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# **HIJAB, UNIFORMITY AND REASONABLE ACCOMMODATION: RELIGIOUS DRESS AND EDUCATIONAL ACCESS UNDER INDIAN CONSTITUTIONAL LAW.**

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## **Abstract**

This research article examines the constitutional problem raised by restrictions on the hijab in Indian educational institutions. It argues that religious dress disputes in State-regulated schools and colleges should not be decided primarily through the essential religious practices doctrine under Article 25 of the Constitution. The more appropriate inquiry is whether a sincerely held religious, conscience-based, or identity-linked dress claim can be reasonably accommodated without defeating the legitimate purpose of institutional uniformity. The Karnataka High Court in *Resham v. State of Karnataka* treated the hijab issue largely through essentiality, discipline, and uniformity. The Supreme Court's split decision in *Aishat Shifa v. State of Karnataka* revealed a deeper constitutional disagreement between institutional order and educational inclusion. This article argues that denial of accommodation becomes constitutionally serious when it results in exclusion from education. At that point, the dispute moves beyond dress regulation and becomes a question of equality, dignity, conscience, privacy, expression, non-discrimination, and access to education. Drawing on Indian constitutional doctrine, statutory materials, standard constitutional law scholarship, and equality theory, the article proposes an accommodation-centred proportionality test for religious dress in State-governed educational spaces. Uniformity may be a legitimate institutional aim, but it cannot become a constitutional demand for sameness where a limited accommodation can preserve discipline, inclusion, and equal access.

**Keywords:** Hijab, uniformity, reasonable accommodation, religious freedom, education

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## 1. Introduction

The Karnataka hijab controversy placed an old constitutional anxiety inside a young classroom. The visible question was whether Muslim girl students could wear the hijab along with a prescribed school or pre-university college uniform. The deeper question was whether Indian constitutional law understands equality as identical treatment or as equal access with dignity. A uniform rule may appear neutral. It may claim to promote discipline, common identity, and institutional order. Yet when such a rule keeps a group of girls outside the classroom because they refuse to remove a religiously significant head covering, the legal issue becomes more serious. It is no longer only about dress. It becomes a question of access, conscience, gender, minority vulnerability, and the constitutional meaning of education.

The Constitution of India protects freedom of conscience and the right freely to profess, practise, and propagate religion under Article 25. This right is subject to public order, morality, health, and other fundamental rights. Articles 14 and 15 guarantee equality and prohibit discrimination. Article 19 protects expression. Article 21 protects life and personal liberty, which now includes dignity, privacy, autonomy, and decisional freedom. Article 21A guarantees free and compulsory education for children between six and fourteen years. Articles 29 and 30 protect the cultural and educational rights of minorities. The hijab dispute sits at the meeting point of these provisions. It cannot be resolved by treating Article 25 as the only constitutional site of analysis. A common framing presents the controversy as a direct clash between religious freedom and uniform discipline. That is too narrow. It assumes that the Constitution must choose between a religious symbol and a secular classroom. The better framing is more precise. It asks whether a limited religious dress accommodation can coexist with the legitimate purpose of uniformity. If a student wears the prescribed uniform, but adds a headscarf consistent with her religious or conscience-based identity, the State must explain why this limited departure destroys discipline, equality, institutional identity, or public order. Not every claimed exception must be accepted. Yet exclusion from education requires stronger justification than a general appeal to sameness.

This article argues that Indian constitutional law should not decide educational dress disputes primarily through the essential religious practices doctrine. That doctrine asks whether a claimed practice is integral or essential to a religion. It has sometimes protected religious autonomy. It has also placed Courts in the difficult position of deciding what a religion truly requires. In the hijab context, this creates an institutional and constitutional difficulty. A student

may sincerely consider the hijab part of her faith, conscience, dignity, or identity, even if a Court concludes that it is not essential to Islam. If the result of that conclusion is exclusion from the classroom, the constitutional burden is too serious to be answered by theological essentiality alone. The argument advanced here is not that school uniforms are unconstitutional. Nor is it that every religious dress claim must prevail. Educational institutions have legitimate authority to regulate dress in the interests of discipline, safety, identification, equality, and institutional order. The question is how that authority is exercised in a constitutional democracy. A uniform rule that admits reasonable difference may strengthen common citizenship. A uniform rule that demands erasure may produce exclusion. The distinction is decisive. Reasonable accommodation supplies a better constitutional method. It does not require institutions to surrender order. It requires them to ask whether difference can be included without imposing a disproportionate burden. Indian law has developed reasonable accommodation most clearly in disability rights decisions such as *Jeeja Ghosh v. Union of India* and *Vikash Kumar v. Union Public Service Commission*. Those decisions do not directly govern religious dress. The principle must therefore be adapted carefully.

