

# Closing the Gates to Education

Violations of rights of Muslim women students in Karnataka



People's Union for Civil Liberties - Karnataka



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Karnataka

A PUCL - Karnataka Study

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# Introduction

Beginning from December 31, 2021, when the Government Girls PU College, Udupi imposed an arbitrary restriction on girls wearing the hijab to college leading right up to the split verdict by the Supreme Court on the constitutionality of the hijab ban on October 13, 2022, Karnataka witnessed increasing restrictions on the right to wear the hijab and consequently on the right to education, dignity and expression of Muslim girl students.

When students protested against the arbitrary hijab restriction in the Kundapura Government PU College in December of 2022, the Karnataka government issued a notification, which in essence, allowed for restrictions on the hijab in PU colleges, government schools and private schools. With respect to institutions which do not have any dress Code, the Government Order<sup>1</sup> held that such institutions must ensure that the students' attire must accord with 'equality & integrity' and should not disrupt the 'public order'.

It was this Government Order (GO) which was challenged in the Karnataka High Court, in *Resham v. Karnataka*.<sup>2</sup> The Court finally upheld the constitutionality of this GO on the 15<sup>th</sup> of March 2022.

The judgement did not include, in its ambit, a directive to any educational institution to impose a hijab ban with immediate effect. However, it was interpreted by politicians, bureaucrats as well as the media as not only a judicial legitimation of the hijab ban but as a judicial mandate to immediately implement the hijab ban across the state. The Minister of Education, BC Nagesh, issued statements to the media that entry into examination halls will be barred to all students wearing the hijab.<sup>3</sup>

Educational institutions across Karnataka, prohibited the hijab. Educational authorities who had the constitutional responsibility to ensure the right to education, implemented the ban during the time of the end of year exams.

Sections of the electronic media also went beyond their mandate and pressurized school and college authorities to 'implement the High Court order'. Similarly, news reportage

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<sup>1</sup> Karnataka Government Order issued on February 5, 2021 in English and Kannada, <https://www.scobserver.in/journal/karnataka-government-order-on-dress-code-for-students/>, <https://www.scobserver.in/wp-content/uploads/2022/02/EP-14-SHH-2022-D-05-02-2022.pdf>, last accessed on January 6, 2023

<sup>2</sup> AIR 2022 Kant 81, [https://www.livelaw.in/pdf\\_upload/karnataka-high-court-412148.pdf](https://www.livelaw.in/pdf_upload/karnataka-high-court-412148.pdf), last accessed on January 24, 2023

<sup>3</sup> Hijab will be banned during exams: BC Nagesh (20 Apr 2022), New Indian Express, <https://www.newindianexpress.com/cities/bengaluru/2022/apr/20/hijab-will-be-banned-during-exams-bc-nagesh-2444111.html>, last accessed on January 27, 2023

shows how student groups such as ABVP also put pressure on college authorities to 'implement the High Court Order'.<sup>4</sup>

When the heat and dust around the hijab controversy settled, it was found that there were serious implications to this de facto policy of prohibiting the hijab. The government figures themselves indicate that 1,010 Muslim women from the ages of 16 to 18 have dropped out of college either because of the hijab policy or other reasons.<sup>5</sup>

The concerns around the right to education of Muslims students found voice in the judgment of Justice Dhulia in the split verdict of the Supreme Court in *Aishat Shifa vs The State of Karnataka*<sup>6</sup>. As Justice Dhulia observed:

Another question which the School Administration and the State must answer in the present case is as to what is more important to them: Education of a girl child or Enforcement of a Dress Code! We have been informed at the Bar by many of the Senior counsels appearing for the Petitioners, that the unfortunate fallout of the enforcement of hijab ban in schools in Karnataka has been that some of the girl students have not been able to appear in their Board examinations, and many others were forced to seek transfer to other schools, most likely madrasas, where they may not get the same standard of education. This is for a girl child, for whom it was never easy, in the first place, to reach her school gate.

## Purpose and Methodology

To understand the seriousness of the educational emergency imposed upon Muslim girl students a study team was formed consisting of the following members:

1. Aishwarya Ravikumar
2. Kishor Govinda
3. Poorna Ravishankar
4. Ramdas Rao
5. Shashank S.R.

The objective of conducting this study was three-fold:

1. To assess the impact of the restriction on wearing the hijab on the fundamental rights of Muslim women students across Karnataka.

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<sup>4</sup> After protests led by ABVP, Mangaluru college restricts hijab on campus (28 May 2022), The News Minute, <https://www.thenewsminute.com/article/after-protests-led-abvp-mangaluru-college-restricts-hijab-campus-164457>, last accessed on January 27, 2023

<sup>5</sup> See Annexure 2

<sup>6</sup> <https://indiankanoon.org/doc/8682191/>, last accessed on January 27, 2023

2. To document the experiences and struggles of the Muslim women students during the Karnataka High Court hearings as well as after the judgement was pronounced by the Karnataka High Court.
3. To understand the roles of administrative authorities at the district level and at the college level, and contextualise this education crisis in a larger global discourse around the hijab. The report also documents the way vigilante groups ran widespread hate campaigns, with media complicity. The report also documents the role of the police.

The study aimed to represent and analyse the impact of the judgement in 3 different parts of the state: south Karnataka, coastal Karnataka, and north Karnataka. The study focused on five districts: Hassan, Dakshina Kannada, Udupi, Shimoga and Raichur.

The team contacted civil society organisations which worked at the grassroots level and had directly assisted the Muslim students during this period. Through the help of such civil society organisations, the team met students from PU colleges and degree colleges across the state. The conversations were conducted with small groups of students because individual students felt safer speaking to the team in the presence of their classmates, friends and peers.

The team unanimously decided that the identity of Muslim students interviewed must be kept confidential in the published report, in order to protect their privacy and security. Many of the students interviewed had experienced instances of threats and harassment. The assurance of anonymity allowed students to speak their minds freely, given the extent of fear and insecurity they underwent during the deeply faulty and perverse implementation of a ban.

In each district, the team met/attempted to meet with the following officials:

1. Deputy Commissioner (DC) or senior officials in the DC's office
2. Superintendent of Police or Deputy Superintendent of Police
3. Principals, Headmasters or other administrators of educational institutions in which the restriction of hijab was enforced.
4. Teachers
5. Deputy Director of Public Instruction

The team documented and analysed the testimonies in order to identify the fundamental rights of students that were violated. Further, the actions of the district administration, college authorities and police revealed how they had violated the Constitutional mandate of their offices.

The study began in May 2022, after which an interim report to document the findings was prepared which was placed before the Supreme Court on September 14, 2022. We are presenting herewith the final report which centres the continuing violation which Muslim women students face due to the arbitrary hijab policy of State of Karnataka.

## Outline of the Report

The Report has been divided into the following Chapters:

In Chapter 1, ‘Timeline of Events’, the sequence of major developments which transpired from December 31, 2021 to the split verdict delivered by the Supreme Court has been outlined.

In Chapter 2, the report provides an analysis of how the action of the state, violated the Constitutional rights of the students:

- **Right to Education without discrimination:** This section elaborates the ways in which Muslim women students were denied their right to education, by being forced to stay out of the classrooms.
- **Right to Dignity:** Students recounted how the experience of being forced to choose between wearing the hijab and continuing their education was an assault on their dignity.
- **Right to Privacy:** Here, the report elaborates how the right to a personal choice was seized from Muslim women students. Students also shared how they were placed under the hostile gaze of the media which displayed many of their names and images on television and the internet.
- **Right to Freedom of Expression:** This section details the testimonies of students who shared how the wearing the hijab was a way for them to exercise their freedom of expression.
- **Right to Non-Discrimination:** Muslim women students shared how they were segregated from other students, and subjected to discriminatory treatment merely because of their identity.
- **Freedom from Arbitrary State Action:** The arbitrariness of the ban imposed with immediate effect, has had far-reaching consequences on the academic lives, social relations and mental health of Muslim women students.

In Chapter 3, the report presents its findings from its investigation of the Educational Bureaucracy, which includes college principals and authorities, district administration and the College Development Committees (CDC). Interviews with district administration officials revealed that they neither received written orders from higher authorities nor gave instructions to college administrators in writing, even as they proceeded to deprive Muslim students of the right to education. Their actions to ‘counsel’ Muslim students and parents and their refusal to document their grievances or take legal action against Hindutva groups who harassed Muslim students, revealed their prejudiced and biased approach towards Muslims. College authorities too, shared that they received strict

‘orders’, and hence enforced a harsh ban with immediate effect without any concern for the violation of the right to education.

Chapter 4 elaborates on the role of the police and how they enabled a hostile environment of hate targeted against Muslim students. By going beyond their mandate and entering college campuses, forcing students to remove the hijab, taking pictures and videos of hijab-wearing Muslim women students and displaying a callous indifference to the harassment faced by the students, the police failed to fulfil their constitutional responsibility.

Chapter 5 studies the development of the hijab discourse regarding gender, faith and empowerment and shows the multifarious ways in which Muslim women are asserting themselves and charting a distinct vision of assertiveness and identity. The core point which this chapter seeks to make is that the reason behind the hijab ban in the Indian context has to do with gendered Islamophobia. Gendered Islamophobia is linked to a vision which seeks to obliterate the Constitutional ideals founded as they are on an equal respect for difference and diversity.

Chapter 6 documents the organized hate campaign against Muslim women students and a systematic effort to deny Muslim students their right to education while wearing the hijab by Hindutva groups. This Chapter sees the current campaign against the hijab as a part of wider continuing campaign against symbols of Muslim identity in the public sphere and a part of wider project to build a Hindutva consciousness which has no place for difference and diversity.

Chapter 7 describes how the media played an active role in spreading inflammatory statements about the hijab and the protesting Muslim women students. The Kannada TV media coverage, constantly pushed a dominant narrative that stereotyped Muslim students and grossly violated their Constitutional rights as well as the media’s own code of ethics. In entering educational institutions and imposing a hijab ban the media, at points, acted as a vigilante organisation.

Chapter 8 presents the initiatives and efforts of different civil society groups to express solidarity and assert the values of secularism, communal harmony and peace. Civil society organisations also reached out to students impacted by the order and judgements and assisted them in negotiating with college authorities and district administration.

Chapter 9 analyses the Karnataka High Court judgment, in *Resham v the State of Karnataka* as well as the Supreme Court’s split verdict in *Aishat Shifa vs. State of Karnataka* and reiterates the hope in Justice Sudhanshu Dhulia’s judgement, that discipline cannot be at the cost of dignity and autonomy is prescient as the intelligence of a future day.

Chapter 10 makes a series of detailed recommendations to various stakeholders.

# 1. Timeline of Events

This timeline of events is stitched together from news reports from the month of December 2021 to October 2022. It is specific to events that took place in educational institutions, public spaces including incidents of violence, legal developments, government actions.

<u>Legal developments and government's actions</u>	<u>Sequence of events in educational institutions, public spaces and incidents of communal violence</u>
	<p><b>31<sup>st</sup> December, 2021</b></p> <ul style="list-style-type: none"><li>Government Girls PU College, Udupi imposed a sudden restriction on the hijab inside classrooms.<sup>7</sup></li><li>The college enforced this restriction in the absence of any rule, resolution or guideline.</li><li>The college uniform was a blue-coloured chudidhar with dupatta, and the college prohibited students from using the dupatta as a headscarf.</li><li>Six students protested the move by sitting outside the classroom for 3 days and demanded that they be allowed to wear the hijab and attend classes.</li></ul>
	<p><b>5<sup>th</sup> January, 2022</b></p> <ul style="list-style-type: none"><li>Students in Kundapur Government Pre-University College attended classes wearing saffron shawls marking the first reported instance of students employing saffron shawls as a means of protest against the hijab.<sup>8</sup></li></ul>

<sup>7</sup> A Hijab row in Udupi Govt PU college (31 Dec 2021), Mangalore Today, <https://www.mangaloretoday.com/main/A-Hijab-row-in-Udupi-Govt-PU-college.html>, last accessed on January 27, 2023

<sup>8</sup> Karnataka Students Wear Saffron Scarves To Protest Against Hijab In Classrooms (5 Jan 2022), Times Now, <https://www.youtube.com/watch?v=QbRgaBxqOgk>, last accessed on January 27, 2023

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### 26<sup>th</sup> January, 2022

The Karnataka government set up an expert committee to resolve the issue at Government Girls Pre-University College, Udupi.

The government stated that all students at the college should adhere to uniform rules till the committee decides on the issue and maintain 'status quo' and the issue is resolved by the expert committee.<sup>9</sup>

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### 31st January, 2022

Students filed a Writ Petition in the Karnataka High Court, challenging the decision of the College Development and Management Committee (CDMC).<sup>10</sup>

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### 31<sup>st</sup> January, 2022

The President of the College Development and Management Committee (CDMC) who is the Udupi MLA K Raghupati Bhat (BJP) passed a resolution in the CDMC meeting to prohibit the hijab in the classroom.

He held a meeting with parents of students and conveyed to them that students will not be allowed to wear hijab inside the classroom.<sup>11</sup>

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<sup>9</sup> No end to hijab row in Udupi college despite meeting between officials and six students (31 Jan 2022), The New Indian Express,

<https://www.newindianexpress.com/states/karnataka/2022/jan/31/no-end-to-hijab-row-in-udupi-college-despite-meeting-between-officials-and-six-students-2413505.html>, last accessed on January 5, 2023

<sup>10</sup> Udupi Hijab Row: Student Denied Entry to College Files Petition in Karnataka High Court (31 Jan 2022) The Quint, <https://www.thequint.com/neon/gender/udupi-hijab-row-muslim-student-files-petition-karnataka-high-court-fundamental-rights-essential-religious-practice>, last accessed on January 27, 2023

<sup>11</sup> Hijab Vs Saffron shawl: Students take on colleges in row over uniform in Udupi (3 Feb 2022) News Nine, <https://www.news9live.com/state/karnataka/hijab-vs-saffron-shawl-students-take-on-colleges-in-row-over-uniform-in-udupi-151053>, last accessed on January 30, 2023

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**2<sup>nd</sup> February, 2022**

Hijab-wearing students were denied entry into Government Junior PU College, Kundapur, Udupi district.<sup>12</sup>

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**4 February, 2022**

Dravida Munnetra Kazhagan (DMK) MP Senthil Kumar, representing Tamil Nadu's Dharmapuri constituency, raised the Karnataka hijab row in the Parliament. He sought to know why students wearing hijab were not allowed to attend classes and urged the central government to take action in the matter.<sup>13</sup>

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**4<sup>th</sup> February, 2022**

Hijab-wearing students were denied entry into Bhandarkar College of Arts and Science, Udupi district.<sup>12</sup>

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**5<sup>th</sup> February, 2022**

The Department of Pre-University Education, Government of Karnataka issued a Government order allowing only uniforms prescribed by the College Development Committees (CDC) of each educational institution.<sup>14</sup> The order states: "In colleges that fall under the Karnataka Board of Pre-University Education, dress

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**5<sup>th</sup> February, 2022**

BJP MLA Basangouda Patil Yatnal said that Muslim students wanting to wear hijab should go to Pakistan.<sup>15</sup>

Karnataka BJP State Chief Nalin Kumar Kateel said that the state government will not allow the 'Talibanisation' of the education system.<sup>16</sup>

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<sup>12</sup> Another Karnataka college bars entry to girls in hijab though rulebook permits it (4 Feb 2022) The News Minute, <https://www.thenewsminute.com/article/another-karnataka-college-bars-entry-girls-hijab-though-rulebook-permits-it-160619#:~:text=Bhandarkar's%20college%20in%20Kundapur%20denied,the%20scarf%20matche%20the%20dupatta>, last accessed on January 30, 2023

<sup>13</sup> After hijab row in Karnataka, Hindu groups 'force' boys to wear saffron shawls in classrooms (4 Feb 2022) India Today, <https://www.indiatoday.in/india/story/after-hijab-row-in-karnataka-hindu-groups-force-boys-to-wear-saffron-shawls-in-classrooms-1908745-2022-02-04>, last accessed on January 6, 2023

<sup>14</sup> Karnataka hijab row: What new govt order on student uniforms says (10 Feb 2022) The Indian Express, <https://indianexpress.com/article/explained/explained-reading-karnataka-order-on-college-uniforms-7761326/>, last accessed on January 27, 2023

<sup>15</sup> Karnataka Hijab Row: BLP MLA asks Muslims to go to Pakistan (5 Feb 2022) Republic World, <https://www.republicworld.com/india-news/politics/karnataka-hijab-row-bjp-mla-asks-muslims-to-go-to-pakistan-if-they-need-hijab-urdu-articleshow.html>

<sup>16</sup> Won't allow Talibanisation, says Karnataka BJP Chief (5 Feb 2022) The Print, <https://theprint.in/india/wont-allow-talibanisation-says-ktaka-bjp-chief-on-hijab-row/822246/>, last accessed on January 5, 2023



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code prescribed by the College Development Committee or the administrative supervisory committee must be followed. If the administration does not fix a dress code, clothes that do not threaten equality, unity, and public order must be worn.”

