how women and men are becoming more engaged citizens since the Citizenship Amendment Act (CAA) was passed in 2019. They say the Shaheen Bagh's regular public performances aided in instilling a sense of injustice and insurrection against present political realities. A performative politics led women to question the scripted narrative of docility and submission.

There was a similar tragedy just a few weeks ago in Karnataka, which has not only hurt the people of Karnataka but has also become a national matter of debate. Karnataka's Hijab prohibition in schools and colleges has become a big political issue ahead of the elections in Uttar Pradesh, Punjab, Uttarakhand, Manipur, and Goa, with political parties such as the BJP and Congress seeking to capitalise on the controversy.\

Highlights of incidents that took place

- Muslim women are passionate about wearing hijabs to school, and the debate over the ban on the headscarf has yet to die down.
- Muslim women claim that the federal government's ban on the hijab violates their constitutionally protected right to religious liberty.
- While the BJP has advocated for uniform laws, the Congress has spoken out in favour of Muslim girls' education.
- The Supreme Court ruled that students must wear the same clothes to school every day.
- According to a Muslim student appeal, the high court order has been referred to the supreme court.

Literature Review

Apoorvanand, a Hindi professor at the University of Delhi, claims that symbols of Muslim identity are being declared sectarian and therefore undesirable in public places. He claims it sends a message to Muslims and non-Hindus alike that their appearance and religious beliefs are subject to state control. (The Guardian, 2022).

Siddaramaiah, the opposition leader and former Karnataka CM, said, "Anyone is bothered by students applying sindoor' or wearing a hijab(The Hindu, 2022). These customs have been observed for a long time "As a matter of fact, Nobody has a problem with people following ancient traditions and beliefs. Saffron shawls were new to the hijab-wearing community, which had been around for quite some time. People who wear saffron shawls in order to oppose the hijab show a narrow-minded attitude."(NewIndianXpress, 2022).

As Vishwa Hindu Parishad's joint secretary, Dr. Surendra Jain asserts, Muslim women on college campuses are engaging in "hijab jihad." Jain described the hijab debate as a plot to spread the ideology of jihadi terrorism.

As a result of the Hijab controversies, the Hindu nationalist Bahutva Karnataka group accused members of RSS-affiliated Hindutva organisations of inciting violence. They also asserted that anti-hijab protests at colleges across the state appeared to be planned. Following visits to the sites where religious violence had occurred, they concluded that this was the most likely explanation for their findings (The Siasat Daily, 2022).

Background

The root cause of the controversy: The Government's Order

The Karnataka Education Act-1983, 133 (2), which was enacted by the Karnataka Government, prohibits students and professors from wearing apparel that violates equity, integrity, and public order. Under the clause, wearing a uniform is "compulsory." The College Development Committee or the appellate committee of the administrative board of pre-university schools must authorise student dress. A uniform was not required, but apparel that interfered with equality, honesty, public law, and order was prohibited. The government regulation cited Supreme Court and High Court decisions supporting uniformity in India (Srivastava, 2022). Six students were not permitted to enter the government PU college in Udupi in January for wearing a hijab in defiance of the college's dress regulations, sparking the Hijab controversy in Karnataka. Students from nearby towns wore saffron shawls for protesting against the allowance of hijab and in support of a uniform dress code. With the BJP backing school uniform standards and the headscarf being labelled as a religious symbol, the debate has turned political.

Discussion

Arguments in the favor of hijab

The case had made it to the High Court of Karnataka. Students from Udupi's government junior college have petitioned against a ban on students wearing the headscarf at school. According to Article 25 of the Constitution, citizens have a fundamental right to freedom of religion.

In addition to the AIMIM chairman Asaduddin Owaisi, several Muslim clergies had spoken out in support of the girls, claiming that the state government decree violates the Constitution. "That our sisters who are battling for the right to wear a hijab succeed in their efforts are something I wish for them. Karnataka is committing grave constitutional transgressions. This move by the BJP-led state government in Karnataka is abhorrent to me" Owaisi made the remarks at a public gathering in Sarai Tarin, a poll-bound district in Uttar Pradesh (The Hindu Centre, 2022).

Arguments against the implementation of the hijab

Muslim girls in Karnataka have been fighting for the right to wear hijabs to school and college, generating this grave issue. The BJP-led government in Uttar Pradesh recently banned Muslim female students from wearing headscarves to school. During the interview, Education Minister Kumkum Chadha rejected the entire episode, blaming it on other forces seeking political advantage.

Nagesh said the Udupi college was founded in 1985, and the uniform was introduced then. Students in educational institutions have been obliged to wear uniforms for years. "No child wore this hijab." "Several students began wearing hijabs to class in December," he alleged. Initial occurrence described by Nagesh: "The females "were eager about donning the head covering." In the end, the management had to tell the youngsters that they couldn't practise their faith on

school premises. The BJP leader's requirement for college and university attendance must be followed. "The hijab is not required for school. "You can't wear it in schools or universities," says the Education Minister. Saffron-clad students counter-protested, and Nagesh stated there was no blue vs saffron in the state until February 2 (Team, 2022). The "problem" worsened when numerous political parties declared the headscarf a "constitutional right."