The article develops this argument through a doctrinal and normative analysis. It first sets out the constitutional and statutory framework. It then examines the essential religious practices doctrine and its limits in educational dress cases. It analyses the Karnataka Government Order dated 5 February 2022, the Karnataka Education Act, 1983, the Karnataka High Court's judgment in Resham, and the Supreme Court's split decision in *Aishat Shifa*. It then considers institutional uniformity, reasonable accommodation, gendered minority vulnerability, and educational access. The final part proposes a constitutional test for religious dress in schools and colleges. The Constitution does not forbid uniforms, but it does forbid unjustified exclusion. Where the accommodation sought is limited, non-disruptive, and compatible with the broader uniform, the State must give strong reasons before denying it. In a constitutional classroom, sameness cannot be the only grammar of equality.

## **2. Method, Research Question, and Constitutional Frame**

This article adopts a doctrinal and normative constitutional method. It examines constitutional text, statutory authority, reported judgments, and legal scholarship on religious freedom, equality, dignity, education, proportionality, and reasonable accommodation. The doctrinal inquiry asks how Indian constitutional law presently treats religious dress, uniformity, and educational access. The normative inquiry asks how Courts should structure that analysis when

denial of accommodation results in exclusion from education. The research question is whether Indian Constitutional Law should continue to treat the essential religious practices doctrine as the controlling threshold in educational dress disputes, or whether a more appropriate approach lies in reasonable accommodation, substantive equality, proportionality, and access to education. The article answers in favour of the latter. It argues that essentiality may be relevant in some Article 25 disputes, but it should not decide whether a student is excluded from a State-regulated classroom. The constitutional injury in such cases is not limited to interference with religious practice. It includes loss of educational access, dignitary harm, gendered disadvantage, and indirect burden on a religious minority. The inquiry remains within Indian constitutional law. Comparative headscarf jurisprudence may illuminate the issue, but it cannot settle it. India's Constitution has its own vocabulary. It does not adopt a strict separationist model. It protects religious freedom, permits social reform, safeguards minority education, authorises regulation of secular aspects of religious activity, and subjects all rights claims to a structure of equality and dignity. Seervai and Jain, in different ways, treat the Indian Constitution as a charter that joins liberty with institutional authority, social reform, and plural citizenship (Jain, 2018, Seervai, 1991).

The doctrinal materials are classified around six constitutional questions. First, what role should the essential religious practices doctrine play in a claim concerning the hijab? Secondly, what is the statutory basis of the State's authority to prescribe or support uniform rules in Karnataka? Thirdly, how should Courts understand the constitutional value of uniformity? Fourthly, when does a uniform rule amount to indirect discrimination or assimilation? Fifthly, can reasonable accommodation be developed beyond disability law as a method of equality and dignity. Sixthly, how should Courts protect educational access where a girl student's religious or conscience-based dress claim is sincere and the institutional burden appears limited?

The article uses *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, *Durgah Committee, Ajmer v. Syed Hussain Ali*, *Bijoe Emmanuel v. State of Kerala*, *Resham v. State of Karnataka*, *Aishat Shifa v. State of Karnataka*, *Jeeja Ghosh v. Union of India*, *Vikash Kumar v. Union Public Service Commission*, *Modern Dental College and Research Centre v. State of Madhya Pradesh*, *K. S. Puttaswamy v. Union of India*, *Navtej Singh Johar v. Union of India*, *Nitisha v. Union of India*, and *Patan Jamal Vali v. State of Andhra Pradesh*. These cases do not speak with one voice. They are used to build a

composite constitutional method, one that takes religion seriously without converting courts into theologians, and that takes institutional order seriously without treating exclusion as discipline.

The scholarly frame draws from Sen's work on the Indian Supreme Court's religion jurisprudence, Bhatia's anti-exclusion analysis, Fredman's theory of substantive equality, Khaitan's theory of discrimination law, and Atrey's work on intersectionality. These sources help explain why formal neutrality is not always constitutionally sufficient. A rule may be identical in wording and unequal in effect. A prohibition may appear general while operating most harshly on those whose practices are already marked as different. The article avoids two opposite mistakes. It does not romanticise religious dress as always chosen, emancipatory, or immune from critique. It also does not treat State uniformity as automatically secular, neutral, or harmless. Both claims require evidence and constitutional reasoning. The real issue is whether a State educational institution can deny a limited accommodation without proving that the accommodation would undermine a legitimate institutional aim in a proportionate manner.

### **3. Statutory setting: Karnataka Education Act, Government Orders, and delegated authority**

Any Constitutional analysis of the hijab dispute must begin with the legal basis of State action. The Karnataka Government Order dated 5 February 2022 was issued in the context of disputes over hijab in certain educational institutions. It referred to the prescription of uniforms by competent institutional bodies, and it invoked governmental power under the Karnataka Education Act, 1983. The order stated that students in government schools and pre-university colleges should follow the uniform prescribed by the relevant authorities. Where no uniform had been prescribed, clothing that disturbed equality, integrity, and public order should not be worn.