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### **7th February, 2022**

Students wore blue shawls in IDSG College, Chikmagalur and raised ‘Jai Bhim’ slogans expressing solidarity with Muslim girls demanding their right to education. Educational institutions in other districts witnessed protests on the premises by saffron shawl wearing students. Students wearing the hijab were seen demonstrating outside the college gates, demanding to be permitted inside classrooms.<sup>17</sup>

Students wearing the hijab were allowed entry into the campus of Government PU College Kundapura but seated in separate classrooms.<sup>18</sup>

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### **8th February, 2022**

A single bench of the Karnataka High Court began the hearing in the petitions challenging the hijab restriction in colleges. The petitioners sought a declaration that the wearing of hijab is a fundamental right of Muslims.<sup>19</sup>

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### **8th February, 2022**

Protests erupted in Mahatma Gandhi Memorial (MGM) College, Udupi, after a group of students wearing saffron shawls and headgears raised slogans in the college campus as hijab-clad Muslim girls staged a

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<sup>17</sup> Blue shawls back Muslim girls in hijab row against saffron shawls in Chikkamagaluru college (7 Feb 2022) The Hindu, <https://www.thehindu.com/news/national/karnataka/hijab-row-takes-a-new-turn-as-blue-shawls-counter-saffron-shawls-in-chikkamagaluru-college/article38391579.ece>, last seen on January 30, 2023

<sup>18</sup> Udupi: Hijab Wearing Students Allowed Into College, Made to Sit in Separate Room (7 Feb 2022) The Wire, <https://thewire.in/rights/udupi-hijab-wearing-students-allowed-into-college-made-to-sit-in-separate-room>, last seen on January 30, 2023

<sup>19</sup> Hijab row: Karnataka HC appeals people to maintain peace, lists matter for tomorrow (8 Feb 2022) India Today, <https://www.indiatoday.in/india/story/karnataka-hijab-row-high-court-hearing-petition-udupi-college-students-saffron-shawls-1910480-2022-02-08>, last seen on January 30, 2023

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protest demanding permission to take their examinations with their hijabs.<sup>21</sup>

As tensions escalated, the police were compelled to intervene. Protestors claiming to represent the Hindu community said that they were given the shawls and head gears by the Hindu Jagarana Vedike.

Prohibitory orders under Section 144 were imposed in Shimoga district after incidents of stone-pelting were reported. A saffron flag was hoisted on the college post in Government First Grade College in Bapuji Nagar, Shimoga, allegedly by a student protesting against the hijab. Hundreds of students who gathered on the campus chanted 'Jai Shree Ram'.<sup>22</sup>

The violence spread to Bagalkot as stones were pelted and police resorted to lathi-charge.<sup>23</sup> Stones were pelted at two groups of students who were protesting at the gates of Government Pre-University College at Rabakavi Banahatti. Some boys reportedly came to college wearing saffron shawls. One student was reported to have been injured. A teacher was allegedly injured after being attacked with rods.<sup>24</sup>

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<sup>21</sup> Hijab controversy: Protest erupts outside MGM College in Karnataka (8 Feb 2022) Economic Times, <https://economictimes.indiatimes.com/news/india/hijab-controversy-protest-erupts-outside-mgm-college-%20in-karnataka/videshow/89427929.cms?from=mdr>, last accessed on January 5, 2023

<sup>22</sup> Saffron flag on college flagpost in Shivamogga (8 Feb 2022) The Hindu, <https://www.thehindu.com/news/national/karnataka/saffron-flag-on-college-flagpost-in-shivamogga/article38398881.ece>, last accessed on January 5, 2023

<sup>23</sup> Hijab controversy: Student hurt in stone-throwing in Bagalkot (8 Feb 2022) The Hindu, <https://www.thehindu.com/news/national/karnataka/hijab-controversy-student-hurt-in-stone-throwing-in-bagalkot/article38395922.ece>, last accessed on January 5, 2023

<sup>24</sup> Hijab Controversy turns violent: Teacher attacked with rods in Bagalkot (8 Feb 2022), Udayavani, <https://www.udayavani.com/english-news/hijab-controversy-turns-violent-teacher-attacked-with-rods-in-bagalkot>, last accessed on January 5, 2023

<p>Chief Minister of Karnataka, Basavaraj Bommai declared a three-day holiday for all institutions coming under the state department of higher education and primary and secondary education citing law and order concerns.<sup>20</sup></p> <p>Educational institutions were instructed to remain shut between 9<sup>th</sup> and 11<sup>th</sup> February, 2022.</p>	<p>Saffron-shawl clad students heckled a Muslim student chanting 'Jai Shree Ram' in unison and approached her as she was entering PES College in Mandya. The Muslim student, who was seen shouting 'Allāhu Akbar' in return, was escorted into the campus by college authorities.<sup>25</sup></p> <p>Police resorted to lathi-charge and fired tear gas in Davanagere following protests in support and against the hijab in educational institutions. Prohibitory orders under section 144 were imposed.<sup>26</sup></p> <p>Congress leader Mukarram Khan issued a threat against those who oppose the wearing of hijab stating that 'they would be cut into pieces'.<sup>27</sup></p>
<p><b>9th February, 2022</b></p> <p>The single bench of the Karnataka High Court, in an order dated February 9, 2022, referred the case to the Chief Justice of the Karnataka High Court to consider if the matter can be heard by a larger bench. A special bench consisting of three judges was immediately constituted.</p>	<p><b>9th February, 2022</b></p> <p>Scanned copies of the college's admission ledger containing details like address, phone numbers, income of parents of the six protesting students were leaked. Students started receiving abusive and threatening phone calls.<sup>28</sup></p>

<sup>20</sup> Hijab row: Karnataka high schools, colleges shut for three days as unrest spreads in the state (8 Feb 2022), Scroll, <https://scroll.in/latest/1016881/karnataka-hijab-row-massive-protests-erupt-in-udupi-college-ahead-of-high-court-hearing>, last accessed on January 5, 2023

<sup>25</sup> Hijab row: Karnataka student says she 'screamed Allah hu Akbar' after hecklers 'shouted Jai Shri Ram' (8 Feb 2022), India Today, <https://www.indiatoday.in/india/story/hijab-row-karnataka-student-says-she-screamed-allah-hu-akbar-after-hecklers-shouted-jai-shri-ram-1910447-2022-02-08>, last accessed on January 5, 2023

<sup>26</sup> Hijab row: Karnataka Police fires tear gas to disperse protesters in Davangere (9 Feb 2022), India Today, <https://www.indiatoday.in/india/story/karnataka-davangere-protest-hijab-saffron-row-bommai-colleges-closed-1910383-2022-02-08>, last accessed on January 5, 2023

<sup>28</sup> Karnataka Hijab Row: College Leaks Addresses, Numbers of Protesting Muslim Girls, (9 Feb 2022) The Quint, <https://www.thequint.com/news/india/karnataka-udupi-college-leaks-home-addresses-of-muslim-girls-protesting-for-hijab>, last accessed on January 5, 2023

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### 10<sup>th</sup> February, 2022

The Karnataka High Court passed an interim order in the matter restraining ‘all students regardless of their faith from wearing saffron shawls, scarfs, hijab, religious flags or the like within the classroom, until further orders’.<sup>29</sup>

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### 11<sup>th</sup> February, 2022

A complaint was filed against MLA Raghupathi Bhat, Yashpal Suvarna and Rudre Gowda, principal of Government Girls PU College, Udupi by parents of the six protesting girls in the Office of the SP, Udupi for leaking of their documents.<sup>30</sup>

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### 12<sup>th</sup> February, 2022

Udupi MLA Raghupathi Bhat sought an NIA probe into hijab issue and wrote to the Chief Minister to transfer investigation to the NIA.<sup>31</sup>

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### 18<sup>th</sup> February, 2022

An FIR was filed against students by the principal of a private college in Tumkur for violating prohibitory orders imposed around college campuses to avert protests. Similar instances were reported in other parts of the state.<sup>32</sup>

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<sup>29</sup> In Interim Order, Karnataka HC Says No 'Religious Dress' Until Matter Decided (10 Feb 2022) The Wire, <https://thewire.in/law/hijab-ban-karnataka-high-court-interim-order>, last seen on January 30, 2023

<sup>30</sup> Parents for action against those who released details of students (11 Feb 2022) The Hindu, <https://www.thehindu.com/news/national/karnataka/parents-for-action-against-those-who-released-details-of-students/article38415082.ece>, last seen on January 30, 2023

<sup>31</sup> Udupi MLA Raghupathi Bhatt pitches for NIA probe into hijab row (12 Feb 2022), The New Indian Express, <https://www.newindianexpress.com/states/karnataka/2022/feb/12/udupi-mla-raghupathi-bhatt-pitches-for-nia-probe-into-hijab-row-2418427.html>, last accessed on January 5, 2023

<sup>32</sup> Hijab row: Karnataka police register FIR against 10 girls for violating prohibitory orders (19 Feb 2022), Live Mint, <https://www.livemint.com/news/india/hijab-row-karnataka-police-register-fir-against-10-girls-for-violating-prohibitory-orders-11645248174386.html>, last accessed on January 5, 2023

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**19th February, 2022**

With the hijab controversy threatening to polarise and pit communities against each other, religious leaders came together to appeal to students to maintain peace and asked political parties not to stoke fire and called for peace.<sup>33</sup>

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**20th February, 2022**

Bajrang Dal member Harsha Jingade was murdered in Shimoga. On the same night of his murder, Hindu right-wing supporters allegedly vandalised and set fire to at least five vehicles belonging to Muslims. The next day, the funeral procession passed through Muslim majority localities and crowds allegedly attacked Muslims' houses. Section 144 was imposed on the same day. The overall situation was extremely tense in Shimoga for the next few days.<sup>34</sup>

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**25th February, 2022**

After 11 days of daily hearings, the High Court of Karnataka reserved the case for judgement.

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**25th February, 2022**

19-year-old Bajrang Dal member, Pooja Veerashetty gave an open call for genocide, and said that those who ask to wear the hijab will have their heads chopped.<sup>35</sup>

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<sup>33</sup> Karnataka hijab row: Leaders of all faiths join hands for peace, ask parties not to stoke fire, (20 Feb 2022), The Times of India, <https://timesofindia.indiatimes.com/city/bengaluru/karnataka-hijab-row-leaders-of-all-faiths-join-hands-for-peace-ask-parties-not-to-stoke-fire/articleshow/89695191.cms>, last accessed on January 5, 2023

<sup>34</sup> 'Police Complicit': Shivamogga Muslims Recount Carnage After Bajrang Dal Man's Murder (24 Feb 2022), The Wire, <https://thewire.in/communalism/shivamogga-muslim-violence-bajrang-dal>, last accessed on January 5, 2023

<sup>35</sup> Teenage Bajrang Dal worker in Karnataka calls for genocide of those who want hijab (28 Feb 2022), The Wire, <https://thewire.in/communalism/teenage-bajrang-dal-worker-in-karnataka-calls-for-genocide-of-those-who-want-hijab>, last accessed on January 5, 2023

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**15th March, 2022**

The High Court of Karnataka passed a final order upholding the Government Order dated 05.02.2022 and thereby, allowed for restriction of the hijab in educational institutions.

A Special Leave Petition was filed in the Supreme Court of India challenging the Karnataka HC order dated 15.03.2022.

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**17th March, 2022**

A bundh was observed in many parts of Karnataka including several parts of Bengaluru city. In other parts of Karnataka – Dakshina Kannada, Mysuru, Mandya, Kodagu, Chikkamagaluru, Bijapur, Hubballi and Kalaburagi, the commercial establishments and shops – remained closed in areas where Muslims are in majority.<sup>36</sup>

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**16th May, 2022**

The Syndicate of Mangalore University resolved to impose a ban on the hijab in the campuses of its educational institutions.<sup>37</sup>

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**13<sup>th</sup> July, 2022**

The Supreme Court agreed to hear the petitions filed challenging the Karnataka High Court's verdict.

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**5th September, 2022**

The Supreme Court hearings began.

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<sup>36</sup> Karnataka bandh call against HC's hijab verdict evokes mixed response (18 Mar 2022) Indian Express <https://indianexpress.com/article/cities/bangalore/karnataka-bandh-call-against-hcs-hijab-verdict-evokes-mixed-response-7825068/>, last accessed on January 5, 2023

<sup>37</sup> Hijab row again after college enforces ban in Mangaluru, (27 May 2022), The Hindustan Times, <https://www.hindustantimes.com/cities/bengaluru-news/hijab-row-again-after-college-enforces-ban-in-mangaluru-101653591881896.html>, last accessed on January 5, 2023

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**22<sup>nd</sup> September, 2022**

Hearings concluded in the Supreme Court and the bench reserved the verdict on pleas.

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**13<sup>th</sup> October, 2022**

The Supreme Court delivered a split verdict on the hijab ban. The matter has now been referred to the Chief Justice of India for the constitution of a larger bench.

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## 2. Violation of Constitutional and Fundamental Rights: A Reading of Students' Testimonies

As can be seen in the timeline, the Government Order by the Education Department, the interim order and the judgement by the Karnataka High Court were followed by a series of developments that violated the fundamental rights guaranteed by the Constitution of Muslim women students. This chapter details the nature of the fundamental rights violations drawing directly upon the testimonies of the students:

1. Freedom from Arbitrary State Action
2. Right to Education without discrimination
3. Right to Dignity
4. Right to Privacy
5. Right to Freedom of Expression
6. Right to Non-Discrimination

All these rights violations are not discrete but overlap and are inter-linked, reinforce each other, producing further, deeper oppressions and violence. The violations are by both state and non-state actors.

Students shared their stories of struggles, peaceful resistance and assertions of these rights, while recounting instances of harassment, humiliation, loss of friendships, feeling of isolation and the shattering of many dreams to achieve academic and professional goals. Many students from all five districts explicitly identified the issue as a violation of their rights. "Two of our fundamental rights have been seized! Our right to education, and our right to freedom of expression", a student from Dakshina Kannada said to the PUCL-K team.

Students continue to hope that the Supreme Court will provide constitutional remedies for the denial of their rights. In analysing the testimonies of students, one can understand how the judgement in *Resham v. State of Karnataka* failed to take cognisance of violations of a range of their constitutional rights.

### **The context of the arbitrary and sudden restriction**

Six Muslim students were arbitrarily prevented from sitting in classrooms in Government Girls PU College, Udupi, on December 31, 2021. This act of discrimination was met with no legal or disciplinary action against college authorities by the Education Department or the Department of Public Instruction. In fact, the state government issued a Government



Order<sup>38</sup> retrospectively on the 5<sup>th</sup> of February, 2022 to legitimise this arbitrary action by the college. This move came after a month, with the order stating that the restriction of the hijab is not violative of Article 25 of the Constitution. Further, the order stated:

In colleges that come under the pre-university education department's jurisdiction, the uniforms mandated by the College Development Committee, or the board of management, should be worn. In the event that the management does mandate a uniform, students should wear clothes that are in the interests of unity, equality, and public order.

The Government Order did not issue any directive to the CDCs to prohibit the hijab, but in an insidious manner, cited judgments from the Bombay High Court, the Madras High Court and the Kerala High Court, which said that the fundamental right to practice religion will not be violated by a restriction on the wearing of a headscarf. It is in the backdrop of this arbitrary and sudden restriction that the testimonies of the Muslim girls must be read.

As if on cue, immediately after receiving the Government Order, the CDCs, college administrators and district administration officials in Udupi set about imposing a total ban on the hijab in college campuses, inside and outside the class rooms and barring entry of hijab-wearing students from the college premises. In the process, they absolved themselves of their responsibilities towards Muslim students. After the Education Department issued the Government Order, more colleges in Udupi instituted a ban on the hijab. On February 10, 2022 the High Court passed an interim order restricting the wearing of hijab until the final judgement is delivered.

The arbitrary and sudden implementation of a total ban of the hijab, before the end of the academic year, especially during examinations of students, which, it must be emphasized, the judgment did not call for in its order, came as an utter shock to Muslim students across the state, and a violation of their right against arbitrary state action.

Almost all students interviewed by PUCL-K said that they had been wearing the hijab since they were ten years old, and hence, being forced to remove the hijab in public places and their own educational institutions made them feel quite distressed, unsafe and humiliated.

The process of instituting a ban regardless of the final merits of the ban was itself flawed as neither were the students consulted before the ban, nor were they given adequate time to adjust to a new rule. Instead, the enforcement of the ban came like a bolt from the blue in the middle of the preparation for their exams.

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<sup>38</sup> Karnataka Government Order issued on February 5, 2021 in English and Kannada, <https://www.scoobserver.in/journal/karnataka-government-order-on-dress-code-for-students/>, <https://www.scoobserver.in/wp-content/uploads/2022/02/EP-14-SHH-2022-D-05-02-2022.pdf>, last accessed on January 27, 2023

## 2.1. Freedom from Arbitrary State Action

The Indian Constitution under Article 14 guarantees every person both the right to equality as well as the right to equal protection of the laws. The Supreme Court interpreted this provision to also include the right to be free from arbitrary state action. The Supreme Court in *Shyara Bano v. Union of India*<sup>39</sup> held:

Manifest arbitrariness, therefore, must be something done by the legislature capriciously, irrationally and/or without adequate determining principle. Also, when something is done which is excessive and disproportionate, such legislation would be manifestly arbitrary. We are, therefore, of the view that arbitrariness in the sense of manifest arbitrariness as pointed out by us above would apply to negate legislation as well under Article 14.

### 2.1.1. Arbitrary imposition of the hijab ban

The Government Order issued by the Karnataka Government on February 5, 2022, de facto prohibiting the hijab, was manifestly arbitrary. The order was not based on any determining principle, and there was no justification for its introduction. It was an excessive, disproportionate and capricious response to the need for maintaining discipline in educational institutions through the mandating of uniform. It should be noted that the notification was introduced as a response to the assertions of the students of their right to education without discrimination.

Apart from this, across the districts visited by the team, the implementation of the notification suffered from the vice of arbitrariness. Every college claimed to implement what they thought was the letter of the law, leading to situations where the rules were either unclear, avenues for redressal were denied, and decisions to restrict the hijab were taken suddenly, often around the times of exams.

### 2.1.2. Discrimination and Police Intervention in Examination Centres

In Hassan, teachers and parents of students said that all Muslim students, during their tenth standard exams, were asked to remove their hijabs for the first time in their lives in public. When some teachers visited the Block Education Officer in order to work out a reasonable compromise beforehand, he flared up and threatened them: “The BEO told us: ‘Don’t create a scene in such tough times! Keep quiet or else–.’ Was that a warning or an instruction to us? We continued to request the officers to at least grant a separate room in which they can remove their hijabs.”

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<sup>39</sup> (2017) 9 SCC 1 - <https://indiankanoon.org/doc/115701246/>

Deploying police personnel outside examination centres is standard protocol to ensure that students don't engage in malpractice. "But this time, the police were there only to force Muslim students to remove the hijab. It was a humiliating experience, and many students returned home and missed their examinations because of this", said a student in Hassan.

