

## Tajikistan's Hijab Ban

### Why in news?

After years of unofficial curbs on religious clothing, the Tajikistan government has recently moved to formally ban the wearing of the hijab in the country.

### What does the new law say about hijab ban?

- **Hijab** - It is the head covering worn by Muslim women, as well as other garments associated with Islam.
- **Ban** - It forbids the "*import, sale, promotion and wearing* of clothing deemed foreign to the national culture".
- It is done by amending the existing law on Regulation of Holidays and Ceremonies.
- **Fine for violations** - It may attract fines ranging from 7,920 somonis (\$747) for individual offenders to 39,500 somonis.

*Somonis is the currency of Tajikistan.*

### What are the arguments in favor of hijab ban?

- **Secularism and Neutrality** - A ban on hijabs in public institutions can help maintain a secular and neutral environment, ensuring that no religious symbols are promoted or given preference over others.
- **Gender Equality** - Some argue that the hijab is a symbol of female oppression, and banning it can promote gender equality and empower women.
- **Social Cohesion** - Proponents of the ban believe it can enhance social cohesion and integration, reducing visible differences between individuals and fostering a sense of unity.
- **Security Concerns** - In certain contexts, the hijab and other face-covering garments can pose security concerns by concealing identities, making it difficult to enforce safety measures.
- **Cultural Assimilation** - A ban may encourage cultural assimilation, helping immigrants and minority groups to integrate more fully into the host society.

### What are arguments against a hijab ban?

- **Freedom of Religion** - Banning the hijab infringes on individuals' rights to freedom of religion and expression, as guaranteed by various human rights laws and constitutions.
- **Discrimination and Exclusion** - A ban can lead to the marginalization and discrimination of Muslim women, exacerbating social tensions and fostering an

environment of exclusion.

- **Personal Choice** - Many women choose to wear the hijab as a personal or religious expression.
- A ban undermines their autonomy and right to make personal decisions about their attire.
- **Cultural Diversity** - Allowing the hijab promotes cultural diversity and acceptance, enriching society by acknowledging and respecting different cultural practices.
- **Counterproductive** - Banning the hijab might have the opposite effect, strengthening religious identity and resistance among Muslim communities, leading to further alienation and division.

### What is the status of hijab ban in India?

- **High Court** - In 2024, Bombay High Court held Chembur college hijab ban was in 'larger academic interest'.
- In 2022, Karnataka High Court stated that donning the hijab or niqab was "not an essential religious practice" for women professing Islam.
- **Supreme Court** - In 2022, it delivered a *split verdict* in the Karnataka hijab case.

#### The Essential Practices Doctrine

- The essential practices doctrine owes its existence to B.R. Ambedkar's speech in the Constituent Assembly.
- Ambedkar strived to distinguish "religious" from "secular" by arguing that the state should be allowed to intervene in matters that are connected to religion but are not intrinsically religious.
- In *Shirur Mutt case (1954)*, the Supreme Court held that the term "religion" will cover all rituals and practices integral to a religion.
- The test to determine what is integral is termed the "essential religious practices" test.

- **Support for hijab wearing** - One of the judges held that 'secularity' meant '*tolerance to diversity*'.
- He said that asking a pre university schoolgirl to take off her hijab at her school gate is an invasion on her *privacy and dignity*.
- It is *violative of Article 19(1)(a) and 21* of the Constitution of India.
- He referred to submissions that the hijab ban has *led to dropout or transfer of students* affecting their education.
- He also countered that although *school was a public place*, it was not correct to draw a parallel between a school and a jail or a military camp.
- **Support for hijab ban** - The other judge said 'secularity' meant '*uniformity*' and upheld the Karnataka HC ruling validating the ban on wearing hijab in classrooms.
- He views that hijab would *affect the creation of a homogenous group* of students and would create a segmented society.
- He held that *adherence to uniform was a reasonable restriction* to free expression that reinforced equality.

## Freedom Of Religion Under Indian Constitution

- **Article 25 to 28** - Right to freedom of religion.
- **Article 25(1)** - It guarantees the "freedom of conscience and the right freely to profess, practise and propagate religion".
  - It is a right that guarantees a negative liberty which means that the state shall ensure that there is no interference or obstacle to exercise this freedom.
  - However, like all fundamental rights, the state can restrict the right for grounds of public order, decency, morality, health and other state interests.
- **Article 26** - It talks about the freedom to *manage religious affairs* subject to public order, morality and health.
- **Article 27** - It states that *no person shall be compelled to pay any taxes* for the promotion or maintenance of any particular religion.
- **Article 28** - It states that the *freedom to attend religious instruction* or religious worship in certain educational institutions.

*In S R Bommai vs Union of India (1994), the Supreme Court said that the state should free itself from religious affinity.*

### What lies ahead?

- **Dialogue and Inclusivity** - Encourage open and respectful dialogue between different communities to understand the significance of the hijab and the concerns of those who support a ban.
- **Contextual Policies** - Develop policies that are sensitive to the specific context and needs of the community, avoiding one-size-fits-all solutions.
  - For example, distinguish between educational institutions, workplaces, and public spaces.
- **Education and Awareness** - Address misconceptions and stereotypes about the hijab through awareness campaigns and educational initiatives.
- **Legal Frameworks** - Ensure that any policies or laws regarding the hijab align with national and international human rights standards, protecting freedom of religion and expression.
- **Cultural Sensitivity Training** - Implement cultural sensitivity training for public servants, educators, and law enforcement to handle situations involving religious attire respectfully and appropriately.
- **Monitoring and Evaluation** - Regularly monitor the impact of any policies on the hijab and conduct evaluations to ensure they are achieving intended outcomes without unintended negative consequences.

### References

1. [The Indian Express| Tajikistan ban Hijab](#)
2. [The Indian Express| Bombay HC upheld Hijab Ban in Chembur College](#)



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