The statutory anchor was Section 133 of the Karnataka Education Act, 1983. Section 133(2), as understood by the Karnataka High Court in Resham, empowers the State Government to issue directions to give effect to the purposes of the Act and the rules made under it. The High Court treated this provision as sufficient authority for the Government Order. It held that the State could issue directions concerning uniforms and that prescription of uniforms fell within regulatory authority over educational institutions. That conclusion deserves closer scrutiny. A

broad direction-making power cannot be read as a constitutional blank cheque. Delegated statutory authority must remain within the statute and must also conform to fundamental rights. The power to regulate education may include discipline, curriculum, institutional management, and standards. It may also include uniform norms that the institution has adopted. Yet when such regulation burdens religious freedom, expression, dignity, and educational access, the statutory power must be exercised with reasons, proportionality, and attention to rights. The Government Order used concepts such as equality, unity, integrity, and public order. These are serious constitutional terms. Their presence in an executive order does not prove that the restriction is constitutionally valid. The State must show why wearing a headscarf with the uniform harms equality or public order. A legal order cannot merely recite constitutional values. It must connect those values to the facts. If a matching headscarf does not obstruct teaching, identification, safety, examination integrity, or institutional functioning, the burden of justification becomes heavier.

The Government Order also placed weight on uniforms prescribed by College Development Committees or institutional authorities. This raises a further question. Public educational access cannot be made entirely dependent on local institutional preference. A local body may understand discipline narrowly. It may also be influenced by social pressure. Where a uniform decision excludes a minority group from education, the State cannot avoid constitutional scrutiny by describing the decision as institutional rather than governmental. Once the State supports, authorises, or enforces the exclusion, fundamental rights are engaged.

There is also a distinction between prescription and prohibition. A rule may validly prescribe a uniform. A further question arises when the rule prohibits any religiously significant addition even when it is compatible with the uniform. The statutory power to prescribe uniform does not automatically imply a power to deny all reasonable accommodation. The latter requires independent justification because it affects participation in education.

The 2026 Karnataka Government Order is relevant to this statutory analysis. Government Order No. ED 14 SHH 2022 dated 13 May 2026, issued under Section 7 and Section 133(2) of the Karnataka Education Act, 1983, read with Rule 11, withdrew the earlier Government Order dated 5 February 2022 and adopted a more accommodative position on limited traditional and faith-based symbols with the prescribed uniform. James (2026) and Sourav (2026) report the same development, but the Government Order should be treated as the primary legal source.

This later executive position does not settle the constitutional doctrine. It does, however, show that the same statutory framework can support a more accommodative approach. It also weakens any claim that institutional uniformity and limited faith-based symbols are inherently incompatible. The significance of the 2026 development is not that the executive finally answered the constitutional question. Executive policy can shift with political change. Its doctrinal value lies elsewhere. It demonstrates that uniformity can be preserved without total erasure of religious or customary symbols. If the State can permit limited markers while maintaining the prescribed uniform, courts must be cautious about accepting a categorical claim that every visible religious addition destroys discipline. The question must remain evidentiary and contextual. The 2022 and 2026 orders also show why judicial doctrine cannot depend on the temporary position of the government of the day. A rights-based approach must regulate both prohibition and permission. Where the State prohibits, it must justify exclusion. Where it permits, it must do so through rules that are equal, transparent, and not selectively enforced. The legal centre should therefore be neither executive preference nor local pressure, but constitutional justification.

A proper statutory analysis produces four conclusions. First, the State may possess statutory power to regulate uniforms in educational institutions. Secondly, that power must be exercised consistently with fundamental rights. Thirdly, a uniform prescription and refusal of accommodation are not the same act. Fourthly, a statutory framework capable of accommodation should not be interpreted as requiring exclusion unless the State shows concrete institutional harm.

#### **4. Essential religious practices and constitutional burden**

The essential religious practices doctrine occupies a prominent place in Indian religious freedom law. In *Shirur Mutt*, the Supreme Court recognised that religion includes not only belief but also practices regarded by a religious community as integral to religion. The decision was protective in its original context. It prevented the State from reducing religion to private belief and treating ritual practice as mere secular administration. Yet later cases gave courts a more intrusive role. In *Durgah Committee*, the Court suggested that practices regarded as superstitious, accretive, or non-essential could fall outside constitutional protection. The doctrine thus moved from protecting religious autonomy to assessing religious authenticity.

Sen (2010) has shown that Indian courts have often used the doctrine to rationalise religion. Instead of asking only whether a claimant sincerely connects a practice with faith, courts sometimes ask whether the practice is truly required by the religion. This inquiry may be more manageable in disputes concerning religious institutions, endowments, or administration. It becomes far more fragile where an individual student says that a mode of dress is part of conscience, dignity, and religious identity.

The hijab controversy demonstrates this fragility. A practice may be religiously significant without being universally followed. Muslim women do not understand the hijab in one way. Some consider it obligatory. Some understand it as modesty, piety, culture, identity, familial expectation, or a personal relationship with faith. Others reject it. This diversity does not make the practice constitutionally irrelevant. A constitutional court should hesitate before converting internal diversity into a reason for denying protection. Religion is often lived through conscience, interpretation, habit, community, and personal conviction, not only through uniform obligation. The essentiality test also misplaces the burden in educational access cases. If the court first asks whether the hijab is essential to Islam and answers in the negative, the State may escape a serious justification inquiry. But the constitutional question should not end there. Even if the hijab is not judicially essential, a ban may still burden expression, privacy, dignity, conscience, and education. It may also affect Muslim girls in a specific social context. The inquiry must therefore move from essentiality to constitutional burden.