In Raichur, students studying in PU colleges were going to appear for their CET examinations. "The examination rules already prescribed a restriction of the hijab. So, we were prepared. But the faculty targeted the Muslim students and forced them to remove the burqa and strictly even the dupatta. It felt extremely humiliating."

### **2.1.3. Change in rules without notice to or consent from students**

Students in Raichur said that they never expected such a restriction to be implemented in their district because the district had not witnessed the communal polarisation, which is common in Dakshina Kannada. But the day after the interim order was issued by the High Court, there was chaos. "We were already in college and half the day was over. As soon as the interim order was issued, we were told to remove our hijabs or go home", said a student studying in a PU college.

In a degree college in Raichur, a lecturer told the hijab-wearing Muslim women in class that she would not continue the lecture unless they remove it or leave the classroom. "All students in class will get affected only because of you", she told them. When they requested the principal to intervene, he said it was not his job to help the students.

In a law college in Dakshina Kannada, students said, "After the High Court delivered the judgement, the principal called all students to gather in the auditorium and said that they should remove their hijabs. On Saturdays, we were usually allowed to wear coloured clothes. The college removed that option too because they knew that we would wear our hijabs on Saturdays. The college administration referred to these rules as the 'new uniform', which was supposed to imply that the hijab is prohibited. Even parents came to request the college authorities to permit students with the hijab to continue our studies until our exams were over, but to no avail. Later, the college banned the hijab even in our classrooms."

"We approached the principal to plead for permission to write our exams with our hijabs. He already had a letter kept ready. He told us that if we wanted to write our exams, we have to sign the letter and agree to these terms:

1. We should collect our transfer certificates immediately after the exams are over.
2. We should not complain about this incident to the media, the police, or any authority.
3. We should not disclose the contents of the letter to anyone.

Forty students and our parents tried to request the college management to allow us to continue our education in the same college. After they assured us that they would make special accommodation, we found out that they had only allocated the last benches of the exam hall for us. Boys sat in the front of the exam hall. So, five of us signed the letter and agreed to leave as soon as the examinations ended.”

This action of the law college should be viewed as an extremely arbitrary and cruel imposition of rules, leaving students no choice but to either leave the college or to remove their hijab. The clauses added in this letter were a cynical manoeuvre of the college administration, to prevent the students from seeking any support from outside.

In another degree college in Dakshina Kannada, students tried to reason with the principal and sought clarity about the new uniform rules, and how such rules can be made without informing or taking consent from them. “The principal told us to share our grievances in writing. She then gave us a copy of the order issued by the Syndicate of Mangalore University and said that she was helpless”, said a student.

In rural Dakshina Kannada, the PUCL-K team spoke to students who were suspended from a degree course because they refused to comply with such an arbitrary restriction. “They told us that the CDC issued a notice, and we had no choice but to comply with the restriction”, a student said.

## 2.2. Right to Education without discrimination

The Indian Constitution under Article 21-A states:

*'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.'*

Pursuant to this constitutional mandate, the state in 2009 enacted the Right of Children to Free and Compulsory Education. The right to primary education has also been read as a part of the right to life under Article 21 as per the Supreme Court in *Unnikrishnan v State of Andhra Pradesh*.<sup>40</sup>

While it may be an arguable proposition that persons have the right to free education beyond the age of 14, there is no doubt that everyone has the right to access education without being discriminated against as per Article 15. Therefore, Articles 21-A and Article 15 guarantee everyone the right to education without discrimination.

The proposition that emerges from a combined reading of the right to education embodied in Articles 21 and 21-A and Article 15 is that all students have a fundamental right to education without discrimination.

By implementing the hijab ban, the state government has backtracked from its constitutional responsibility to uphold the right to education to everyone, irrespective of religion, caste, creed and gender. It has not only failed to uphold the right to education but has made a deliberate attempt to deny it. Instead of bringing the students into the classroom, and making education accessible to all sections of society, its decision has driven minority students out of the classroom. Data about school enrolment recently released show that a total of 1,010 Muslim girls dropped out from government PU colleges across Karnataka 'because of the hijab ban and other reasons as well.'<sup>41</sup>

According to a report by the Indian Express, the enrolment of Muslim students in PU government colleges in Udupi district has almost dropped by half since last year.<sup>42</sup> This is particularly unconscionable given the fact that government colleges, besides being affordable to students coming from lower socio-economic strata, like the Muslim students we spoke to, offer a space for people of diverse communities to come together to pursue

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<sup>40</sup> (1993) 1 SCC 645 - <https://indiankanoon.org/doc/1775396/>

<sup>41</sup> Response of Ministry of Primary and Secondary Education to question by MLA Sowmya Reddy on September 22, 2022 - <http://puclkarnataka.org/wp-content/uploads/2023/01/22-09-2022-20covid-19-Ehizab.pdf>

<sup>42</sup> Over 50% dip in number of minority students in govt PUCs at hijab protest epicentre (9 Jan 2023) Indian Express, <https://indianexpress.com/article/education/in-hijab-protest-district-over-50-dip-in-minority-students-count-in-govt-pucs-8367929/>, last accessed on January 20, 2023

higher education. The ban is unfortunate also because it has taken away the students' choice to study in a government or a private institution.

A second aspect of the right to education without discrimination has to do with the operation of the education system in a secular country like India. While the Indian education system maintains a studied distance from all religions, in practice, as research has shown, religion is an integral part of state and private school spaces. This is demonstrated in several symbols like statues, pictures of deities, celebration of festivals, performing rituals like pooja and so on. The complex reality of the Indian classroom accommodates a diversity of cultural and religious values, identities, and practices, making it a multicultural space. At the same time, it must be noted that data shows a consistent thread of social exclusion and religious discrimination operating in mainstream schools.

The attempt of the current regime is to produce what Prabhat Patnaik calls 'a homogenized education system which blends well with Hindutva.' This homogenization entails, according to Patnaik, a homogenization of student intake as well (predominantly Hindu and predominantly middle class).<sup>43</sup> This to a great extent explains the frenzy with which the Karnataka government set out to impose a total ban on hijab with a view to remove altogether a new generation of Muslim women from the classroom.

The decision to ban the hijab was followed by stringent enforcement measures that had calamitous consequences. The enforcement created a segregated educational space, and brought religious intolerance and divisive forces directly within the classroom, besides making the students vulnerable to hate and violence. Young students in the five districts of the PUCL-K study opened up about their experiences and expressed their grief at the calculated indifference towards their plight shown by the college administration and the government, as well as by their own classmates.

“Many Muslim students were made to stand outside the gate for the whole day soon after the interim order was issued by the Karnataka High Court. I was doing my B.Ed. at the time. As a part of my course, our practical learning comes from taking classes for the tenth grade in Government schools. This determines my internal marks, as a lecturer would accompany me and evaluate my teaching. However, after the High Court judgement was delivered, my teacher told me that my hijab will not be allowed in my practical classes because this would affect the students I will be teaching. Due to this, I lost my marks in my internals, and did not get any experience in teaching during my course. They told me to take leave and promised me that my attendance will not be harmed.

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<sup>43</sup> A Homogenised Education System blends well with Hindutva (31 Oct 2021) NewsClick, <https://www.newsclick.in/homogenised-education-system-blends-well-hindutva>, last accessed on January 30, 2023

Regardless, I lost valuable experience and evaluation of my teaching skills. As educators, what are their priorities? What matters more to those who have advocated for a hijab ban?”

- A student from Raichur studying Bachelor of Education

“The classroom has become an extremely horrifying space. There is a lot of hostility carefully cultivated in our colleges by right wing forces. This has deeply affected Muslims, especially us women. Before we go to college, we make sure that none of us enters college alone, so we coordinate and call each other. It is very frightening to enter the campus alone.”

- A student studying Pre-University in Raichur

### **2.2.1. Callous enforcement of the ban**

An anguish repeatedly expressed by the students we talked to was to be on the receiving end of the calculatedly callous behaviour of the college authorities who were enforcing the ban. In Hassan, a student told us, “Our main fear was that our attendance records would get affected. The Principal told us that those who wore the hijab should go sit at home and give up on their studies. He told us threateningly - ‘Wait and watch. You will see what happen if you don’t remove the hijab.’ We were also constantly targeted by our teachers.” Students tried to negotiate with the college administration for a reasonable accommodation to their demands, but were met with a stony refusal. In Dakshina Kannada, a law student requested permission to write her examination wearing just a cap on her head. “My request caused a lot of commotion and rude behaviour from the faculty, leaving many other students feeling very distressed. We were marked absent and missed 4 to 5 subjects in our ninth semester. Out of 40 Muslim students, 5 students did not write any exams and transferred to another college”, she said. Another student added, “These incidents affected not just our performance in the examination, but also were extremely stressful and affected our overall health.”

This particular instance is indicative of experiences of many students. Many were denied the right to write their examinations, which, in effect, cost the students’ families an entire year of college fees, thwarted the students’ learning opportunities, and adversely affected the students’ mental health. Students in all five districts shared that they were crestfallen with their academic performance, that they could have achieved good marks if not for the stress induced by this ordeal.

In some instances, students persevered and chose to repeat a year only so that they could continue pursuing their higher education. For instance, a student in rural Hassan from a low-income household told us, “I was not allowed to write my 2nd PU examinations because of the High Court judgement. I am repeating the 2nd year now because I do not want to give up on my studies. I cannot transfer to another college because I was told that

we are not allowed to transfer if they are not changing their subjects. Private and minority-run institutions are so expensive, families like mine cannot even consider such options. For me to pursue graduation, I have to finish my PU.”

In other cases, students endured emotional turmoil because of the imposed ban. In Udupi, a student shared, “There are very limited options for some of us. We cannot afford a transfer to another college. So, I was forced to remove my hijab. I felt naked without my hijab.”

A law student in Dakshina Kannada said, “It was the final year of our 5-year law degree. We just needed to complete the course, otherwise our four years would have been wasted. We had to endure this and move on with our lives.”

Attendance of Muslim students in their examinations considerably declined under such compulsions. Yet, there were many more barriers which were placed in their path to higher education. These severely affected their mental health as well as their access to learning opportunities. 2.2.2. Discrimination in educational spaces

Several college managements went well beyond the scope of the Government Order and enforced various kinds of discrimination by revoking the students’ scholarships, disallowing them from writing exams, and by refusing to certifying their practical records.

A student in a government degree college said, “They even collected examination fees from us but did not allow us to write exams. Twenty of us tried to approach the CDC to point out that the judgement was not applicable to us, but we could not get a meeting.”

In a college in rural Udupi, a student said, “The principal refused to certify one of our practical records. I will not get my marks reserved for practicals.” A student in Dakshina Kannada said, “Our college has stopped even giving scholarships to Muslim girls, claiming that there is a notice from the CDC.” This claim by the college was false. Since this was a government degree college and was not subject to the CDC, and therefore has no power on its own to impose either a ban or arbitrarily revoke scholarships.

The purpose of scholarships is to extend the right to education to students through financial support. In denying the Muslim students this fundamental right, the college authorities abused their power at a time when they should have prioritised the education of students.

### **2.2.3. Religious intolerance and divisive forces within the classrooms**

In rural Dakshina Kannada, a student said, “There is heavy right-wing politics present on our campus. There is no minority college nearby, and only one degree college. So, I might



have to drop out of my studies. Even the few Muslim professors on our campus did not support us. Maybe this is because of the risk that it might pose to their jobs.”

In a college in Dakshina Kannada, a student said, “Boys of my college told the girls that we should carry weapons if we want to be safe. Many students would even come and pick fights with us even if we were just standing in the college premises. Some of us wrote a plea to the principal asking for some intervention. However, the principal refused to even accept the plea. So, we approached our Heads of Departments (HODs).

At this stage, the principal asked the HODs to not entertain any such pleas and sent the security guard to force us off the campus. It got worse after that. Boys started sharing messages and uploading WhatsApp statuses saying – Those taunts were only a teaser. Wait and watch what will come!”

A student in Udupi said, “When we were getting threatening messages from Hindu boys, we felt very isolated. Earlier, we had good friends, but we lost all of our old friends because of this.”

As pointed out above, the complex reality of the Indian classroom has necessitated a certain degree of acceptance and co-existence of students from different cultural and religious backgrounds. This long-held tradition of accommodating experiences and values of students from different faiths was completely overturned by a wave of religious intolerance and intimidation in the classroom that swept through the classrooms following the hijab ban. This development is due to the entry into the educational space, of Hindutva outfits like the Hindu Jagarana Vedike and Bajrang Dal who wield their power not only over the Muslim students, but also over the college management, compelling them to carry out their bidding, by imposing ever more stringent measures towards the Muslim students.

#### **2.2.4. Separation and an implicit segregation of students**

In Raichur, students shared that in a few institutions Muslim students were made to sit separately in a room where their names and signatures were noted in order to keep track of their attendance records. “This made us feel like we were being deliberately segregated for being Muslims. Some principals and lecturers even told us that we must either take off our hijab or stay back in the room and ‘think about it’.”

Due to the imposed ban, several students considered transferring to educational institutions in which the hijab would be allowed. In Udupi, a student studying in a government degree college said, “After being forced to make a difficult choice, I left my college and searched for colleges that allowed the hijab. Government colleges gave us free education, but in my new college, I have a lot of travel expenses. I wanted to do my M.Sc., but now I cannot. I feel that my dreams are shattered.”

Many students transferred to minority-run institutions because they felt safer and could continue practising the wearing of their hijab. In Udupi, a student said, “I feel safer among Muslims now, because nobody came to help when we students were in need.” In rural Udupi, a student shared that the sudden change in the attitudes of their neighbours and friends has made many Muslim women look for support within the Muslim community. “I only travel in buses which are owned by Muslims, because I feel safer. I have experienced different types of harassment in other buses and public spaces.”

In effect, this pattern of students shifting to Muslim-run institutions was a result of students feeling threatened and unsafe and being denied their right to education without discrimination.

Another student said that Muslim students had no spaces that could offer a conducive environment for learning. “We should not allow that to happen. We do not want to go back to the earlier India where people were uneducated. All girls must get educated and this must be facilitated by the government. This sudden crisis is not just affecting our immediate education concerns, but also in the long run, our aspirations and careers. It feels as if they have placed a barrier to stop us from moving ahead in life”, she said.

In their testimonies, many of the students narrated their previous experiences of sharing notes with their classmates and working on group projects too. They said that even such normal interactions between students from different communities were reducing after the ban was imposed. Some students shared that they were high scoring students and even class representatives who would take the class’s concerns and grievances to the college principal for redressal. They felt betrayed by their colleges and faced sudden isolation from their friends and classmates.

The state’s denial of the right to education for the Muslim students through the hijab ban has created, practically overnight, a forcible segregation of students in the classroom.

### **2.2.5. Divided classrooms**

Research has shown how diversity in the classroom exposes students to various cultural and social groups, and improves their learning outcomes. It thereby prepares students to become better citizens in their communities. But the existing educational dispensation in Karnataka, especially under the present regime, has instituted changes which violate Constitutional values of secularism, plurality and equality. Students from marginalised communities, Dalits, religious minorities, and Adivasi communities have repeatedly articulated their experiences of discrimination in their classrooms and how this discrimination adversely affects their self-confidence and inhibits their aspirations for higher education and sense of freedom. In turn, a divided and discriminatory educational space directly galvanizes the establishment of a further divided society. This is especially true of the situation in college campuses after the ban where the Muslim students were singled out for discriminatory treatment.

A student studying her Pre-University in Raichur shared her experience with the team: “The classroom has become an extremely horrifying space. There is a lot of hostility carefully cultivated in our colleges by right-wing forces. This has deeply affected Muslim, especially us women. Before we go to college, we make sure that none of us enters college alone, so we coordinate and call each other. It is very frightening to enter the campus alone.”

Another student in Dakshina Kannada said, “Our classmates will not even share their notes with us to help us. Even college clerks and staff refused to provide any support to enable us to at least continue our learning.”

## **2.2.6. Police presence in college premises**

In a government college in Udupi, students said, “The police were taking videos of students entering and leaving college premises. This scared us and made us feel threatened in our own college.”

In two aided colleges in Raichur, students reported that soon after the Karnataka High Court delivered its judgement, a Police Sub-Inspector (PSI) was walking in the premises of the college, doing ‘rounds’, searching for Muslim students wearing the hijab.

In a college in rural Udupi district, a student recounted, “Police officials were posted inside the college campus throughout the period from the interim order to the final verdict. At the same time, Hindu boys were posting threatening messages on WhatsApp groups. They said that they wanted to punish us and kill us.”

The police entry into the campus, even at the request of the educational authorities, is an uncalled-for intrusion that directly and indirectly impinges on the space conducive for learning. As has been elaborated in chapter 4, the deployment of police personnel in colleges made the experience of going to college an unnerving experience for Muslim students. Instead of providing security and protection to the beleaguered women students, the police carried out unauthorized activities that had an intimidatory effect on them, even while allowing the Hindutva groups free rein in the college.

## 2.3. Right to Dignity

In the Indian Constitution, dignity is a Preambular guarantee to all citizens. During the Constitutional Assembly Debates, there was a suggestion that the phrase ‘unity of the nation’ should precede the word ‘dignity’. However, the framers held strong to the view that ‘dignity of the individual’ should precede ‘unity of the nation.’ The thinking of the framers of the Indian Constitution was that dignity was an end in itself and the lexical priority of dignity indicated the centering of the human being as the subject of rights.

The Supreme Court has over the decades interpreted the right to dignity as being a part of Article 21 of the Indian Constitution. In *Francis Corallie Mullin vs. Administrator, Union Territory of Delhi*<sup>44</sup>, the Supreme Court held that:

*‘The right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing one- self in diverse forms, freely moving about and mixing and commingling with fellow human beings.[...].’*

In *Navej Singh Jobar v Union of India*<sup>45</sup>, the Court held that:

*‘The essence of dignity and we say, without any inhibition, that it is our constitutional duty to allow the individual to behave and conduct himself/ herself as he/she desires and allow him/ her to express himself/ herself, of course, with the consent of the other. That is the right to choose without fear.’*

The Indian Supreme Court, time and again, has stressed the importance of the value of dignity as the right to choose without fear. Conversely, harassment, bullying and victimization cause fear, stress, and anxiety which adversely affect learning outcomes and, more generally, diminish the sense of self and personhood.