"To be fair, the hijab is the only garment that isn't authorised," Nagesh says it was an immediate reaction to a politician's argument that the headscarf is religious freedom protected by the Constitution. Nagesh believed the BJP could have entered the race earlier in the year if they chose. We wouldn't have considered it until February if not for the postponement."

Freedom of religion and attire

A school in Karnataka refusing entry to six hijab-wearing girls demonstrates the value of religious freedom in the country. The hijab was recently banned from six pupils in the Udupi district, Karnataka. As a result, other universities in the state are currently debating whether or not educational institutions can impose a tight clothing code that interferes with students' A legal dispute arises about the definition of religious freedom and the right to wear a headscarf. Freedom of conscience and freedom to profess, practise, and propagate religion are guaranteed by the Constitution under Article 25(1). No intervention or impediment to the exercise of this right is required by law. As with all fundamental rights, the state may limit the right to protect public order, decency, morality, health, and other public interests, among others (Srivastava, 2022).

Article 25

According to Article 25 of the Constitution, everyone has the right to practise their religion. It offers that to all. Religious freedom is protected by the First Amendment, which guarantees the right to freedom of conscience and religion. A representative for the Karnataka government has stated that he will not compromise on the hijab and Kesari dispute. School uniforms are optional. But politicians should avoid commenting while the matter is pending. Religious freedom is guaranteed by Article 25, according to India TV's Subhash Kashyap. Concerning uniforms, it is necessary to determine whether or not relevant parties were appropriately notified. "No matter what religion, everyone has the right to wear however they want. In addition, schools and other institutions can set their own rules for students and employees (regarding the dress). How are these rules shared with those who need to know?" he said Article 25, which deals with religion, grants this freedom. "A person can dress as he wants," he remarked. But he stressed that the school can enforce the rule, as well. "Currently, the issue is up to the people (Kumari, 2022). Now it's up to the judge." Due to the Muslim girls in Karnataka being banned from entering pre-university colleges for wearing the headscarf, recent events have raised questions about its diversity and inclusion in education. In the presence of male family members and during prayers,

Muslim women cover their heads with a hijab or scarves assuring "uniformity" in the classroom, the college management barred all female students. Hindutva groups are expected to demand a uniform dress code for all saffron pupils.

Views of other democracies on this issue

The burka, which covers the full-body, and the niqab, which covers the face except for the eyes, have both been debated in countries around Europe. Concerns concerning religious freedom and even terrorism are frequently discussed. Multiculturalism in Europe is often debated about how much effort should be put towards the assimilation of its diverse ethnic and religious minorities.

- Germany

On December 6, 2016, German Chancellor Angela Merkel proposed banning full-face veils "wherever legally possible." The federal government would not intervene, even if states could modify their own laws. In Hesse, teachers and civil servants are prohibited from wearing headscarves. Bavaria, in southern Germany, prohibited full-face veils in public areas like schools, voting booths, universities, and government offices in early 2017.

- France

On April 11, 2011, France became the first European country to outlaw the full-face Islamic veil. A veiled woman, whether French or not, risks a fine if found outside the house with a veil. The ban was enforced after Sarkozy said veils "are not acceptable" in France because they oppress women. In 2016, France banned full-body bathing costumes for women, termed "burkinis." The swimsuits were "the public validation of political Islam" by Prime Minister Manuel Valls. The French Riviera's mayors imposed a burkini ban, which was overturned by France's highest administrative court (Cumper and Lewis, 2018). Only 2,000 women in France wear full veils, making them the largest Muslim minority in Western Europe. It carries a fine of 150 euros (£133, \$217) and a civics course. Forcible facial coverings are punished by up to €30,000 fines. In 2015, the law resulted in 1,546 fines.

- Britain

The UK has no restrictions on Islamic clothing. Following several high-profile court battles and a 2007 decision, schools in the UK can now establish their own dress code. It's "not British" to dictate to people what to wear in public, Ed Balls declared after the UK Independence Party demanded that all face-covering Muslim veils be banned.

Jurisdiction

High Court Order on hijab issue

A Karnataka High Court interim judgement prohibits students from attending class with a headscarf or saffron scarf. During the lawsuit, the Court has ordered the State to restore schools

as quickly as possible and has forbidden students of all religions from wearing religious attire to school. The interim ruling only applies to colleges having a dress code. Mr Jnanendra claims the state has taken precautions to protect students' safety. In his statement, he advised kids to do their homework without fear or anxiety.