Bijoe Emmanuel offers a better method. The Jehovah's Witness students in that case refused to sing the national anthem, but they stood respectfully. The Supreme Court protected their conscience under Articles 19 and 25. It did not demand that the belief be established as an essential practice of a large religious community. It recognised that constitutional freedom protects unpopular and unusual conscience. This is central to religious dress cases. If a student's conduct is peaceful, respectful, and non-disruptive, the State should justify compulsion with more than institutional preference. The essentiality approach has another institutional cost. It pushes courts into theological interpretation. In hijab litigation, courts were drawn into Islamic sources, variation among schools of thought, and the conduct of Muslim women across communities. Judges are trained in law, not theology. More importantly, the Constitution protects persons, not only doctrines. A girl excluded from school is not merely a representative of Islamic law. She is a constitutional subject with dignity, educational interest, and personal agency. Bhatia (2016) provides an alternative through the anti-exclusion principle. He argues

that religious freedom should not be understood only as a contest between State authority and religious group autonomy. Constitutional law must also attend to persons excluded from basic social, economic, or cultural goods. In the hijab context, the exclusion is not merely internal community exclusion. It is exclusion from education through a State-backed uniform rule. If denial of a dress accommodation keeps girls away from school or college, the court must ask whether the rule excludes them from a basic good necessary for a dignified life. A better constitutional sequence would begin with sincerity and burden. The court may ask whether the claim has a sincere religious, conscience-based, or identity-based foundation. It need not decide whether the practice is theologically compulsory. The court should then examine the State's aim. Uniformity, discipline, safety, and institutional identity may be legitimate aims. The court must then ask whether denying accommodation is necessary, proportionate, and non-discriminatory in effect. This approach respects both religion and institutional order without making judges arbiters of religious truth.

### **5. The Karnataka hijab litigation: Resham and Aishat Shifa**

In *Resham v. State of Karnataka*, the Karnataka High Court framed four principal questions. The central ones were whether wearing the hijab is an essential religious practice in Islam protected by Article 25, whether the prescription of school uniform violates Articles 19 and 21, and whether the Government Order dated 5 February 2022 was competent or arbitrary under Articles 14 and 15. The Court answered against the petitioners. It held that wearing the hijab is not an essential religious practice in Islam, that a school uniform is a constitutionally permissible restriction, and that the Government Order was valid. The High Court's judgment has two strengths. It correctly recognised that educational institutions may prescribe uniforms. It also refused to treat every individual preference as a constitutional override. A State school or college must be able to maintain order. But the weakness lies in the structure of the reasoning. The Court made essential religious practice the threshold question. Once the hijab was held not essential, the remaining rights analysis lost force. The result was that uniformity received more serious consideration than exclusion.

The Court's treatment of uniformity as equality also needs scrutiny. Uniforms may reduce visible class differences and support common institutional identity. Yet equality is not exhausted by identical clothing. When a rule disproportionately burdens a religious minority, equality analysis must ask whether the rule produces exclusion. A matching headscarf may still

preserve the uniform's colour, pattern, and institutional identity. The judgment did not sufficiently ask whether a narrower accommodation could preserve the uniform while allowing participation. The public order language in the Government Order also deserved closer examination. It is not evident that a student wearing a headscarf with the uniform creates a public order problem. If disorder arises because others object to her dress, the State must protect the student rather than burden her. A constitutional order cannot allow hostile reaction to define the scope of a minority student's rights. The High Court's reasoning did not sufficiently separate institutional discipline from social controversy.

When the matter reached the Supreme Court in *Aishat Shifa v. State of Karnataka*, the two-judge Bench delivered a split verdict. Justice Hemant Gupta dismissed the appeals. He gave weight to uniformity, discipline, and the authority of the State to regulate the secular space of the classroom. His reasoning treated the school as an institution where prescribed dress could legitimately limit individual religious expression. He also took the view that students who voluntarily attend an institution must follow its uniform discipline.

Justice Sudhanshu Dhulia took a different route. He allowed the appeals and emphasised choice, dignity, and education. His opinion treated the matter less as a theological dispute and more as a question of whether a girl should be denied education merely because she wears the hijab. He drew strength from *Bijoe Emmanuel* and focused on the consequences for the girl child. The practical insight in his reasoning was that the hijab may, for some girls, be the condition that enables them to attend school. Denying it may not liberate them. It may keep them at home.