Muslim students in Karnataka were publicly humiliated and targeted by those who were trusted sources of authority and who were primarily responsible for their students’ right to education. For most Muslim students, the act of forcing them to remove the hijab was insensitive and violent, especially when perpetuated by teachers, principals and examination centre officials. They felt that it was a deliberate act of coercion which made all responsible authorities turn a blind eye to their right to be treated equally and with dignity.

“I used to be the class representative and I used to score such good marks. I used to regularly go to the principal, to raise concerns and talk about the issues being faced by students. After the High Court judgement, I have faced harassment, even from students

<sup>44</sup> 1981 AIR 746 - <https://indiankanoon.org/doc/78536/>

<sup>45</sup> AIR 2018 SC 4321 - <https://indiankanoon.org/doc/168671544/>

who are not in our college. I have fallen silent, and avoid interacting with other students. I don't even feel confident to go to my own college alone, so I take my brothers along with me.

Even though teachers have been the same, my own principal and college administration staff detest me so much. Because of this feeling, my attendance and my academic performance both suffered a hit. I have lost confidence in myself.”

- A student in Hassan studying Bachelor of Science

This violation of the students' right to dignity took many forms:

### **2.3.1. Compulsion to choose between religion and education**

In Udupi, a student said, “This issue is not about whose interpretation of the Quran is correct. We all know women who have chosen to not wear the hijab, and we respect them equally. But I have been wearing my hijab since I was ten years old. I have also had dreams and ambitions for my own career. It was extremely distressing to be told that I have to choose between my education and my hijab. This is an impossible choice for me. How can I make this choice? Why should I make this choice suddenly?”

This was a feeling shared by many Muslim girls interviewed. To be forced into making this choice was not just an impossible choice, but an extremely humiliating experience for students. A student in Udupi said, “Without my hijab, my body feels incomplete. And without my education, my life feels incomplete. Since my family could not afford to pay my fees for me to repeat a year or to transfer to another college, I removed my hijab for my examinations. Till date, I feel guilty and wonder if I have betrayed my faith.”

In Raichur, a student said, “The experience of being forced to uncover my head was a humiliating one for many of us. It was equal to being naked.”

Forcing Muslim women students to make this choice between pursuing their education and wearing their hijab, violated their right to dignity.

### **2.3.2. Targeted Harassment and Humiliation**

Along with the unlawful actions of the college administration, social media provided an offensive portrayal of Muslim students. Hijab-wearing Muslim girls had overnight become the focus of everyone's attention. “Everywhere we went, we found students, teachers and others suddenly staring at us”, said a student in Dakshina Kannada. “We were made to feel conscious about our attire and bodies.” Another student in Udupi resonated, “We want a comfortable life. We want to be treated as normal people. I don't want to be stared at.”

In Hassan, students described ways in which hijab-wearing girls in their college were constantly targeted by lecturers, and even harassed by boys who sent vulgar messages on the phone. “Boys even began teasing us in public spaces and we could not walk alone anymore. They began calling out to us in public - O Hijabi! O Burkha! In the classroom, even a teacher called out to us this way.”

One student said, “I had become afraid of the principal. Whenever he saw us, he would single us out and jeer at us: how dare you continue to study here! Why do you want to wear the hijab?”

“Even our neighbours, who were always friendly with us, had become bitter towards us. They said that their daughters in other colleges are suffering because of us,” said a PU college student in Udupi, who had refused to remove her hijab. Many interviewed students said that their attendance was not being marked by their lecturers. In Dakshina Kannada, a student recalled, “We were not allowed inside classrooms but we were made to sit outside in order to attend classes. I would shout ‘Present’ from outside the class when my name was called out in the Attendance Roll. The entire process was very distressing, and was in itself a punishment for Muslims, which undoubtedly affected the education of all of us. Many Muslim girls enter colleges with a dream and a vision about their higher education. When these incidents take place, I worry that Muslim students will feel discouraged and develop a dislike towards the idea of studying.”

At this time, there was an increased presence of police and media on many college campuses in Karnataka. In Raichur, a student recalled, “Seeing a policeman inside my college was very scary. It felt like our teachers and the police personnel were being invasive and were continuously monitoring us. We even tried to rush to classrooms to escape this gaze as soon as we spotted policemen.”

### **2.3.3. Perpetuating Prejudices and Stereotypes**

In Raichur, a Muslim student explained how they tried to make compromises and requested their college authorities to permit them to wear hoodies. “We started wearing hoodies to class with our hoods covering our heads. Lecturers were extremely rude and insensitive to us.” They made statements like:

‘Tum soch badlogi toh zamaana badlega’ (Only if you change your mindset, society will change)

‘Zamaane ke saath chalo’ (Change with the changing times)

‘Tumhe bold banna chahiye’ (You should become bold)

These stock comments, born out of thoughtless prejudice and ignorance, were made to suggest that Muslim women who were asserting their right to education and privacy, were making a regressive and cowardly choice by choosing to wear the hijab. “One of the

teachers yelled to the classroom because others were staring at us, ‘Show chal raha hai kya? (Is there a show going on?)’ She told us to hide ourselves in the last bench”, said a student in Raichur.

## 2.4. Right to Privacy

The right to privacy has been recognized as a fundamental right by nine judges of the Supreme Court in *Puttaswamy v Union of India*:<sup>46</sup>

*Privacy includes at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home and sexual orientation. Privacy also connotes a right to be left alone. Privacy safeguards individual autonomy and recognises the ability of the individual to control vital aspects of his or her life. Personal choices governing a way of life are intrinsic to privacy. Privacy protects heterogeneity and recognises the plurality and diversity of our culture.*

The Supreme Court recognized that individuals are entitled to an expanded notion of privacy as a fundamental right. Privacy is not about the protection of the right to be who you are in the home alone but is also about a person's right to make decisions about their personal life. It is not just about zonal privacy but also about decisional privacy, which is the right to make decisions about one's personal and intimate lives including decisions like the dress one chooses to wear, the food one chooses to eat or the person one chooses to love. Most fundamentally, the guarantee of privacy is an essential bulwark in the preservation of a plural and heterogenous society.

It is this expansive notion of privacy as being at the heart of the fundamental rights and a core dimension of dignity which has been violated in attempts to control the dress which Muslim women wear. The students testified to this deep violation of their personhood, autonomy and the right to be free of humiliation which constitutes the essence of the right to dignity.

“On the day after the High Court delivered its judgement, a camera person from TV9 climbed over the college boundary, which was a bamboo fence and pointed his camera at me, ‘Why are you here? Where is your ID card?’

A lecturer from my college stood beside him and asked, ‘Where is your uniform? Show me your ID Card!’

I got very scared and immediately went home. The video that this cameraperson shot, was broadcasted on their news channel. The YouTube video of the same went viral in WhatsApp groups. All my friends saw it. For one week, I was harassed and received lewd messages on social media.”

- A student studying Bachelors of Science in Hassan

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<sup>46</sup> (2017) 10 SCC 1 - <https://indiankanoon.org/doc/127517806/>



### **2.4.1. A deep violation of their personhood, autonomy, and the right to be free of humiliation**

Messages and images widely broadcast by mainstream media and videos circulated on social media were used to harass and shame students across the state for choosing to wear the hijab. Students felt the lack of support, comfort and solidarity from their peers, faculty, and administration. Instead they felt that even in their own colleges, the environment made them feel insecure and unsafe.

In rural Udupi, a student said, “One of my classmates privately shared her photo with her best friend, in which she was not wearing the hijab. That girl posted this photo on social media to shame and embarrass her. My friend was so upset that she went into depression and was admitted to the hospital. That photo on social media was also widely shared, and the girl was on the receiving end of vulgar messages, including rape threats.”

Another student from the same college shared, “The atmosphere after the interim order became very scary. Police officials were stationed outside the college to stop us from entering the college with the hijab. And the media was taking videos of all this.” Another student added that the police was even waiting outside the principal’s office when Muslim students were talking to him. “This was a very scary experience, and made us feel very scared.”

The constant surveillance, deployment of police personnel and the invasive behaviour of the media made students feel like criminals. “I even get panic attacks. We have lost our privacy and independence. It feels like the law is against us now”, he said.

In Mangalore, students said, “Our photos were clicked even by students belonging to the ABVP without our consent. They threatened and provoked us inside the college as well as outside the gate.”

## 2.5. Right to Freedom of Expression

The right to freedom of expression is an integral dimension of human freedom. As the Supreme Court observed in *Navej Singh Johar v Union of India*:<sup>47</sup>

*The emphasis on the unique being of an individual is the salt of his/ her life. Denial of self-expression is inviting death. Irreplaceability of individuality and identity is grant of respect to self. This realization is one's signature and self-determined design. One defines oneself. That is the glorious form of individuality.*

In *NALSA v Union of India*,<sup>48</sup> the Supreme court read the right of the dress of one's choice within the meaning of the freedom of expression in Article 19(1)(a).

*Article 19(1) (a) of the Constitution states that all citizens shall have the right to freedom of speech and expression, which includes one's right to expression of his self-identified gender. Self-identified gender can be expressed through dress, words, action or behaviour or any other form. No restriction can be placed on one's personal appearance or choice of dressing, subject to the restrictions contained in Article 19(2) of the Constitution.*

The Court expands the freedom of expression to include the freedom of dress and attire as encompassing a core dimension of individuality. This idea is under threat, as seen in the testimonies below.

### 2.5.1. Restriction on wearing the hijab as a violation of their freedom expression

Many students shared with the PUCL-K team that their choice of wearing the hijab was their way of expressing themselves. Some students spoke of the practice of wearing the hijab as their relationship with their god, while others said that it feels just like a part of their body.

Most students said that none of their parents told them to drop out of studies because of the imposed restriction. They chose to demand entry back into classrooms, examinations, and college premises, on the basis that the hijab was a part of how they would like to be seen in public.

Therefore, it is important to understand this restriction as a violation of their right to freedom of expression.

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<sup>47</sup> (2018) 10 SCC 1 - <https://indiankanoon.org/doc/168671544/>

<sup>48</sup> (2014) 5 SCC 438 - <https://indiankanoon.org/doc/193543132/>

In Raichur, a student said, “After wearing the hijab for so long, it is difficult to suddenly stop doing it. We have been wearing it from a very young age.” Students insisted that they were making an active choice to wear the hijab. Many students said, “They always think that the hijab is a form of suppression, which it is not. It is our choice.”

Students reported several instances when they were shamed in public spaces for expressing themselves with their hijab. In Hassan, a student said, “When I was travelling by bus, the conductor told me - ‘Your people are going to face very bad repercussions from this hijab very soon.’”

Many students said that these instances were torturous for them. “We have been through immense emotional torture. I cannot give up my studies and I cannot give up my hijab. I want to study further and enter the medical industry. But even the faculty look at us as if we are terrorists”, said a student in Hassan.

Several students felt compelled to choose between their right to freedom of expression and their right to education. According to local civil society organisations, several students stopped attending classes and did not even get a chance to attend their semester examinations. Some students are in the process of getting a transfer certificate and some were forced to remove their hijab and write their exams.

The stress of making such choices has taken a heavy toll on the students, as they felt betrayed by the state for denying them their basic fundamental rights. One student in Udupi said, “What is the objection to my wearing the hijab? How is it disturbing anybody? Why is it that the college did not protect my right to express myself?” A law student said, “It is the court that turned against me, that is what hurt me the most.”

Another student said that her faith determined her choice of wearing the hijab. “This is our identity. How can I separate myself from it? What did we do wrong?”

## 2.6. Right to Non-Discrimination

A key dimension of equality is the right not to be discriminated against. In particular the Constitution under Article 15 prohibits discrimination by the state on grounds of sex and religion. Under Article 15(2), even citizens are prohibited from discriminating against their fellow citizens on the above-mentioned grounds.

It is this freedom to be free from discrimination on constitutionally protected grounds that has been violated as far as the Muslim students in Karnataka are concerned.

### 2.6.1. Ban on the hijab and harassment of students are forms of discrimination on the basis of religion and sex

In a college in Raichur district, a student narrated how the order affected her class environment: “They made girls sit separately in a room where our names and signatures were taken down in order to keep track of our attendance records. This made women students feel like they were being deliberately separated and segregated for being Muslims. Some principals and lecturers even told us that we must either take off their hijab or stay back in the room and ‘think about it’.”

The team found that when different groups began agitating against the hijab, Muslims would receive blame and women who wore headscarves would be punished in the college. In rural Dakshina Kannada, one student described how in her campus, there were protests against hijabs by Hindu students and as a result, everyone was sent home. After the students came back to college, 6 Muslim women were suspended. She asked, “Why suspend us? Why are these (saffron) shawls allowed, but not hijab. The principal made a decision based on the boy’s bad behaviour, why are the girls being punished?”

In Hassan district, students said that they were harassed in public spaces. In public, people would cry out, ‘O Hijab! O Burqa!’ They said that even a teacher in their college would refer to them this way.

In Dakshina Kannada, students said that after the verdict, other students looked at them differently. They would have to confront stereotypes surrounding students who wear headscarves as being regressive and backward. The hostility has made many women look into the Muslim community for support. In rural Udupi district, one student said that she now only travels in buses which are owned by Muslims for safety. In other buses and public spaces, she experiences harassment.

In Karnataka, these testimonies demonstrate how students’ right not to be discriminated against was violated by both the state and citizens. By denying them any process or mechanism to appeal to protect their fundamental rights, and by excluding them from educational institutions through this sweeping ban, the state and all its governance

mechanisms discriminated against Muslim women students. Inciting hate against Muslim students, targeting and harassing them, and denying them their right to expression and education are forms of gross discrimination against students on the basis of their religion.

As is evident from the testimonies of the students, the violations of their fundamental rights had serious impacts on their academic lives, aspirations, economic losses and reduced their self-confidence and their social relations with students and people of other communities. All students have expressed that they feel betrayed by the state government, which, by its hijab order, emboldened the series of assaults by other actors, state and non-state, on their constitutional rights. It therefore becomes crucial to bring out their voices, while understanding the role of state authorities and college authorities, particularly the educational bureaucracy, the police and the media, all of which failed to recognise the rights of Muslim women students.

### 3. Role of the Educational Bureaucracy

The educational bureaucracy referred to in this chapter is a combination of authorities in power, with responsibilities towards the governance of education and the well-being of young citizens. This chapter details the manner in which these bodies absolved themselves of their responsibilities, and failed to protect the rights of Muslim students in Karnataka.

At the top of the Education Department is the Minister for Education, including Primary and Secondary education, Mr B.C. Nagesh who has played an invidious role in furthering the victimization experienced by Muslim students. It is pertinent to note that the deliberate misinterpretation of Karnataka High Court's interim order, the final verdict and various Government Orders led to a series of violations of the rights of Muslim students. This misinterpretation was led by Mr. BC Nagesh, the person responsible for ensuring that the right to education of all students is protected and realised.

The Minister issued a statement to the media saying that entry into examination halls will be barred to all students wearing the hijab.<sup>49</sup> As has been illustrated in this chapter, this statement contributed to the misuse of the High Court order by various authorities at the state level as well as the district level and put the future of many students in danger. Further, the role of the Minister himself in aggravating such an educational emergency in the state needs closer examination.

It bears noting that even prior to the Government Order restricting the hijab, Karnataka has been suffering the consequences of an educational emergency.

A government survey conducted in October 2021 to March 2022 informed the Karnataka High Court that around 10 lakh children below the age of 14 are out of schools and Anganwadi centres in the state.<sup>50</sup> A report by Deccan Herald<sup>51</sup> said that in July 2022, as many as 13,800 government schools in the state were on the verge of closure as they had less than 25 students. Out of them, around 1,800 have less than 10 students. In his statement, Mr. BC Nagesh accepted the fact that the parents' expectations towards quality of education has gone up in Karnataka and therefore, the enrolment of students in

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<sup>49</sup> Hijab will be banned during exams: BC Nagesh (20 Apr 2022) The New Indian Express <https://www.newindianexpress.com/cities/bengaluru/2022/apr/20/hijab-will-be-banned-during-exams-bc-nagesh-2444111.html>, last accessed on January 7, 2023

<sup>50</sup> 10 lakh kids out of school in Karnataka: High Court informed (8 Jul 2022) Telegraph India, <https://www.telegraphindia.com/india/10-lakh-kids-out-of-school-in-karnataka-high-court-informed/cid/1873681#:~:text=Karnataka%20High%20Court%20has%20been,N%20Phaneendra>, last accessed on January 21, 2023

<sup>51</sup> 13,800 government schools in Karnataka have less than 25 kids: Minister (19 Jul 2022) Deccan Herald, <https://www.deccanherald.com/state/top-karnataka-stories/13800-government-schools-in-karnataka-have-less-than-25-kids-minister-1128224.html>, last accessed on January 31, 2023

government institutions has dropped. This reveals the aspirations of parents to educate their children and the failure of the state to provide quality education as guaranteed in Article 21-A of the Constitution.

The educational bureaucracy is entrusted with guaranteeing youth from all sections of society, access to quality education. In Karnataka, 37.02 lakh students did not make it to higher education in the academic year 2020-21 due to drop-outs and failure to clear examinations at the Class 10 and Pre-University examinations.<sup>52</sup>

The Education Minister instead of addressing the reasons for such an educational emergency, only added one more basis for exclusion by thoughtlessly implementing a de fact hijab ban policy.

Various state agencies that the PUCL-K team spoke to claimed to have acted on oral orders from 'higher authorities'. In the absence of clear, written orders from the State Government, it is the Minister who must be held accountable. He must undoubtedly also assume moral responsibility for throwing the lives of lakhs of Muslim students into uncertainty.