Future events to take place

The Karnataka High Court was told today that public order concerns cannot limit the ability to wear a hijab or a headscarf in schools. "Hecklers' veto cannot be granted," said senior attorney Devadatt Kamat, defending students who challenged the bar on headscarves. Banning religious clothing amounted to a "suspension of essential rights" - education and religious freedom — according to him, allowing it was a modest compromise. On February 3, Kamat claims the petitioners were halted and told to remove their headscarves. On February 5, a GO was issued. A.G. informed the Court that the State simply asked all educational institutions to decide on their own uniforms. They had challenged the GO since the issue is not limited to a uniform mandate, said Kamat." All students wore uniforms. All they asked for was a matching headgear. The state has prohibited headscarves. This is their religious tradition. Ignore it "said he. Students in Karnataka, southern India, petitioned the Supreme Court to reverse an interim court order on the hijab. Numerous Supreme Court petitions have been filed in the hijab dispute. In the present hijab dispute, some Karnataka students have petitioned the Supreme Court. Students from Karnataka will file urgent fresh petitions. Petitioners argued that the Supreme Court should suspend their basic right to conscience(Choudhary, 2022). CC Article 25 (1) is suspended, according to the Muslim community in Karnataka. The order will primarily affect Muslim hijab-wearing women and cause "unreasonable classification" because no other community will be directly harmed by the religious attire ban. In addition, the Federation of Masjid Madaaris and Waqf Institute petitioned in support of their concerns. Arif Jameel, a social worker, has brought his case to court twice. He added, "Practical tests commence on February 15. Denying Muslim women the right to wear a headscarf at school would be damaging to their education."To quote Youth Congress Party head BV Shrinivas, the Karnataka High Court judgement "violates Article 25 rights."

Final verdict of the High Court

On March 15, 2022, the Karnataka High Court upheld the educational institution ban on the hijab. There is no constitutional protection for wearing a hijab under Article 25 because it is not an essential Islamic religious practice according to the court's ruling.

The Holy Quran: Text, Translation, and Commentary by Abdullah Yusuf Ali was used by the Supreme Court of India in the Shayara Bano case for its own investigation. On the basis of Ali's reinterpretation of the Quran, Hijab was only a social security measure during the time of Jahiliya which is the pre-Islamic "ignorance" period prior to the Islamic faith(Kumari, 2022). It was not a religious practice or even essential to the Islamic faith, as Ali claimed. Karnataka High

Court judges who ruled in favour of the hijab have been given Y-category protection, and two people were arrested for making threats.

Supreme Court

The petitions asking for an urgent hearing of the case were rejected by the Supreme Court of India. The girls' attorney asked that the case be heard quickly so that they could appear in school exams this year and not lose any ground they had gained the year before (Kumari, 2022). As the Chief Justice of India pointed out, the exams have nothing to do with this issue and it should not be sensationalised, these petitions were denied.

Violence

Several incidents of violence have occurred in conjunction with the protests. Allegedly, the victims' social media posts against allowing the hijab in colleges were the cause of these incidents. Bystanders pulled Dilip from his shop and attacked him with knives before fleeing the scene. More than 300 masked people with deadly weapons attacked Naveen and his mother Sarojamma in the village of Nallur, a small town in the state of Kerala. Both deaths were attributed by the families of the victims to a WhatsApp status that was anti-hijab.

An anti-hijab protester from the Bajrang Dal was found murdered in the Shivamogga district on February 21. At least five assault cases and attempted murder with religious overtones have been linked to him, according to the police. For now, we don't have an answer. Protests have not been linked to the murder, according to the Home Minister. Earlier that year, a Facebook group called the Mangalore Muslims issued a fatwa condemning him. Stones were hurled at the funeral procession as it approached Siddaiah Road, injuring three people. Bystanders and police officers also suffered injuries in the incident. In addition, a number of vehicles were set on fire, and at least 20 were damaged or destroyed. As a response, a mob set cars and tyres ablaze and stoned a number of Muslim-owned businesses and residences. The mob allegedly assaulted and damaged the cameras of local journalists, they said. Three people were taken into custody out of a total of five people wanted for the murder.

An investigation by the National Investigation Agency (NIA) has been launched into the police's use of the Unlawful Activities Prevention Act (UAPA). A petitioner in the Karnataka High Court claims that her drunken friends beat her brother Saif because he disagreed with their father's comments to a local news station supporting the hijab. "It's not fair," Hazra says. That the attackers were Sangh Parivar goons she claimed on social media.

Conclusion

When it comes to discrimination, religion and gender are inextricably linked. The rise of hijabophobia only reinforces this connection. The battle for women's equality is a never-ending one. There are numerous ways to achieve emancipation. I can't think of a greater example of

empowerment than a woman being able to choose which parts of her body she wants to show. A nation's pride in its cultural diversity means that neutrality cannot be mandated. We need to revisit our understanding of secularism and human rights in the face of alarming situations like these.

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