The contrast between the two opinions is important. Justice Gupta's opinion begins from institutional authority and asks whether the student must comply with the uniform as a condition of entry. Justice Dhulia's opinion begins with the student and asks whether the Constitution should allow exclusion from education when the dress is connected with conscience, and the accommodation appears limited. These are not merely different answers. They are different starting points. Justice Gupta's reasoning has the advantage of institutional clarity. It avoids turning every school rule into a constitutional negotiation. It recognises that a common uniform may support discipline and equality. Yet this approach risks treating compliance as the price of education even where the claimed accommodation does not defeat the rule. It also risks converting the classroom into a space of formal sameness rather than

constitutional inclusion. Justice Dhulia's reasoning gives better attention to consequence. It understands that the same rule may operate differently on different students. For a student who does not attach religious significance to dress, the uniform is ordinary discipline. For a student whose participation depends on a headscarf, the refusal of accommodation may become educational exclusion. This is precisely why proportionality matters. The burden on the claimant must be measured, not assumed. A further difference lies in how the two opinions imagine the public institution. Justice Gupta's approach gives primacy to the institution's ability to maintain a common code. Justice Dhulia's approach does not deny that interest, but asks whether the constitutional purpose of education is defeated when the rule is applied without accommodation. In the first view, the student enters a pre-existing disciplinary space and must conform to it. In the second, the institution itself is required to make room for constitutional plurality unless it can show that accommodation would cause real institutional harm. The latter view is closer to substantive equality because it does not mistake identical treatment for fair treatment.

The split also exposes the limits of the essential religious practices doctrine in classroom cases. Justice Gupta's reasoning was more comfortable with institutional deference once essentiality failed. Justice Dhulia's opinion understood that the injury could survive even if essentiality was disputed. A girl who loses access to education suffers a constitutional harm that cannot be made invisible merely because courts disagree on religious doctrine. That insight should guide future benches. The more serious the educational consequence, the less appropriate it is for the court to end the case at theology.

The Supreme Court did not produce a binding majority rule. That leaves the doctrine unsettled. Yet the split clarifies the real question. The issue is not whether educational institutions can ever prescribe dress. They can. The issue is whether the State can exclude students without proving that accommodation would undermine a legitimate institutional aim. That question remains open and must be answered through proportionality and reasonable accommodation. The later 2026 withdrawal of the 2022 order, and the reported permission for limited traditional and faith-based symbols with prescribed uniforms, demonstrates that an accommodative regime is administratively possible. It should not be used as a substitute for constitutional adjudication, but it is relevant evidence against the claim that uniformity and limited religious symbols are inherently incompatible. The Karnataka litigation finally shows the danger of treating the classroom as secular only when visible differences disappear. A classroom is not

constitutional because all students look identical. It is constitutional when students from different backgrounds can learn together under fair and reasoned rules. Secular education does not require religious invisibility. It requires non-coercion, equality, and institutional neutrality among students.

## **6. Uniformity, discipline, and the limits of institutional authority**

School uniforms serve legitimate purposes. They may reduce visible economic differences, support discipline, create institutional identity, and reduce peer pressure around clothing. Constitutional law need not be hostile to uniforms. The real question is how far uniformity may go before it becomes assimilation. Uniformity becomes constitutionally problematic when it demands that a student suppress a significant part of conscience or identity as the price of entry. In a diverse society, equality cannot mean that all students must appear as if they have no religion, culture, caste location, gendered experience, or family background. A uniform may regulate clothing. It cannot become a constitutional theory of sameness. The distinction between uniformity and sameness is vital. A student may wear the same colour, same fabric, and same institutional dress, while covering her head in a manner consistent with faith or conscience. If the headscarf is compatible with the uniform, the institutional interest is not obviously defeated. The State may still raise concerns about identification, safety, laboratory work, sport, or examination integrity. Those concerns can be addressed by tailored rules. A complete denial requires stronger reasons.

Institutional authority is also shaped by the public character of education. A State school or pre-university college performs a public constitutional function. It is a site through which young citizens access opportunity, dignity, social mobility, and public participation. Rules in such institutions must therefore satisfy constitutional scrutiny. The power to regulate discipline is not a power to exclude without justification.

Discipline itself must be understood constitutionally. It is not mere obedience. Discipline in a democracy must be compatible with dignity. A rule that teaches students to live with reasonable difference may produce a deeper civic discipline than a rule that demands visual conformity. The presence of a hijab, turban, tilak, sacred thread, rudraksha, or other symbol need not automatically disrupt learning. The relevant question is whether the symbol interferes with teaching, safety, identification, or the rights of others.

The State may argue that permitting one accommodation will produce many claims. This concern cannot be dismissed. Institutions cannot adjudicate endless exceptions casually. Yet constitutional law regularly draws lines. The possibility of difficult cases cannot justify denial of a reasonable case. The answer is to create a principled accommodation process, not to refuse accommodation altogether. Uniformity must also be examined in social context. A restriction on the hijab does not affect all students equally. It affects those girls for whom the hijab is religiously or personally significant. For some, the consequence may be conflict with family. For others, it may be withdrawal from school. For still others, it may force a painful choice between conscience and education. Even if the rule is formally uniform, its burden is not uniform.

This is where Articles 14 and 15 become central. Equality is not limited to explicit classification. It also asks whether the law entrenches disadvantage. A rule that appears neutral may produce indirect discrimination if it disproportionately burdens a protected or vulnerable group without sufficient justification. Indian constitutional law has not always used the vocabulary of indirect discrimination consistently, but modern equality doctrine has moved beyond formal classification.