The unconstitutional ban imposed by the government and upheld by the Karnataka High Court is discussed in Chapter 9. However, the prohibition of the hijab itself was arbitrarily implemented as an unconditional ban across schools and colleges. The judgement upheld the Government Order which stated:

*Students should compulsorily adhere to the dress code/ uniform as follows:*

- a. *in government schools, as prescribed by the government;*
- b. *in private schools, as prescribed by the school management;*
- c. *in Pre-University colleges that come within the jurisdiction of the Department of the Pre-University Education, as prescribed by the College Development Committee or College Supervision Committee; and*
- d. *wherever no dress code is prescribed, such attire that would accord with 'equality & integrity' and would not disrupt the 'public order'.*

The judgement does not include in its scope, any particular dress codes and uniform rules for degree colleges, private colleges and professional colleges. Additionally, the Karnataka High Court did not issue any directive to the aforementioned institutions to impose a blanket ban on the hijab. In other words, the court judgment did not prohibit the wearing of the hijab outside the classroom; it did not prohibit the head covering over the uniform; it did not prohibit wearing the hijab during exams; and most importantly, the prohibition did not extend to government schools, private schools and colleges that had not prescribed

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<sup>52</sup> 37 lakh students didn't make it to college in Karnataka (26 Jan 2023) Deccan Herald, <https://www.deccanherald.com/state/top-karnataka-stories/dh-exclusive-37-lakh-students-didnt-make-it-to-college-in-karnataka-1184685.html>, last accessed on January 31, 2023

a uniform. Only if the college authorities concerned had earlier prescribed a restriction on the hijab, were they expected to communicate the rules to students and enforce a restriction. Therefore, this judgement did not mandate the implementation of a ban on the hijab as such, but only upheld the ban if it had been so decided earlier in government schools, private schools and pre-university colleges. Additionally, the judgement does not mention degree colleges, professional colleges, or private colleges at all.

As this chapter will demonstrate, PUCL, in fact, found that the district administration went ahead and instructed all college authorities in their districts to implement a sweeping ban with immediate effect, just before the end of the academic year.

This harsh and over broad interpretation and application of the ban was a shock to Muslim students not only because of the suddenness and arbitrariness of such a rule, but also because of the way in which it was enforced by their college authorities. After having already been admitted to their colleges and wearing the hijab with the knowledge and consent of their college administration, they faced a sudden and drastic change in the way they were treated by their teachers, classmates and administrators.

A critical analysis of the governance of education which led to this shocking state of affairs is imperative in order to demand action against the abuse of power by these authorities, and to call for a greater emphasis on the constitutional rights of all citizens and the Constitutional responsibilities of the governing offices. The following table consists of the roles and responsibilities of these authorities, as set out in the Karnataka government’s official website, the *Right to Education Act* or other statutes that govern their offices.

<u>Offices of Power</u>	<u>Level</u>	<u>What is their role?</u>
Principals and College Administrators	College level	<ul style="list-style-type: none"> <li>- To ensure the education of students that have enrolled in the College</li> <li>- To adhere to UGC Rules to administer the internal affairs of the institution and strictly prohibit discrimination of any kind</li> </ul>
College Development Committee <sup>53</sup>	College level - PU Colleges only	<ul style="list-style-type: none"> <li>- To prepare a comprehensive development plan for the college; to formulate policies</li> </ul>

<sup>53</sup> <https://mangaloreuniversity.ac.in/functions-cdc#:~:text=Act%20proactively%20to%20bring%20the,regional%20disparities%20and%20autonomous%20status>



		<p>regarding academic, infrastructural and administrative growth;</p> <ul style="list-style-type: none"> <li>- To act as the interface between all the various agencies in the higher education system especially the UGC and the university authorities</li> <li>- To encourage the college to adopt inclusive policies in admission, to ensure quality teaching and research, to inculcate scientific temper and social sensitivity among students, and to contribute to the creation of a knowledge society</li> </ul>
Block Education Officer <sup>54</sup>	Block level	<ul style="list-style-type: none"> <li>- To supervise, inspect and regulate education at the taluka level (primary school level till Class 10)</li> <li>- To conduct periodic on-site inspection of schools to ensure they conform to the values enshrined in the Constitution. If the BEO has any reason to believe that one or more schools have failed to fulfil the norms and standards for recognition, they will send the list of defaulters to the concerned DDPI recommending the withdrawal of recognition.</li> <li>- In case of any violation of the Provisions of the Act (RTE), the BEO, along with the DDPI, will be held responsible, who after an enquiry will take the decision to levy the penalty.</li> </ul>

<sup>54</sup> <https://ssakarnataka.gov.in/pdfs/rte/RTE-Rules-2012.pdf>

<p>Deputy Director of Public Education (Classes 1 to 10)</p> <p>Deputy Director Public Instruction (Pre-University and Under-graduation)</p>	<p>District level</p>	<ul style="list-style-type: none"> <li>- Administrative head at the district level, to supervise education of students in the primary and secondary level</li> <li>- To ensure that, within their jurisdiction, no child is subjected to caste, class, religion, and gender discrimination in the school</li> <li>- Any violation of the act should be reported to the chief executive officer (CEO) of the Zilla Panchayat of the district</li> <li>- District level administrative head, to supervise education of students in pre-universities and undergraduate universities</li> </ul>
<p>Deputy Commissioner</p>	<p>District level</p>	<p>Executive head of the district with multiple responsibilities relating to development, panchayats, local bodies, civil administration; supervises all other governmental agencies in the district</p>
<p>Karnataka State Commission for Protection of Child Rights (KSCPCR)<sup>55</sup></p>	<p>State level</p>	<ul style="list-style-type: none"> <li>- To review and safeguard the rights of the children as outlined by the UNCRC (under 18)</li> <li>- To recommend appropriate remedial measures to children needing special care and protection, children in distress, marginalised sections of children, without family, children of prisoners, children in conflict with law and juveniles.</li> <li>- KSCPCR should monitor and inquire into grievances or</li> </ul>

<sup>55</sup> <https://ssakarnataka.gov.in/pdfs/rte/RTE-Rules-2012.pdf>

		complaints of violation of child rights and initiate action as deemed fit.
Commissioner (Public Instruction) <sup>56</sup>	State level	<ul style="list-style-type: none"> <li>- Executive head of the Department of Public Instruction or School Education at the state level</li> <li>- To equip children from all sections of society with specified knowledge, skills and values to enable them to become good human beings and productive, socially responsible citizens and to achieve excellence</li> </ul>
Commissioner (Collegiate Education) <sup>57</sup>	State level	<ul style="list-style-type: none"> <li>- Executive head of the Department of Collegiate Education at the state level, responsible for making higher education accessible to students of sections of society</li> <li>- Development of government colleges, Government First Grade colleges and facilities to bring quality Higher Education within the reach of the most disempowered classes, women and rural populace</li> </ul>

*Table 1 - Authorities in the 'Educational Bureaucracy' and their responsibilities*

The PUCL-K team visited officials in all 5 districts to seek their report on the events that transpired during the hijab restriction. The officials can be broadly categorised into the following:

1. District Administration and the Education Department
2. College Administration (Including Administrators from Minority-run institutions)
3. College Development Committee

<sup>56</sup> <https://www.schooleducation.kar.nic.in/index.html>

<sup>57</sup> <https://dce.karnataka.gov.in/info-1/About+Us/en>

#### 4. Law enforcement agencies

Since these officials had a constitutional mandate to promote education for all students, their testimonies have been recorded and analysed in this chapter. Irrespective of whether they actively supported the enforcement of the ban or by their silence, were complicit in the enforcement of the ban – it becomes important to understand how they have failed to exercise their powers and undermined the Muslim women students’ access to education and safe public spaces.

### 3.1. District Administration and the Education Department

The PUCL-K team asked the district administration officials about how they executed the implementation of the interim order and the judgement. “The Deputy Commissioner held a video conference with principals and college administration faculty to issue directions. We briefed them about the High Court judgement and the Government Order and directed them to implement the restriction of the hijab,” said Dr. Durgesh, Assistant Deputy Commissioner, Raichur.

Since the High Court judgement was being improperly implemented in all educational institutions, the team asked them if they took any action to mitigate the sweeping ban against the wearing of the headscarf. “We did what we were instructed by higher authorities. We did not clarify or feel the need to clarify the details of the judgement. We received no instructions to take action against violations of High Court order”, said Dr. Durgesh, ADC, Raichur.

In Udupi, at the very outset of our meeting with her, the Assistant Deputy Commissioner, Ms. Veena BN said flatly, “I will not answer any question regarding the hijab ban. Since the issue is pending before the Supreme Court, I will not say anything about this matter.” Even when the team asked her about actions taken to strengthen communal harmony in Udupi, she repeated the same answer and refused to comment further.

When the Mangalore University syndicate passed a resolution on May 16, 2022 imposing a ban on the hijab in all its affiliated colleges and its entire campus<sup>58</sup>, several students protested this move and tried to approach the Vice Chancellor and the Deputy Commissioner. Students from degree colleges in Mangalore were told by their college

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<sup>58</sup> On May 16, 2022, the Mangalore University Syndicate resolved to make it mandatory for all its affiliated colleges to adhere strictly to the rules regarding uniform. In this meeting, the Syndicate resolved to revoke Rule No. 3 of the Prospectus’s College Rules, which allowed for students to wear a hijab using a dupatta of the same colour as the uniform. <http://puclkarnataka.org/wp-content/uploads/2023/02/Syndicate.jpeg>

authorities that in order to be permitted entry in their college, they need a letter from the Deputy Commissioner confirming that the ban is not applicable in degree colleges.

The students who met Dr. Rajendra KV, Deputy Commissioner, Dakshina Kannada on May 19 reported to the PUCL-K team as follows: “He told us to not publicise the issue further and asked us to give him two days to study the issue. He said that we should not get so emotional about the issue and return to college and attend classes immediately.”

Later, when the PUCL-K team met with Dr. Rajendra KV, he responded saying, “I cannot comment on the Syndicate order (by Mangalore University). I am also not the Appellate Authority to hear a grievance against the order. Instead of boycotting classes, protesting, and calling for a press conference, the students should have approached a competent authority to address their concerns.”

“I have tried counselling the students but that has not been useful at all”, he added.

Pointing out that only Muslim students were ‘punished’ for ‘flouting’ uniform rules, the team asked Dr. Rajendra whether he took any action against students wearing saffron scarves and he said, “We do not have any reports of saffron shawl-clad students in classrooms. If you submit an official representation regarding this, we will certainly initiate appropriate action.” This flies in the face of facts since there were numerous media reports from Mangalore where Hindu students wore saffron-scarves in protests and demanded that colleges deny entry to Muslim students wearing hijab. In fact, one report highlights that Hindu students specifically demanded that Mangalore University issue an order banning the hijab. Another group of Hindu students wore saffron scarves in Mangalore in protest when the University’s order was not being fully enforced in the campus.<sup>59</sup>

Dr. Durgesh KR, ADC, Raichur also said something very similar, “We have resolved the issue by speaking to many parents and students from the Muslim community and making them understand that they should follow the law.”

When the team asked him if they spoke to Hindu students and parents in response to the protests by Hindu students wearing saffron scarves, he did not answer. Instead, he said, “There were no issues in Raichur at all. Some of the people from that community initially came, shouted Allāhu Akbar, submitted a memorandum and left. We made sure to take all necessary action against troublemakers only.” When asked who these troublemakers were, he asked the team to speak to higher authorities.

When the team informed the ADC that there were reports of dropouts from colleges across the state and high numbers of absentees in end-of-year examinations, Dr. Durgesh replied,

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<sup>59</sup> Hijab row again after college enforces ban in Mangaluru, (27 May 2022), The Hindustan Times, <https://www.hindustantimes.com/cities/bengaluru-news/hijab-row-again-after-college-enforces-ban-in-mangaluru-101653591881896.html>, last accessed on January 6, 2023

“In the entire district of Raichur, there have been no complaints, no absentees, and no dropouts.”

The Deputy Director (Primary Education Department) Udupi also said, “Schools across Udupi have witnessed absolutely no dropouts or absentees in exams.” When the PUCL-K team asked him if he conducted any inquiry to investigate the impact of the hijab restriction, he said, “We never went to investigate or speak to children because they never asked for help. There was no need. And there were no Muslim families who shared any grievance. Besides, being the DDPE, I do not have the freedom to ask such questions to any other offices in the department. If I investigate on my own regarding the hijab, it will alert higher authorities.”

When asked if the DC’s office initiated steps to strengthen communal harmony and fight the increasing polarization, Dr. Rajendra KV, DC, Mangalore said, “It is only a matter of perception. As opposed to persistent media reports, the situation is fairly calm in Mangalore. We are trying to help refocus students’ attention towards academic pursuits by bringing them together for cultural and educational events.”

However, he contradicted himself when he was questioned by the PUCL-K team about the increasing police presence in college campuses. He admitted, “Mangalore is communally very sensitive. There have been instances when right-leaning Hindu students have locked up hijab-wearing Muslim women inside campuses. The administration decides on the deployment of police based on prevailing circumstances. If there is no police and something goes afoot, we will be questioned even for that. Why must someone be afraid of the police if they are a law-abiding citizen?”

Dr. Durgesh, ADC, Raichur said, “We have not come across any communal elements. Apart from an incident in Ram Navami, Raichur has been very peaceful.” (This was, however, far from the truth. A procession was organised by Sri Ram Sene in Raichur during Ram Navami and other organisations, when hundreds rallied in front of Osmania Mosque, Raichur, wearing saffron scarves, wielding swords, shouting slogans and songs calling for the murder of Muslims. As a part of this programme, the district secretary of Sri Ram Sene delivered a speech, calling for a Hindu Rashtra and inciting violence against Muslims.<sup>60</sup>)

## Findings and Analysis

The PUCL-K team met with the above-mentioned officials after speaking to students in the district impacted by the hijab restriction. The findings and analysis presented in this section aim to contextualise the statements of the officials with the voices of students.

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<sup>60</sup> Case against Sri Ram Sene leader for asking people to counter 'love jihad' with 'love kesari' (12 Apr 2022) The Week, <https://www.theweek.in/news/india/2022/04/12/case-against-sri-ram-sena-leader-for-asking-people-to-counter-love-jihad-with-love-kesari.html>, last accessed on January 7, 2023

From our discussions with the district officials of Udupi, Raichur and Dakshina Kannada, a few key issues clearly emerge:

**1. Instructions given to college principals and administrators were not in writing.**

Even amidst a barrage of misinformation about the High Court verdict, the district administration took no steps to issue a notification clarifying the limited scope of the High Court verdict. Additionally, when several degree colleges improperly implemented a ban, there was no action taken to reprimand them or to support Muslim students and families impacted by this illegally imposed ban. When the media misreported the government's restriction as a blanket ban, there was no action taken against news channels either.

District administrative officials shared with the PUCL-K team that all their actions to impose an immediate sweeping ban were solely on the basis of an oral order from 'higher authorities'. They refused to issue a clarification, unless the higher authorities instructed them to do so. Their routine responses suggested that their offices acted as no more than a post-office that had to only relay information from higher authorities and not proactively initiate any steps to respond to violations of fundamental rights of citizens, disturbance in communal peace, or misinformation, which affected the Muslim students' right to education.

When directions from the district administration office are not issued in writing, it leaves no recourse for citizens to raise grievances, call for accountability, or refer to these directions at a later stage. In the case of *TSR Subramanian v Union of India*<sup>61</sup>, a bench of Justices K.S. Radhakrishnan and Pinaki Chandra Ghose referred to the recommendations of the Hota Committee (2004) and the Santhanam Committee report, which highlighted 'the necessity of recording instructions and directions by public servants.' The bench observed:

We notice that much of the deterioration of the standards of probity and accountability with the civil servants is due to the political influence of persons purporting to represent those who are in authority. The Santhanam Committee on Prevention of Corruption, 1962 has recommended that there should be a system of keeping some sort of records in such situations. Rule 3(3) (iii) of the All India Service Rules specifically requires that all orders from superior officers shall ordinarily be in writing.

What is mischievous about the practice of giving oral instructions pertaining to administrative functions is that it allows for future deniability, when accountability is sought from concerned authorities. If the district administration had indeed given

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<sup>61</sup> 15 SCC 732, <https://indiankanoon.org/doc/183945465/>, last accessed on January 25<sup>th</sup>, 2023

written directions to principals to implement a blanket ban of the hijab, students and citizens could have challenged the said actions as violating the rights of Muslim women to education, equality, dignity and privacy.

While it is a matter of grave concern that the instructions to implement such a large-scale blanket ban were given orally, the PUCL-K team also found that there was no other written notice or clarification about the ambit of the High Court verdict. All officials said that they did not seek any clarifications about the order because no instructions to do so, were given from higher authorities. Holding such senior district-level positions of power, these officials displayed an apathetic approach to a critical issue that disrupted thousands of lives of young Muslim women.

## **2. Bias against Muslims**

The officials spoke about addressing the issue by ‘counselling’ Muslim parents and students. Referring to the protest by Muslim students and parents in Raichur against a blanket ban, the ADC expressed his annoyance with the incident and expressed his opinion that the office must provide ‘counselling’ for the Muslims.

When a group of citizens, led by young women, exercised their fundamental right to assemble and called for justice against discrimination, the DC’s office had a constitutional obligation to listen to their demands and address their concerns. Instead, when he spoke to us, the ADC mocked their protests by reducing their demands to the fact that one student who was being intimidated by Hindutva allied students had shouted ‘Allāhu Akbar’ in response and ignored the grievances outlined in the memorandum they submitted.

Therefore, it can only be inferred that ‘counselling’ was no more than a veiled form of coercion, to pressure parents and students to adhere to a hijab ban - regardless of the limited scope of the High Court order restricting the hijab.

From testimonies of parents and students, it was apparent that block-level and district-level administrators spoke to them aggressively and disrespectfully. In Hassan, one school teacher who was trying to request permission for school children to write their examinations with their hijab, shared with us that the Block Education Officer told him, “This is the last warning! Don’t create a scene in such tough times for all of us. Keep quiet and send your students without the hijab or else-.”

At a time when Muslim women students faced increased hostility in educational spaces, the DC’s office had a constitutional responsibility to ensure that all citizens felt safe and were able to access their right to education. Instead, the ADC told us that the DC’s office ‘convinced’ students to remove their hijab, and that was the only action needed to resolve the issue.