*Nitisha v. Union of India* is important in this respect. The Supreme Court recognised that a facially neutral criterion can reproduce structural disadvantage when it is applied without attention to the social conditions in which affected persons live and work. Although *Nitisha* is concerned with women officers in the armed forces, the logic of equality extends beyond service law. It asks courts to examine whether apparently neutral standards are built around a dominant subject and then applied to those who were never placed in the same conditions. In the context of the hijab, a neutral uniform rule may be framed around a student for whom religious dress has no serious consequences. Applied to Muslim girls who understand the hijab as part of conscience or identity, the same rule may create a distinct burden.

*Patan Jamal Vali v. State of Andhra Pradesh* strengthens this inquiry by recognising intersectionality as relevant to legal analysis. The Court acknowledged that disadvantage may be compounded where caste, gender, disability, and other identities interact. The hijab case does not involve the same facts, but the method is valuable. A Muslim girl excluded from education is not affected only through religion. Gender, minority status, age, educational dependence, and family context may converge. A court that treats the claim only as a matter of

dress misses the layered structure of harm.

A mature equality inquiry should therefore ask what the rule does, not only what it says. If a uniform regulation appears equal because it is addressed to all students, that is only the beginning of the analysis. The court must ask whether the burden of compliance is materially different for a religious minority, and whether that difference is constitutionally relevant. Indirect discrimination does not require proof of hostile intent. It requires attention to effect, structure, and justification. A rule adopted in the language of discipline may still be discriminatory in operation if it foreseeably excludes a vulnerable group and the institution refuses reasonable accommodation. The institutional aim must therefore be precise. If the State says uniformity promotes equality, it must show why a matching headscarf undermines equality. If it says discipline is affected, it must identify the disruption. If it invokes public order, it must show actual risk, not the possibility of hostile reaction. Vague claims cannot justify exclusion from education.

### **7. Reasonable accommodation, equality, and proportionality**

Reasonable accommodation is most familiar in disability law. Section 2(y) of the Rights of Persons with Disabilities Act, 2016 defines reasonable accommodation as necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure that persons with disabilities enjoy or exercise rights equally with others. The statutory definition is disability-specific. It does not directly create a religious dress right. Its constitutional value lies in the idea that equal participation may require modification of a general rule.

In *Jeeja Ghosh v. Union of India*, the Supreme Court treated dignity and non-discrimination as central to disability rights. The case concerned the deboarding of a passenger with cerebral palsy. The Court made clear that dignity is not charity. It is a constitutional entitlement. In *Vikash Kumar v. Union Public Service Commission*, the Court developed reasonable accommodation more fully. It recognised accommodation as part of substantive equality and insisted that barriers must give way to an accommodative society that respects difference and enables participation.

These cases arise from disability rights and statutory duties under disability legislation. A

student wearing the hijab is not claiming disability accommodation. The principle must therefore be used analogically, not mechanically. The constitutional insight is that a general rule may have exclusionary effects, and equality may require modification where participation can be preserved without undue burden. In the hijab context, reasonable accommodation can be grounded in Articles 14, 19, 21, and 25, read with educational access.

Reasonable accommodation also works with proportionality. In *Modern Dental College*, the Supreme Court accepted proportionality as part of constitutional scrutiny. A restriction must pursue a legitimate aim, be suitable to that aim, be necessary in the sense that less restrictive alternatives are unavailable, and maintain a proper balance between the right and the public purpose. In *Puttaswamy*, proportionality acquired further force in relation to privacy, dignity, and State action. Religious dress disputes in education are well-suited to such analysis.

Accommodation in this field asks whether the institution can include the student without sacrificing the core of the rule. If the purpose of the uniform is common institutional identity, a headscarf in the same colour may preserve that purpose. If the concern is identification, the student can be required to show her face where necessary. If the concern is laboratory safety, specific safety rules can apply. If the concern is examination integrity, tailored invigilation rules may suffice. These are not abstractions. They are practical constitutional questions. This approach does not trivialise institutional authority. It demands reasons. The institution may refuse accommodation where it can show undue burden, serious disruption, safety risk, or conflict with the rights of others. The refusal, however, must be reasoned. It cannot rest on the mere assertion that uniform means no difference at all. Reasonable accommodation also helps avoid theological adjudication. Instead of asking whether the hijab is essential to Islam, the court asks whether the student's claim is sincere, whether the burden is serious, and whether accommodation is feasible. This protects courts from becoming theological authorities. It also protects students from having constitutional status depend on judicial interpretation of scripture.

Fredman's theory of substantive equality is useful because it treats equality as a response to disadvantage, stigma, lack of participation, and structural exclusion (Fredman, 2016). Khaitan's work on discrimination law similarly shows that equality analysis must examine disadvantage and protected grounds, not merely formal sameness (Khaitan, 2015). Atrey's work on intersectionality strengthens the point further. A Muslim girl excluded for wearing the

hijab is not affected only as a religious claimant. She is affected as a girl, a student, a member of a minority, and often as a person located within family and community expectations. Reasonable accommodation also creates procedural duties. Institutions should consult affected students, record reasons, examine alternatives, and adopt transparent rules. A blanket rule imposed without hearing the students most affected is constitutionally weak. Accommodation is not only an outcome. It is a process of reasoned engagement.

The State might object that accommodation of religious dress will intensify religious identity in public institutions. This concern must be considered, but not overstated. A visible religious symbol does not automatically convert a classroom into a religious space. The constitutional issue is whether the student's dress coerces others, disrupts instruction, threatens safety, or undermines rights. If it does not, exclusion appears excessive. Secular education does not require students to leave conscience at the gate. It requires the institution not to impose religion and not to discriminate among students.

Proportionality gives this accommodation inquiry legal discipline. A court should not ask, in the abstract, whether uniforms are good or whether hijab is essential. It should ask whether exclusion is suitable, necessary, and balanced in the concrete setting. Suitability requires a real connection between the restriction and the institutional aim. Necessity asks whether a less restrictive option, such as a matching headscarf, could achieve the same aim. Balancing requires the court to compare the marginal gain in uniformity with the serious loss of educational access. Where the gain is symbolic and the loss is exclusion, the constitutional scale tilts towards accommodation.

## **8. Gender, Minority vulnerability, and Educational access**

The hijab controversy must be read through gender and minority vulnerability. Muslim girls are not abstract bearers of a religious symbol. They are students located within family, community, school, and State. A rule that appears to regulate clothing may affect their mobility, education, and future opportunities. The court must therefore ask what happens after enforcement. Does the girl continue in school. Does she withdraw. Does she shift to a less suitable institution. Does she lose attendance. Does she lose examination eligibility. These consequences matter.

Justice Dhulia's opinion in *Aishat Shifa* recognised this practical dimension. His concern was not only doctrinal. It was about the girl child and access to education. He understood that the hijab may, for some girls, be the condition that enables them to attend school. Denying it may not liberate them. It may keep them at home. A common argument against accommodation is that the hijab is patriarchal. Some women experience it that way. Others experience it as faith, modesty, identity, discipline, or choice. Constitutional law should not assume a single meaning. If the State bans the hijab in the name of emancipation, but the result is that girls leave education, the measure may harm the persons it claims to liberate. A feminist constitutional approach must attend to actual consequences, not only symbolic readings. This does not mean that every claim of religious dress is beyond critique. Schools may intervene where a student is coerced, threatened, or denied choice. The State has a legitimate role in protecting autonomy. But autonomy cannot be protected by forcing a girl to choose between education and conscience. The better approach is to keep the classroom open and allow the student to remain within education, where her future choices may expand.

Minority vulnerability also matters. In a majoritarian climate, Muslim practices may be viewed with suspicion. A rule against religious symbols may formally apply to all, but it may be triggered by the visibility of one community. Constitutional courts must be attentive to this context. Neutral language can hide targeted burdens. If the practical dispute arises because Muslim girls wear the hijab, the court must examine whether the rule responds to a real institutional need or to social discomfort with Muslim visibility.

Educational access carries independent constitutional value. Article 21A applies to children between six and fourteen years, but education beyond that age remains linked to Article 21, dignity, equality, and opportunity. Pre-university education shapes university access, employment, and public participation. Exclusion at this stage can have long-term effects, especially for girls from minority or economically vulnerable backgrounds. The right to education is relational. A student excluded from the classroom is excluded from peers, teachers, examinations, institutional support, and future mobility. The injury cannot be reduced to a dress disagreement. It is a denial of a social good. Bhatia's anti-exclusion approach helps here. A rule should be constitutionally suspect where it excludes persons from basic goods necessary for dignified participation (Bhatia, 2016). In the hijab context, the State-backed rule, not the religious practice, may produce exclusion. The court must also resist speaking about Muslim girls only through the community. A girl wearing the hijab may be religious, questioning,

conservative, feminist, pressured, autonomous, or conflicted. She may be many things at once. Constitutional law should preserve her access to education so that she can develop agency. Exclusion closes that possibility.

## **9. A Constitutional Test for Religious Dress in Schools**

A constitutional test for religious dress in schools should begin from the constitutional subject before it turns to institutional anxiety. The court should first identify whether the student has placed a sincere religious, conscience-based, cultural, or identity-linked claim before the institution. Sincerity should not be converted into a theological proof. It is enough that the practice is credibly connected with the student's understanding of faith, conscience, or identity. A court need not ask whether every member of the religion follows the practice, because constitutional protection cannot depend only on uniformity within a community. Once the claim is shown to be serious and non-frivolous, the institution must justify the rule with precision. A school or college may certainly prescribe a uniform. Discipline, equality, safety, identification, examination integrity, and institutional identity are legitimate objectives. Yet those objectives cannot remain at the level of assertion. The institution must show how the particular accommodation sought would impair the rule. If a student asks to wear the prescribed uniform with a headscarf of the same colour, the relevant question is whether that addition defeats the core purpose of the uniform. A concern about face identification may justify a different response from a concern about head covering. A laboratory, sports field, or examination hall may require tailored safeguards. The constitutional method must therefore be contextual, not categorical.