The officials also implied that the communal harmony and peace in the district was solely dependent on whether the Muslim community protested or not. None of the officials spoke of taking any action against right-wing vigilante groups who engaged in hate speech on social media.

While several students in Raichur and Mangalore spoke about an extremely divided classroom space and that many of their Hindu classmates had shared offensive and hateful content on social media, the DCs offices in both districts were in a state of denial about the high tension prevalent in the area that was fuelled by boys wearing saffron shawls and raising incendiary slogans, such as 'Jai Shree Ram' or 'Naavella Hindu, Naavella Ondu' ('We are Hindus, we are one').

The authorities took no steps to combat this blatantly communal campaign. Instead, they took the position that, regardless of the scope of the HC order and the constitutional validity of such a restriction, their sole mandate was to ensure that the women removed their hijab, even if it would cost them an academic year or their education.

While the Indian Constitution protects the rights of all persons without discrimination on grounds of religion, these officials took no cognisance of the grievances brought to their offices by students from the Muslim minority.

### **3. Denial of Negative Consequences**

All the senior district administration officials also falsely claimed that the hijab restriction did not produce any negative impact--neither in the form of dropouts and absentees, nor in the form of communal violence or religious divide. They also told the PUCL-K team that they felt no need to conduct an inquiry to investigate these numbers. This betrays a negligence of the civil servants towards the citizens of their district as well as a suppression of information to the public.

In both cases, the officials failed to fulfil their responsibilities. These officials have a constitutional mandate which is over and above their mandate to blindly follow directions from their higher authorities. According to the website of the Department of Collegiate Education, they aim to make 'quality Higher Education accessible to students of all sections of society. With holistic development of students as its core concern, the Department endeavours to bring quality Higher Education within the reach of the most disempowered classes, women and rural populace.'

Officials, especially in the Education Department, failed their own mandate of ensuring the equal right to education for people from all sections of society. In addition to this failure, they made no attempt to investigate, document or remedy the concerns of the affected students and families. Such a significant initiative would have reassured the public about the administration's transparency and concern about the monumental impact of the hijab restriction. It would have also

demonstrated an inclusive and democratic approach to the governance of their district.

#### **4. They allowed no recourse for students and parents.**

One of the main issues that students and parents commonly faced was that even though some colleges did not come under the ambit of the High Court order, they on their own initiative arbitrarily imposed a prohibition of the hijab. The CDCs in these colleges had not passed a resolution to restrict the hijab, and hence the imposition of a ban was unwarranted. Equally, in other colleges where the uniform rules do not specify the restriction of the hijab, they imposed a ban, without any justification.

Students and parents interviewed in all 5 districts shared that there was no authority or official who accommodated their requests. From the Block Education Officer (BEO) to the Deputy Commissioner, no official allowed for even a discussion regarding the ambit of the High Court verdict.

The district administration's undocumented instructions to college principals and administrators to impose a ban led to disarray and an abuse of power directed at Muslim girl students. Due to the negligence of district administration officials and their so called 'counselling' Muslims compelling them, in effect, to adhere to a ban, these students and their parents could not take recourse to any remedy. Neither were their grievances attended to, nor were they enabled to rightfully access education. Indeed, their actions demonstrate a highly unjust and undemocratic approach to the issue, which closed all doors for citizens and civil society organisations to demand justice and the upholding of the students' fundamental rights.

All these findings speak volumes about the mis-governance of a sensitive issue, in the context of already heightened communal violence and harassment of Muslim women. Inevitably, the absence of a written order clarifying the implementation of the HC order, posed challenges to Muslim girls and local civil society organisations. A video conference was referred to in 4 of the 5 districts visited by the team – either by government officials or by college principals – as a directive to deny entry to hijab-wearing Muslim girls by all means. Without a written order clarifying the scope of the High Court order, this drastic restriction imposed through a video conference was unfairly and illegally imposed in all colleges, regardless of whether they are private or aided, PU colleges or degree colleges. In some districts of Karnataka, even teachers were targeted and forced to remove their hijab under the garb of the High Court order.

## 3.2. College Administration

*“When we took admission, the college was very supportive and encouraged us to pursue higher education. They also assured us that we can wear our hijab to college.*

*Suddenly, our principal and college administration started speaking to us so differently. They tried to tell us to choose our education over religion and spent a lot of time trying to convince us that we were being backward by refusing to remove our hijab. They spoke to us rudely and disrespectfully.*

*Today, I feel betrayed and hurt that this same college is forcing me to make a very difficult choice. I cannot make this choice at all!”*

- A 19 year old law student from Mangalore

Acting on instructions given orally by the DC’s office, principals and administrators of PU and degree college students interviewed by the PUCL-K team indicated that they were strictly told to impose an unconditional ban on the hijab with immediate effect. Be it a private college, a government college, a PU college or a degree college – principals of all colleges were told to deny entry to hijab-wearing Muslim students.

Conversations with these authorities helped unpack the ways in which they enforced the ban on Muslim students regardless of how it would imperil their education.

Several students shared with the PUCL-K team that they had been wearing the hijab since the age of ten. Therefore, when they were granted admission to their PU or degree colleges, the educational institutions had consented to their wearing of the hijab.

Post the issuance of the GO, a sizable section of students across Karnataka were forced by the ban to effect a sudden change in an integral part of their clothing and their academic lives. Equally, by the time the High Court passed its final verdict, Muslim students everywhere in the state were being forced to transfer, denied the opportunity to write their examinations, due to a wide variety of reasons, even forced to drop out of the educational process altogether. The sudden implementation of such a sweeping ban resulted in the denial of the students’ access to education.

The transgressions by the district administration elaborated in the previous section must be read with the two main lapses on the part of college administration:

1. College authorities followed the instructions of the Deputy Commissioner, regardless of whether their college fell within the ambit of the High Court judgement or not. In the first place, merely upon receiving oral instructions, the college authorities were not legally obliged to impose a ban. Again, they were not obliged to do so when their

institution was not in the ambit of the order, or when the college management had not prescribed a uniform, and had not prohibited wearing the hijab. In such cases, their imposing a unilateral ban was in itself a gross violation of the students' right to education. Further, despite the fact that the High Court judgement never mentioned degree colleges, several degree colleges in Karnataka chose to implement a blanket ban on the hijab.

2. College authorities treated hijab-wearing Muslim students with extreme disrespect and contempt, treating them as law breakers if they refused to take off their hijab. The approaches of different college administrators were quite varied, based on their prejudiced and arbitrary opinions regarding the applicability of the hijab restriction and the right of Muslim students' access to education. Admittedly, a few college authorities felt that the ban was unreasonable, and the restriction of the Muslim girls' right to education was unfair, while many other college principals told the PUCL-K team that Muslim students who refused to remove their hijab were justifiably suspended.

The Government First Grade College in Uppinangady suspended 6 girls after they were found wearing their hijab inside classrooms. "We called for a staff meeting in which the decision to suspend 6 students was taken. Three of their parents came to meet me, and I counselled them until they understood," Mr Shekhar, the principal told the PUCL-K team. He said that the suspension was justified because the students were breaking the law. In the subsequent weeks, the same college suspended up to 31 Muslim students.<sup>62</sup>

The principal also added a shocking detail, "Names of students who wore their hijabs to classrooms are being collected along with details of their parents. Appropriate action will be taken against all of them. Officials from the Intelligence Department are keeping track of people who visit the campus too. They are also submitting the lists of absentee Muslim students and sending these reports to the Chief Minister's Office."

Mr. Shekar also wrote down the names of the PUCL-K team members and said, "We will have to report this meeting to the government for security purposes." CCTV cameras were installed to ensure surveillance of students' activities and there were police personnel at the college gate. The PUCL-K team also observed that there was a Police Hoysala van stationed outside the college gate. Students informed the team that the police van had been there since the High Court order was issued. The principal said, "They do not enter the campus until they are called in by the management", but despite being asked multiple times, he did not reveal how long the van had been present outside the college gate.

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<sup>62</sup> 24 more Muslim students suspended in Uppinangady for wearing hijab (8 Jun 2022) The Hindu, <https://www.thehindu.com/news/cities/Mangalore/24-more-muslim-students-suspended-in-uppinangady-for-wearing-hijab/article65506391.ece>, last accessed on January 30, 2023

When asked about the protests by boys wearing saffron shawls in the same college, he said, “We have no reports of them wearing it in the classrooms, so no action can be taken.”

He also added that women should insist on studying rather than wearing the hijab. “They should develop a liberal perspective. How is it possible that some women can take off their hijabs and others will not? Women refusing to take off the hijab should be counselled. The Muslim community is fighting for the hijab while not thinking about their own backwardness and need for education. All actions by the right-wing Hindu students were only reactions, as they were being provoked by hijab-wearing Muslim students”, he said. “If they do not have an open mind, how can we teach them modern values?”

The PUCL-K team also spoke to the principal of University College Mangalore (Constituent College of Mangalore University), Anasuya Rai. She said, “When the issues arose in Karnataka, we sought directions from the Vice Chancellor, Mangalore University and the Registrar. They recommended for us to continue with the same uniform rules, as defined in the college prospectus, until the end of the semester.”

“But after the High Court delivered the judgement, a representation was given from the college student union, demanding the hijab to be prohibited during the mid-term exams. We only enforced a ban after the Mangalore University syndicate issued the circular.”

She added, “22 out of 44 Muslim students left the college. They submitted a memorandum to the Vice Chancellor, the Minorities Commission and the Deputy Commissioner. Three of them organised a press conference too, and they have been served show cause notices. In fact, when the Vice Chancellor met with the students, he offered to make special arrangements for them to get admitted to other colleges, despite it being mid-year. The students refused the offer, perhaps because UCM is located in a prime location and has a longstanding reputation for quality education.”

She said, “As college administrators, we are caught between protecting the interests of the minority students and the pressure from higher authorities.”

Upon being asked about the role of the police, she said, “The police have been extremely supportive and had ensured that nothing had escalated.” She also denied that the police had ever entered the campus. On the way to this meeting with the principal, the PUCL-K team observed that there was a police woman stationed outside the auditorium in UCM. The team was informed that the police were called because there was a Talent’s Day event in the college. The principal also mentioned that daily updates from the college were being sent to the local police station and the Vice Chancellor’s office.

Seeking the support of the local police was not unique to UCM and Government First Grade College. Even in Bharat PU College in Ullala, the principal, Ms. Kalavati said, “When the High Court issued its verdict, I called the students to the staff room and ‘politely’ let them know that they will not be allowed to wear their headscarf. Some students refused to

comply, so their parents were called the next day. At the same time, Muslim boys walked out of class and protested in support of the women’s right to wear the hijab. That is when I called the local police for safety.”

## Mangalore University Syndicate Resolution

The Mangalore University Syndicate, the highest governing body of the University, passed a resolution on May 16, 2022 to revoke an existing rule that previously allowed for students to wear the hijab and impose a ban on the hijab.<sup>58</sup>

News reports suggest that the University resolved to impose this ban after students from the ABVP repeatedly protested against the permission granted to some Muslim students to enter with their hijabs.

The screenshot shows a news article from NewsGuard. The main headline is "Hindu Students Boycott Classes, Protest Against Hijab in Mangalore University". Below it, a sub-headline reads "Mangalore University bans hijab in classrooms after students protest". The article text states: "According to vice-chancellor Subrahmanya Yadapadithaya, the university is making arrangements for those who insist on wearing the headscarves to shift to colleges that allow them." The article is by Ananth Shreyas, published on May 26, 2022, at 6:54 PM IST. It is categorized as "INDIA" and is 2 minutes long. The article is also available as a "LIVE BLOG".

## Findings and Analysis

### 1. Abuse of power to impose a ban

Since the Karnataka High Court judgement only applies to colleges that have already prescribed a uniform and have prohibited wearing the hijab, the sweeping ban on the hijab enforced by all college authorities should be viewed as an abuse of power. As has been clarified in the beginning of this chapter, the High Court has not issued a directive to enforce a ban at all. However, through the interviews with college authorities and district administrators, the PUCL-K team found that a blanket ban was enforced with immediate effect.

By virtue of occupying senior positions of administration and management of educational institutions, college authorities and district administration had a responsibility to prioritise the well-being of, and access to education for all students admitted in their educational institutions. Uniform rules in any college are always communicated to students at the time of their admission. College authorities have granted admission to students only after consenting to their wearing of the hijab as a part of their attire. It follows that subject to their payment of fees, all students admitted to any college must be treated equally by the college administration.

3. **Higher Educational Institution to take measure against discrimination:-**
- (1) Every higher educational institution shall take appropriate measures to -
- a) safeguard the interests of the students without any prejudice to their caste, creed, religion, language, ethnicity, gender and disability,
  - b) eliminate discrimination against or harassment of any student in all forms in higher educational institutions by prohibiting it and by providing for preventive and protective measures to facilitate its eradication and punishments for those who indulge in any form of discrimination or harassment;
  - c) promote equality among students of all sections of the society.

*Image 1 - Excerpt from the regulations prescribed in the University Grants Commissions (Promotion of Equity in Higher Educational Institutions) Act*

The above excerpt is from the regulations prescribed in the University Grants Commissions (Promotion of Equity in Higher Educational Institutions) Act, 1956<sup>63</sup> which governs all higher educational institutions in India. This includes both Universities as well as institutions deemed to be Universities and colleges.

The Karnataka High Court judgement stated that in the cases of PU colleges, College Development Committees were authorised to prescribe uniform rules prohibiting the hijab. In the absence of a resolution passed by the CDC prohibiting the hijab, there was no basis for the college authorities to enforce a ban simply on the instructions received by the Deputy Commissioner's office. The High Court judgement does not mention or authorise government degree colleges (like the Government First Grade College, Uppinangady) to restrict the hijab, even if their own CDCs prescribe such a restriction. This aspect of the judgement has been contravened by many colleges. For example, the principal of the Government First Grade College, Uppinangady who said, "We empathise with the Muslim students but they have no choice but to comply with the law. The CDC is supreme and the college is compelled to follow their orders."

Therefore, in preventing students from finishing their academic year, denying them entry into their examinations and taking legal and disciplinary actions against Muslim students, the college authorities have comprehensively violated the rights of young Muslim women across Karnataka and are guilty of an abuse of their power.

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<sup>63</sup> University Grants Commissions (Promotion of Equity in Higher Educational Institutions) Act, 1956, [https://www.ugc.ac.in/pdfnews/2147890\\_gazetteequity-Eng.pdf](https://www.ugc.ac.in/pdfnews/2147890_gazetteequity-Eng.pdf)

## **2. Discriminatory action**

The ABVP and students who identify with the group played an active role in pressurising college authorities and compelling them to prohibit the hijab. Most authorities interviewed by the PUCL-K team said that they had to proceed with enforcing a ban after Hindu students demanded that they ban the hijab.

In fact, a principal even shared with the PUCL-K team his feeling that Muslim students who were insisting on wearing the hijab were being ‘backward’ and were provoking the Hindu students in their classrooms by wearing the hijab.

Like district officials, college authorities also claimed that they were not aware of any such instances of harassment and threats. In doing so, college authorities absolved themselves of responsibility, especially when Muslim students have complained and requested them for interventions. In fact, they endangered the security of these young women by acting on the basis of their own prejudice about the hijab.

On the one hand, they were continuously taking legal and disciplinary actions such as suspensions, issuing show-cause notices and even filing police complaints against Muslim students, and refused to respond to their grievances. On the other hand, they were prompt in acting on the demands of Hindu students and deliberately ignored the targeted harassment of Muslims.

Muslim students felt discriminated against, and have articulated in their testimonies that the behaviour of college authorities and the sudden change in the way they were spoken to, shocked them the most. “The college is where we had a sense of belonging, and an excitement to learn, make friends and think about our academic futures. But the same people who taught us and admitted us, treated us like we were criminals and terrorists. There was no way to get them to listen to us”, said a student from Hassan.

## **3. Unjust disciplinary action against Muslim students**

Students who refused to take off their hijab when college authorities enforced a sudden ban, were perceived as those who are not complying with the law. As has been elaborated, neither the High Court judgement nor any existing laws entailed an immediate enforcement of this arbitrary restriction of the hijab. Therefore, students were only continuing their right to education by insisting on continuing with the then existing uniform rules.

However, college authorities consistently portrayed them as law-breakers and treated them like criminals. Students interviewed in all 5 districts expressed their dismay with the drastic change in the behaviour of college authorities and faculty. Many of them have said the same thing - “One day we were regular students, the next day we had become criminals in their eyes.”



The only course of action the college authorities chose to take, was to punish Muslim students, reprimand them and take disciplinary and legal action against them. The framing of this issue as a law and order issue, and the subsequent involvement of police in the campuses of colleges was an improper approach of college authorities as they turned an issue pertaining to the dignity and privacy of their students into a law and order issue. They failed to follow due procedures to effect a change in the uniform rules or dress code, and never notified the students and parents about the dress code prohibiting hijab at the time of their admission. Instead of listening to their students' concerns and ensuring their safety and dignity in their educational spaces, many principals and headmasters called up the police to quell the students' protests.

## College Development Committees

In a circular dated January 31, 2014, the Department of Pre-University Education, Government of Karnataka, issued an order mandating the creation of College Development Committees (CDCs) to properly utilise the funds granted by the state, to develop basic amenities and to protect academic quality of the institution.<sup>64</sup>

The circular specifies that the CDCs should have the following members:

1. President - The MLA of the respective constituency
2. Vice-President - A local citizen nominated by the MLA
4. Members -
  - a. Parents - 4 members (One must be a woman, and one must a member of the SC/ST community)
  - b. One person interested in the field of education
  - c. Students - 2 members, of which one must be a girl student in cases of co-educational institutions
  - d. In composite pre-university colleges, the vice principal or a senior faculty member
  - e. One senior lecturer of the college
3. Member Secretary - Principal of the said college

Despite its stated representative character, the process of formation of these CDCs in practice has been neither democratic nor inclusive of diverse communities across caste, class, religious and gender spectrums. The CDCs have been mostly an inactive authority who were not involved in making decisions that affect the students. Information regarding a college's CDC is also not transparently available to students and parents. There have been no defined protocols for CDCs to consult with the resident communities before making decisions that will directly affect students.

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<sup>64</sup> <http://puclkarnataka.org/wp-content/uploads/2023/01/CDC-Formation-GO.pdf>, last accessed on January 30, 2023

When the Karnataka High Court passed the interim order giving the CDCs enormous power to determine whether the hijab can be permitted in PU colleges, students in all 5 districts said that the ban was imposed because of a ‘notice’ from the CDC, and were never shown a copy of the said notice. Neither were students allowed to meet with the CDC to request them to reconsider their decision, nor were they provided any written circulars or notices from the CDC regarding the restriction. In fact, it is unclear how many CDCs in Karnataka have actually passed resolutions to ban the hijab.

This sudden and disproportionate power given to the CDCs made them unaccountable to the needs of the students of their college. This is arguably an excessive delegation of power that has affected the fundamental rights of expression of students.

A civil society activist in Raichur said, “Until the incident broke out in Udupi, CDCs were rarely constituted, let alone active. Even today, there are very few CDC resolutions restricting uniforms. There is no process in place which directs the CDCs to take the consent of the students or the parents before they make rules that restrict hijab.”

When Muslim women students were suspended from a college in rural Dakshina Kannada, their parents met with the principal to request them to permit the students back to college. The principal merely told them that the CDC had issued a notice, and they cannot allow them to attend classes. Students said, “We were told that we have no choice but to comply with the restriction.”

Presided by local MLAs, CDCs have been prone to political influence, and have deliberately refused to address the grievances of Muslim women students. Due to the lack of checks and balances in their power, there was no established process for students to present their grievances. In Dakshina Kannada, a student shared, “Our college has stopped even giving scholarships to Muslim girls, claiming that there is a notice from the CDC. They even collected examination fees from us but did not allow us to write exams. Twenty of us tried to approach the CDC to point out that the judgement was not applicable to us, but we could not get a meeting.”

## **Impact of the Ban: Viewpoint of administrators of minority-run institutions**

In Raichur, the Executive Director of a PU College shared with the PUCL-K team that Muslim women in Raichur were increasingly choosing to study in minority-run institutions. “Our own college has run out of seats for students, but Muslim students have not stopped approaching us”, he said.

“Some colleges in Raichur allowed students to loosen their hijabs and enter the premises. When we visited other districts to negotiate on behalf of Muslim students, we saw that college managements were so strict that not even a single piece of cloth was allowed on their heads or shoulders”, he said.

He said that the worst affected colleges in Raichur were the Government Women’s College and the Government Engineering College. “When a ban was enforced, Muslim students in Raichur resisted. In one college, they were locked out of their college, and the police were called. The next day the students even marched to the Deputy Commissioner’s office in protest of this arbitrary ban”, he shared.

A senior official from MET School in Udupi said, “It was completely insensitive and inhuman for the government to have created this chaos in the middle of the exam season. In Bangalore’s Siddaganga School<sup>65</sup>, they even suspended an invigilator for allowing students to write exams with their hijab.”

In her interview with the PUCL-K team, she emphasised the importance of enforcing changes in the uniform at the time of admission. “Otherwise, it limits the options of students and prevents them from making an informed choice about where they would like to study”, she said.

“Muslim girls are now being forced to shift to Muslim-run institutions. These institutions may not be as well established as other colleges, and are very few in number. Many students are also choosing to attend open universities, which can severely impede the quality of their education. But even then, for PU examinations they will need to attend government colleges”, she said.

She raised a significant point which has also been reflected in the testimonies of students across the five districts, “These actions from schools and colleges, and the hostile environment created inside classrooms - all this is widening the gap between communities, and will further limit interactions and fraternal relations amongst youth.”

She added, “In Udupi, all communities have contributed to the growth of the district. The history of our district is filled with the contributions of Hindus, Muslims, tribals and other communities. We should remember this during this time of increasing communal tensions. Udupi belongs to Muslims as much as it belongs to the Hindus.”

## **The educational bureaucracy’s prohibition of the hijab: its overall impact**

PUCL-K found that, by their collective failure to address the grievances of Muslim students, the actions of the Education Department, district administrative officials and college authorities have had a deleterious impact on the academic lives of Muslim women students in the following ways:

1. Students were coerced to remove their hijab and enter college premises. Such students who continued their education in the same colleges faced many challenges when they tried to negotiate with authorities. Those who protested against the ban faced suspensions and disciplinary action.
2. Many students were forced to drop out of their studies altogether, or collect their Transfer Certificates before they wrote their end of year examinations. Such students applying for transfers before writing examinations faced many procedural challenges. For example, students in PU colleges had to get approval from the Deputy Director (Public Instruction), before they could apply for admission to another college. Some students told the PUCL-K team that they had to repeat a year, just so that they could complete their Pre-University education and pursue higher studies.
3. Several students were forced to drop out of their studies altogether, due to inaccessibility to alternative paths towards higher education.

The violations of the fundamental rights of students and their struggle to find ways to continue their education have been elaborated in Chapter 2. Unfortunately, there is little to no official data regarding the number of students who were particularly impacted by the sequence of events following the Government Order issued on February 5, 2022. The table in Annexure 1 attempts to collate the incidents reported in the media, when students were

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<sup>65</sup> SSLC exams: Karnataka invigilator suspended over hijab; girls ‘denied entry’ into halls (29 Mar 2022) Hindustan Times, <https://www.hindustantimes.com/cities/bengaluru-news/sslc-exams-begin-invigilator-suspended-for-hijab-girls-denied-entry-into-halls-101648493902878.html#:~:text=enter%20the%20classrooms,-Noor%20Fathima%2C%20an%20invigilator%20at%20Bengaluru's%20Siddaganga%20School%2C%20was%20suspended,the%20restrictions%20around%20the%20hijab>, last accessed on January 7, 2023

denied entry, denied the opportunity to write their examinations, and suspended or forced to collect their transfer certificates.

On June 28, 2022, the Office of the Regional Joint Director, Mangaluru Region, responded to an RTI filed by Deccan Herald, enquiring about the number of students who collected TCs in the Mangaluru region, which comprises 3 districts: Udupi, Dakshina Kannada and Kodagu. The report published by Deccan Herald reveals that 145 out of 900 Muslim women students enrolled in government, private and aided colleges for the years 2020-21 and 2021-22, had collected their Transfer Certificates.<sup>66</sup> While the report specifies that these numbers might be an underestimation, it is also difficult to infer how many of the 145 students continued their education in different institutions or dropped out of their studies altogether.

In the monsoon session of the Karnataka Legislative Assembly, MLA (Jayanagar constituency) Sowmya Reddy asked the Ministry of Primary and Secondary Education to furnish the number of students who dropped out from the ages of 6 to 18 (Annexure 2). The government stated that there have been no drop outs between the ages of 6 and 16. With respect to the number of hijab-wearing students in 1st and 2nd PU colleges, the government has stated that the total drop outs of hijab-wearing girls is 1,010, because of the hijab ban or other reasons as well.<sup>67</sup>

The government's admission regarding the dropout of students on record is shocking in itself, but it is possibly only the tip of the iceberg. It bears noting that as on February 18, 2022, the Department of Public Instruction stated that there are 17,39,742 Muslim students enrolled in various government-run schools in Karnataka.<sup>68</sup> The department has not specified how many of these students are girls. However, the de facto hijab ban will have enormous implications for the Muslim women students out of the 17,39,742 enrolled Muslim students.

The full numbers of students impacted across the educational spectrum will be known only if the government conducts a proper survey regarding the impact of the hijab judgment in schools, pre-university and degree colleges. However, the fact that as per the state government's own admission, 1,010 students have dropped out of college possibly because of the prohibition of the hijab, means that the government has comprehensively failed to fulfil its constitutional mandate under Article 41 to ensure that the state has made 'effective

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<sup>66</sup> Hijab ban: 16% Muslim girls from Mangalore University colleges drop out (20 Aug 2022) Deccan Herald, <https://www.deccanherald.com/state/mangaluru/hijab-ban-16-muslim-girls-from-mangalore-university-colleges-drop-out-1137668.html>, last accessed on January 8, 2023

<sup>67</sup> Response of Ministry of Primary and Secondary Education to question by MLA Sowmya Reddy on September 22, 2022 - <http://puclkarnataka.org/wp-content/uploads/2023/01/22-09-2022-20covid-19-Ehizab.pdf>, last accessed on January 8, 2023

<sup>68</sup> Karnataka Govt collects data on Muslim students (18 Feb 2022) Deccan Herald, <https://www.deccanherald.com/state/top-karnataka-stories/karnataka-govt-collects-data-on-muslim-students-1082700.html>, last accessed on January 30, 2023

provision for securing the right to education'. This comprehensive failure is the result of a manifestly arbitrary government hijab policy which, instead of providing for the right to education, has denied the right to education altogether to a section of Muslim girl students.

While the numbers may very well be much larger, the issue of numbers is not relevant when it comes to the question of constitutional rights. As the Supreme Court observed in *Puttaswamy v Union of India*<sup>69</sup> in a scathing critique of the judgment in *Suresh Kumar Koushal v Naz Foundation*<sup>70</sup>:

That “a miniscule fraction of the country's population constitutes lesbians, gays, bisexuals or transgenders” (as observed in the judgment of this Court) is not a sustainable basis to deny the right to privacy.

The fact that at the minimum, 1,010 students who should have been in college are no more in college, should be enough of an indictment of an arbitrary, callous and unconstitutional policy which comprehensively violates the right to education of Muslim girls.

### **Concluding comments**

At a time when there was widespread misinformation about the High Court order, which subsequently led to harassment and discrimination against young Muslim students, it fell within the mandate of the above-mentioned authorities to take cognisance of such violations of rights of Muslim students and provide support to the affected students and their parents. When several media channels illegally invaded campuses of education and harassed Muslim teachers and students, violating their right to dignity and privacy, the above hierarchy of educational authorities took no action against media channels and issued no notice restricting their entry into colleges, classrooms and staff rooms.

In fact, none of these authorities even provided an accurate clarification of the High Court judgement and interim order, so that Muslim students' right to education could be upheld.

Overall, these authorities defaulted on every one of their responsibilities. PUCL-K found that they gave oral instructions to all principals and college administrators to enforce a ban on the hijab. Since there is no written record of these directions, there is no information available regarding action taken against principals who arbitrarily enforced a ban, even when it was not applicable. With increasing media reportage on the number of dropouts and absentees in the Muslim community, these authorities and civil servants responsible for the governance of education should have, at the minimum, initiated inquiries regarding the number of dropouts and absentees and the distress of students who were forced to give up their education.

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<sup>69</sup> (2017) 10 SCC 1 - <https://indiankanoon.org/doc/127517806/>

<sup>70</sup> (2014) 1 SCC 1 - <https://indiankanoon.org/doc/58730926/>

On the basis of its preliminary investigation of the role of the educational bureaucracy in the hijab prohibition, the PUCL-K has reached the following conclusions:

- 1) Executing a major policy affecting thousands of students by means of a mere oral order and a video conference made the whole process quite opaque, allowing scope for plausible deniability in the future, and devoid of public accountability. In the absence of a written order, every government department and college management felt free to extend the ban whichever manner they chose to.
- 2) It is clear that, in doing so, the government of Karnataka was bent on extending the implications of the High Court order as well as of the GO way beyond their limited scope. Both the Education department and its implementing agencies on the one hand, and college managements on the other, extended the court order to cover wearing of hijabs outside classrooms, during exams and to schools and private colleges and colleges which did not mandate a uniform. It bears repeating that the GO whose constitutionality was upheld:
  - a. did not prohibit wearing the hijab outside the classroom;
  - b. did not prohibit wearing the hijab during the exams, and
  - c. did not extend to schools, private schools, and colleges that had not prescribed the uniform. The invidious role of B.C. Nagesh, the education minister, as has been pointed out earlier, was crucial in extending the order beyond what was laid down.
- 3) The government, in misinterpreting the court order, forced thousands of Muslim students out of the classroom by restricting their choice to access education and taking away their right to free expression.
- 4) The insertion of a clause, *wherever no dress code is prescribed, such attire that would accord with 'equality and integrity' and would not disrupt the 'public order'* in the Government Order was mischievous in its intent. While it did not specify the hijab, the phrasing was so broad and vague that it lent itself to any kind of interpretation: by wearing the hijab, women could be guilty of 'disrupting the public order', or going against 'equality and integrity' in whatever manner the authorities chose to interpret the clause. This provision lent itself to sweeping measures, such as being barred from examinations, being denied evaluation of practical examination records, suspension from the college, or even confiscation of fees already paid.
- 5) All the educational authorities, from the Department of Collegiate Education and Department of Public Instruction down to the college principals, stonewalled repeated attempts of concerned students and parents to seek remedial measures as well as of civil society activists to seek accountability.
- 6) On the contrary, there was a gratuitous attempt to 'counsel' the aggrieved students, which under the circumstances would have only meant coercing them to follow official instructions.
- 7) The authorities showed themselves in a state of denial about the intimidation by vigilante elements in colleges as well as the Kannada media, both of which had a free run of the colleges, with no attempt made to check their unauthorised activities.

There was a complete submission by Mangalore University to the vigilantes' fiat to issue an official order banning the hijab.

- 8) There was an abject and unthinking surrender of officials at all levels to the political diktat, with no attempt made to raise any objection or seek clarification about the GO, or to institute safeguards against its misuse. In other words, all the authorities below the level of the Education department acted as a kind of post-office to relay information from their higher-ups and implement orders, without showing any concern about their constitutional and legal responsibilities vis a vis protecting the right to education.
- 9) In performing a merely clerical function in implementing the GO, the higher rungs of the educational bureaucracy absolved themselves of their wider responsibilities of the educational administration set out in the Right to Education Act. The role of educational administration is to ensure education of students free from discrimination of any kind; to put in place inclusive processes of teaching and learning; dissemination of constitutional values, social sensitivity and inculcating scientific temper through the curriculum and in the classroom; safeguarding the rights of education; providing special care to the special needs of children from marginalized sections of society; attending to student grievances of violation of their rights; providing accessibility to all students, irrespective of their caste, gender and background. All these wider goals of educational administration were set aside by the officials when they blindly followed instructions which went against the role which the educational department plays in a modern welfare state bound by the Constitution.
- 10) The government made submissions in court to reiterate that a restriction on the hijab must be upheld in order to keep religion out of the classroom. However, historically, the National Education Framework has endorsed that all religions must be respected and acknowledges the need for inculcating awareness about different faiths among students. In fact, it particularly prohibits discrimination on the grounds of religion.



## 4. Role of the Police

The primary role of the police in a democratic society is to ensure the safety and security of people, functioning all the time within the bounds of the rule of law and the Constitution. Though they work under the political executive, they have a fundamental responsibility to ensure that they work impartially and that the Constitutional ideals are not violated.

The vital role that the police services play in a democratic society is articulated in the Model Police Bill, 2015 in which it is stressed that police services should be ‘impartial, professional and respectful of human rights’. Even though the Model Police Bill, 2015<sup>71</sup> is not yet law, the ideal of ‘impartial policing’ is very much a part of the guarantee of equality under Article 14.

The police did not play an ‘impartial’ role, ‘respectful of human rights’, in the events both just before and after the Karnataka High Court delivered its verdict. The period prior to the High Court interim order was rife with a number of vigilante actions which harassed, threatened and intimidated Muslim girl students (as shared by them in their testimonies).<sup>72</sup> Social media platforms were flooded with hateful and stereotypical posts about hijab-wearing Muslim women students who were protesting for their right to continue their education. In many districts, leaders and members of Hindutva organisations spread demeaning, stereotypical and hateful propaganda against young Muslim women students. Once the High Court judgment came out, it led to an arbitrarily imposed hijab ban under the directions of the Deputy Commissioners’ offices and college administration, which in turn led to the harassment and targeting of Muslim women students in educational institutions. TV news and media houses harassed students in the name of covering the events transpiring in educational institutions. All these were the law and order concerns which called for an effective response from the police in line with their constitutional responsibility to act against such acts of harassment, hate speech and discrimination.

The nature and severity of the instances of harassment varied from case to case, from district to district. In their conversations with the PUCL-K team, Muslim women students have recounted several stories of how they were forced to remove their hijabs outside the college gates, examination halls and even in the classrooms. They added that the police were not only unresponsive, but actively supported the college administrations in forcing the students to remove their hijabs. There are reports of the police being present even when Muslim women were intimidated, photographed without consent and made to feel vulnerable within their own colleges.

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<sup>71</sup> The Model Police Bill, 2015

[https://bprd.nic.in/WriteReadData/Orders/Model%20Police%20Bill%202015\\_21st%20Aug%20\(1\).pdf](https://bprd.nic.in/WriteReadData/Orders/Model%20Police%20Bill%202015_21st%20Aug%20(1).pdf), last accessed on January 24, 2023

<sup>72</sup> Refer to Chapter 2 titled ‘Violations of Constitutional and Fundamental Rights: A Reading of Students’ Testimonies

Going further, this inaction by the police turned into hyper vigilant action when it came to enforcing the hijab ban. In enforcing the ban, the police ended up giving tacit support to vigilante elements that were creating havoc in college campuses.

The PUCL-K team spoke to two police officials, ST Siddalingappa, Additional Superintendent of Police, Udupi and Mr. Venkatesh, Deputy Superintendent of Police, Raichur to inquire about the role of the police in stemming the outbreak of violence in colleges during the weeks before and after the High Court delivered the verdict. The two senior officials claimed, in the face of all evidence to the contrary, that the law and order situation was duly taken care of by the police and the district administration. It is therefore crucial for us to ask the questions: What did they understand as law and order concerns? What were the actions taken by the police to ensure safeguards of fundamental rights of vulnerable individuals?

## **4.1. Police presence in college premises**

The police entry into the campus, even at the request of the educational authorities, is, on principle, an uncalled-for intrusion that directly and indirectly impinges on a space which is meant for learning.

In a government college in Udupi, students said, “The police were taking videos of students entering and leaving college premises. This scared us and made us feel threatened in our own college.”