The burden on the student must then be measured with care. Denial of accommodation may not merely regulate dress. It may lead to loss of attendance, classroom instruction, examination eligibility, peer interaction, and continuity in education. Where the affected student belongs to a religious minority, and where the burden falls particularly on girls, the equality inquiry must examine both indirect discrimination and intersectional disadvantage. A formally neutral uniform rule may still be constitutionally troubling if its practical effect is to exclude a group whose participation in education is already vulnerable. The more serious the educational harm, the stronger the justification required from the State. Proportionality supplies the discipline for this assessment. The restriction must have a lawful basis, pursue a legitimate aim, be suitable for achieving that aim, and be necessary because less restrictive alternatives are unavailable. It

must also maintain a fair balance between the institutional objective and the constitutional harm. A complete exclusion from classroom education will rarely be proportionate if a modest accommodation can preserve uniformity, safety, and identification. The court should therefore examine whether a matching headscarf, written guidelines, verification procedures, or activity-specific safety rules can achieve the institutional purpose without excluding the student.

Process is equally important. Before refusing accommodation, the institution should hear the affected students, record reasons, consider alternatives, and apply the rule consistently. A decision taken after local pressure or communal controversy deserves closer scrutiny. Public order cannot be invoked by treating the student's dress as the source of disorder when the actual threat comes from a hostile reaction. The State's first constitutional duty in such a situation is to protect the student's access to education, not to reward pressure by enforcing withdrawal. Remedy design should be practical rather than declaratory alone. Courts should preserve attendance, prevent loss of examination opportunity, require time-bound reconsideration, and direct institutions to frame accommodation guidelines where necessary. Delay can itself become exclusion. A student who wins a legal point after losing an academic year receives a remedy that is formally correct but educationally hollow. Religious dress disputes, therefore, require remedies that keep the student inside the classroom while the legal question is resolved.

This approach does not abolish uniforms. It constitutionalises them. It allows educational institutions to regulate dress, but requires regulation to be reasoned, proportionate, inclusive, and attentive to actual harm. It also prevents religious dress litigation from becoming a contest in theology. The decisive question is not whether judges can determine whether hijab is essential to Islam. The decisive question is whether a constitutional State may exclude a student from education when a reasonable accommodation is available.

## **10. Conclusion**

The hijab controversy is not only about a headscarf. It is about the kind of equality the Indian Constitution promises in educational spaces. If equality means that every student must appear the same, then uniformity will always defeat difference. If equality means equal access with dignity, then institutions must sometimes accommodate difference to make common education possible. Indian Constitutional law has the resources for this approach. Bijoe Emmanuel protects a sincere conscience without demanding theological centrality. Jeeja Ghosh and

Vikash Kumar show that equality may require institutions to remove barriers and accommodate differences. Modern Dental College and Puttaswamy support proportionality as a method for testing State restrictions. Navtej Singh Johar, Nitisha, and Patan Jamal Vali deepen the constitutional language of dignity, equality, autonomy, stereotype, and intersectional disadvantage. Articles 14, 15, 19, 21, 21A, and 25 together create a framework in which religious dress disputes should be assessed through burden, accommodation, proportionality, and access. The essential religious practices doctrine should not be the controlling threshold in educational dress cases. It may have a role in some religious freedom disputes, but it is poorly suited to a case where the immediate consequence is exclusion from education. A student should not have to prove that every member of her religion is required to dress as she does before the Constitution takes her burden seriously.

Uniformity remains legitimate. Schools may prescribe uniforms. They may regulate dress for safety, identification, discipline, and institutional order. But uniformity cannot become a constitutional demand for erasure. A matching headscarf worn with the uniform may be a reasonable accommodation, not a rejection of the institution. Educational inclusion should be the final constitutional measure. A legal system committed to dignity cannot be indifferent to girls standing outside the school gate. If reasonable accommodation can keep them inside the classroom without undermining the institution, the Constitution should prefer inclusion. The classroom should not become a site where secularism is performed through exclusion. It should become a space where students learn that common citizenship can include visible differences. The deeper lesson is institutional. Uniform rules are easiest to administer when they require sameness, but constitutional education is not merely administrative. It is also formative. A school that accommodates a modest difference without losing discipline teaches students that equality is not the fear of difference. It is the ability to share a public institution without asking some citizens to become invisible. In that sense, reasonable accommodation is not a concession from uniformity. It is a way of making uniformity constitutionally mature. This is also the more faithful understanding of constitutional secularism in the classroom. Secular education does not require students to appear religionless. It requires the State to avoid religious preference, coercion, and exclusion. A classroom that can hold differences under fair common rules is more constitutional than one that secures order by asking vulnerable students to withdraw. The future of religious dress litigation should therefore turn less on whether judges can settle theology, and more on whether public institutions can justify exclusion. Where accommodation is feasible, inclusion should be the constitutional default.

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