In a college in rural Udupi district, a student recounted, “Police officials were posted inside the college campus throughout the period from the interim order to the final verdict. Hindu boys were posting threatening messages on WhatsApp groups. They said that they wanted to punish us and kill us. The police were silent spectators to all the havoc taking place around us.”

Indeed, the large-scale deployment of police personnel in the colleges and the manner in which they conducted themselves during the events connected with the hijab ban made the experience of going to college an unnerving experience for Muslim women students. Instead of providing security and protection to the beleaguered women students, the police, in the name of enforcing an official order, resorted to unwarranted and often illegal measures that had an intimidatory effect on the students, even while the police allowed the Hindutva groups free rein in the college.

## **4.2. Intimidating Muslim women students**

School teachers in Hassan said, “After preparing for ten years, our students depend on the SSLC exams for further education and career opportunities. Being treated in such a crude

and disrespectful manner in the examination centre - is this not such an embarrassment? Was it necessary for examination centres to be armed with so many policemen?”

This feeling of being stalked and humiliated by the police’s personnel was shared by several students who spoke to the PUCL-K team. In rural Hassan, a student recounted, “The police were there only to force Muslim students to remove the hijab. It was a humiliating experience, and many students returned home and missed their examinations because of this.”

Not just in examination centres, reports of police overt presence within campuses were common throughout the state as soon as the Karnataka High Court delivered its verdict. In Dakshina Kannada district, students who were barred from entering the classroom said, “We were not even allowed inside our library; we were under constant police surveillance.”

In rural Udupi, students shared, “Police officials were posted inside the college campus throughout the period from the interim order to the final verdict. Hindu boys were posting threatening messages on WhatsApp groups. The boys said that they wanted to punish us and kill us. We were scared and isolated throughout, with no one to assure our safety.”

Another group of students in Udupi shared, “Police officials were stationed outside the college to stop us from entering the college with the hijab. Along with the media, they were also taking videos of all of us.” A student reflected, “It was rather scary to see police forces outside the college. We felt like criminals.”

In two aided colleges in Raichur, students reported that soon after the Karnataka High Court delivered its judgment, a Police Sub-Inspector (PSI) was seen staking out the campus, surveilling and searching out Muslim students wearing the hijab.

One of the students recalled, “Seeing a policeman inside my college was very scary. It felt like our teachers and the police personnel were being invasive and were continuously monitoring us. We even rushed to classrooms to escape their gaze as soon as we spotted policemen. Even as we were trying to hide from the police personnel, we could feel the accusatory gaze of the lecturers on us.”

In their conversations with the team, college authorities, police and district administrative officials however, denied that the police entered campuses to enforce the ban. But soon after an interview with the college principal, the team spotted a police vehicle right inside the campus. On the other hand, another principal in rural Dakshina Kannada insisted that police presence was extremely important because it was a law and order issue.

Mr. Venkatesh, Deputy Superintendent of Police (Dy SP), Raichur shared with the team his account of how they intervened, “The two situations when we chose to enter the campuses were (1) when the management called us and (2) when the media entered campuses.” It was clear from the conversations with principals and college administrators

that they called the police as soon as Muslim women students refused to remove their hijabs, and they all claimed that the reason was to avoid clashes. It was obvious that they didn't consider it their responsibility to protect the Muslim women students from the rampaging vigilante elements. Muslim women students were denied their right to protest against such an arbitrary ban, and any peaceful demonstration held by students was met with stern police action.

In fact, police presence in educational institutions served as a means for the college administration to intimidate students into adhering to the imposed ban. The students' fundamental right to assemble, their right to express their dissent or even negotiate with the administrators for a reasonable accommodation of their right, were grossly denied, due to the hostile environment created by the police and college administration.

### **4.3. Denial of Right to Freedom of Expression**

After the Muslim students' requests for any accommodation in being allowed into classrooms or their examination centres were turned down, the police played an active role in intimidating and forcing them to remove their hijab before entering their colleges.

Mr. Venkatesh explained, "Hindus should not get provoked seeing the hijab. So, we convinced the girls not to wear the hijab. We also told the parents to follow the court order instead of spoiling the future of their wards. They should not be protesting. They should do whatever they want in court, but not protest in this manner."

He also said that Raichur is a very peaceful district, "The Muslim community has not protested in this district as much as it has in other parts of Karnataka. Even during the controversy surrounding Nupur Sharma's statement, Muslims did not protest here. During the hijab issue, barring one or two stray incidents, they have not protested at all."

Mr. Siddalingappa, Assistant Superintendent of Police (ASP), Udupi said, "There have been no reports of women feeling harassed that the police have received so far. If there are incidents where women are feeling threatened, the concerned person should come and file a complaint with the police." Like the district administrative officials (as is evident in their testimonies documented in Chapter 3), the police took no proactive measures to inquire into the extensive violations of Muslim women's rights that had taken place, and claimed that no incidents of violence or harassment took place at all.

The police's perception of normalcy seemed to resolve around be dependent on the actions of the Muslim community. Where there were no protests by Muslim students, it was seen as normal, and where there were protests asserting the right to wear a hijab, it was seen as a law and order situation.

Both Raichur and Udupi districts witnessed an intense level of hate directed at the Muslim women students. The police possess the powers to take suo moto cognizance of violations

of the rights of Muslim students taking place around them and could have initiated steps to protect the safety and fundamental rights of the vulnerable communities; instead, they held the students' resolve to continue wearing the hijab as entirely responsible for the unrest that had taken place in the district.

Going further, they also filed criminal charge in several districts against Muslim students who protested the ban, and in effect, criminalised their expression of dissent. For instance, in Tumkur, an FIR was lodged against around 10 to 15 Muslim students who refused to remove their hijab.<sup>73</sup>

Neither of the two interviewed police officials mentioned the offences and actions of the Hindutva groups who had successfully organised campaigns within and outside educational campuses, in the name of 'Hindu unity'. When probed, Mr. Siddalingappa said, "In cases where students were wearing saffron shawls in campuses, that is for the college administration and Education Department to deal with. The police will not interfere." This demonstrated the unequal and differential treatment meted out to Hindu and Muslim students by the police.

In fact, the efforts of the police were directed towards 'counselling' Muslim students and their parents, to adhere to the ban. Mr. Venkatesh, DySP, Raichur said, "We held meetings to explain the order to parents and students." When asked if they invited Hindu students too, he said they did not.

Based on their misunderstanding of the role that the police are expected to play in a democratic society, the police completely ignored the daily harassment that Muslim students faced. This led to an outright denial of the students' right to freedom of expression. At the same time, the police failed to take action against the saffron-clad students that were in reality causing the law and order issues.

#### **4.4. Denial of Right to Peaceful Public Assembly**

Section 144<sup>74</sup> is a colonial-era law which empowers the district magistrate or any other executive magistrate to pass an order prohibiting the assembly of more than 4 or more people in an area. This section directly impacts the rights of citizens by limiting the right to free expression and freedom of peaceful assembly.

The widespread application of section 144 of CrPC could possibly indicate the extent to which the interim order affected the law and order situation in educational institutes across the state. In some areas, the imposition on the right to assemble was a direct response to an escalating situation, usually marked by protests by students both against the ban and in favour of the ban. However, Section 144 was also imposed in areas where no violence had

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<sup>73</sup> Crime No.: 0022/2022, Tumkur P.S.

<sup>74</sup> <https://indiankanoon.org/doc/930621/>

occurred regarding the order. For example, in Mysore district and Bengaluru Urban district, Section 144 was used exclusively to prevent any forms of protest, thereby violating the right to peaceful assembly.

In some cases, such as in Udupi, Bagalkot<sup>75</sup> and Dakshina Kannada<sup>76</sup>, Section 144 was imposed in direct response to an escalation by the Hindutva groups. The instigation in these cases came from saffron shawl-clad students demanding entry to the college, acting in protest to the entry of women wearing hijabs. Here, we must make a distinction between the freedom of speech and expression and the incitement to discrimination, hostility or violence. The former is part of a democratic process, where people come together to express their grievances. The protests by Muslim students were peaceful and did not incite hatred or discrimination. The latter was a part of an intimidatory campaign which spread the message that the hijab is a threat to Hindus overall and made the Muslim students feel insecure and unsafe.<sup>77</sup> The former instance should be protected under law and the latter is an exception to the freedom of speech and expression as it incited discrimination and hatred. The campaign of saffron clad students directly attacked the equal citizenship and right to participate in a democracy of the Muslim women students. This cannot in anyway claim the protection granted under freedom speech and expression.

In imposing Section 144, the police curtailed the rights of all citizens to freedom of expression. The effect of these impositions disproportionately affected the Muslim community who were not given the space to express their grievance against the judgement peacefully. In rural Dakshina Kannada, the team spoke with students who organised a peaceful demonstration to protest against the ban. Hindu students were also protesting in favour of the ban. Even though video footage of the demonstration captured both groups of the students, FIRs were only filed against the Muslim student protesters.

After the final verdict was delivered by the High Court, Section 144 was once again imposed in districts across the state to prevent any public assembly. In the name of preventing violent assemblies there was little to no room left for peaceful assemblies by Muslim students and civil society organisations to assert their fundamental rights. In part, this demonstrates how the restriction on the hijab led to a breakdown of law and order, enabled a hate campaign against Muslim students and totally clamped down on the affected community taking to any path to assert their rights that were continuously being violated.

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<sup>75</sup> Section 144, protests and stone-pelting: 10 developments in Karnataka hijab row (8 Feb 2022) The News Minute, <https://www.thenewsminute.com/article/section-144-protests-and-stone-pelting-10-developments-karnataka-hijab-row-160758>, last accessed on January 7, 2023

<sup>76</sup> Hijab row: Dakshina Kannada DC imposes Section 144 near educational institutions (13 Feb 2022) Deccan Herald, <https://www.deccanherald.com/state/karnataka-districts/hijab-row-dakshina-kannada-dc-imposes-section-144-near-educational-institutions-1081139.html>, last accessed on January 7, 2023

<sup>77</sup> Refer to Chapter 6 titled Amplifying Hate: Role of Hindutva organisations

## 4.5. Abuse of power

The police went beyond their role in maintaining law and order and harassed students, making educational spaces inaccessible or hostile for them. For example, in Raichur district, hijab-wearing students were stopped at the gate of their college by police, preventing access to their colleges. In at least two colleges in Raichur, students reported, as mentioned earlier, that the Police Sub-Inspector would do rounds to look for Muslim women students wearing hijabs soon after the Karnataka High Court judgement, and were also being denied entry into college by officers at the college gate. One student said that when she saw a police officer on campus, she felt scared and had to rush into her classroom to hide.

In Hassan district, students reported being threatened by their college staff with calls to the police. The responsibility of the police is limited to maintaining law and order as well as protecting the rights of all affected parties. Wearing the hijab in any context cannot be construed as a criminal act or as a threat to law and order. Regardless of whether colleges restricted the wearing of the hijab in campuses, students still retained the right to wear it in any other space, and to come to their colleges and enter their campuses wearing a hijab. The college has its own means to ensure security on campus and does not require police intervention except in cases where violence needs to be contained. In this case, the police failed to contain vigilante violence in the campus, and misdirected their efforts to unconstitutionally prevent women students from exercising their right to expression by wearing the hijab.

The discussions with the police and college administration made it clear that wearing the hijab could not be considered a law-and-order issue. What created a law and order issue was the instigation of students by the ABVP and other Hindutva organisations to harass and publicly vilify women students for their attire.

Police action was misapplied when it aimed at preventing the women from exercising their constitutional rights to express themselves, either through their clothing or in the form of peaceful protest.

Despite complaints filed by students to the local police, there were no systems or processes in place by which Muslim women students could be guaranteed protection against harassment by vigilante elements, both online and offline.

Enforcing directives of the College Development Authority or inspecting Muslim women's clothing to see if they were following dress codes given by college administration and ordering them to remove their hijabs go beyond the mandated responsibilities of the police to maintain law and order and enter the unconstitutional domain of policing personal choices of dress.

The team found that the police actively undertook actions outside the scope of their power by demanding that they remove their hijab before entering the college. They abused their

power by deliberately ignoring the grievances of Muslim women students and implicitly encouraging vigilante groups to carry out campaigns of hate and harass Muslim students.

It is crucial to note that the perpetrators of this continuing abuse and harassment are flag bearers of the Hindutva ideology. The failure of the police to both prevent harassment and ensure accountability for such harassment is a complete abdication of their constitutional responsibility to ensure that Muslim women are not denied the right to education and the right to expression.



## 5. Amplifying Hate: Role of Hindutva organisations

The current campaign against the hijab has to be seen as a part of wider continuing campaign against symbols of Muslim identity in the public sphere. It is part of a wider project to build a Hindutva consciousness which has no place for difference and diversity. A key part of building a Hindutva consciousness is to erase symbols of difference. Thus, the Hindutva forces are at war with all markers of religious difference, be it the skull cap, the beard, calling the public for prayers, or in this case, the hijab.<sup>78</sup> Hindutva focuses on building a homogenous Indian identity based on a singular and exclusive conception of a Hindu nation. The organizations that form the Sangh Parivar<sup>79</sup> have been organizing campaigns for decades with the objective of enforcing such an idea of India.

Both the objectives as well as the organisation that forms the Sangh takes are best described by Justice Manmohan Singh Liberhan in his 2009 commission report on the destruction of the Babri Masjid, for which he pinned the responsibility on the leaders of this family of organisations:<sup>80</sup>

These organizations are collectively an immense and awesome entity with a shrewd brain, a wide encompassing sweep and the crushing strength of the mob. The leadership provided by the RSS, BJP, VHP and the other mutating and constantly transforming organisations like the Hindu Mahasabha and the Jan Sangh, in furtherance of the suspect theories of the founders of these organisations, was consistent and unabashed. The ends are all that matter to the core group of thinkers and the destruction of the disputed structure was only one victorious battle in their ongoing campaign against secularism and the multicultural society, clothed in the garb of religion.

The PUCL-K team in the course of its field work found series of examples of harassment and vilification which flowed from this conception of an Indian nation grounded in Hindutva, thereby showing that what lay behind the anti-hijab campaign was the active intervention of Hindutva organisations.

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<sup>78</sup> Refer to Chapter 7 titled ‘The Politics of Banning the Hijab: A Discourse on Gendered Islamophobia’

<sup>79</sup> The organisations that refer to themselves as the ‘Sangh Parivar’ are the Bajrang Dal, the Rashtriya Swayamsevak Sangh (RSS), the Vishwa Hindu Parishad (VHP), the Hindu Jagarana Vedika (HJV), the Hindu Janajagruti Samiti and the Akhil Bharatiya Vidyarthi Parishad (ABVP).

<sup>80</sup> ‘Report of the Liberhan Commission of Inquiry’ (November 2009), Para 160.10.

<https://www.mha.gov.in/sites/default/files/LAC-Chap-XIV-B.pdf>, last accessed on January 7, 2023

## 5.1. Background to the hijab controversy in Karnataka

In Karnataka, ever since the 1990s, especially after the demolition of the Babri Masjid, right-wing elements have become stronger. From 2004 onwards, the steady ascent to power of BJP has witnessed increasing instances of communal discord, with the tacit support of the state administration. It bears remembering that the first coming to power of the BJP was immediately followed by a widespread attack on churches in eleven districts across Karnataka in 2008.<sup>81</sup>

One of the flash points has been the Dakshina Kannada region where a long tradition of inter-community fraternization has been subject to repeated attacks by vigilante groups. Attacks on boys and girls having fruit juice together or the attacks on girls in a pub or the attacks on inter-community love relationships using the bogey of so-called 'love jihad', have led to increasing polarization and imperilled what the PUCL-K called, 'Ambedkar's dream of fraternity'.<sup>82</sup> The PUCL-K documented the silent complicity of the state on these attacks on the Preamble ideal of fraternity.

This silent complicity has become active support with Mr. Basavaraj Bommai becoming the Chief Minister of Karnataka in July of 2021.<sup>83</sup> On being asked about moral policing in Dakshina Kannada, instead of unambiguously condemning vigilante groups who took the law into their own hands to harass and intimidate inter-community fraternizing, the Chief Minister provided his implicit support to Hindutva organisations to continue functioning as lawless vigilante groups. As he put it:

There are many sentiments in the society. We should all behave in a manner that would not hurt these sentiments. When these sentiments are hurt,

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<sup>81</sup> Conversion fire engulfs Karnataka, seven churches vandalized (15 Sep 2008) Times of India, <https://timesofindia.indiatimes.com/india/conversion-fire-engulfs-karnataka-seven-churches-vandalized/articleshow/3483344.cms>, last accessed on January 30, 2023

Karnataka: 20 churches attacked, Christians accuse police of inaction (15 Sep 2008) Asia News, <https://www.asianews.it/news-en/Karnataka:-20-churches-attacked,-Christians-accuse-police-of-inaction-13221.html>, last accessed on January 30, 2023

<sup>82</sup> The PUCL-K has produced two reports which documented this form of attacks, especially on inter-community fraternizing by Hindutva vigilante groups.

1. From Communal Policing to Hate Crimes: The attack on Ambedkar's Dream of Fraternity (Nov 2021) <http://aipf.online/wp-content/uploads/2021/11/From-Communal-Policing-to-Hate-crimes-The-attack-on-Ambedkars-Dream-of-Fraternity.pdf>, last accessed on January 7, 2023;

2. Cultural Policing in Dakshina Kannada (December 2009) <https://sabrangindia.in/reports/cultural-policing-dakshina-kannada-vigilante-attacks-women-and-minorities-2008-09>, last accessed on January 20, 2023

<sup>83</sup> Karnataka witnessed at least 25 major incidents that triggered communal tension during Bommai's tenure as CM (27 Jul 2022) News Nine, <https://www.news9live.com/state/karnataka/karnataka-witnessed-at-least-25-major-incidents-that-triggered-communal-tension-during-bommais-tenure-as-cm-185501>, last accessed on January 30, 2023

actions and reactions are elicited. Along with government's responsibility of maintaining law and order, we have to also ensure societal unity. For this, everyone should cooperate. The youth also should ensure the sentiments are not hurt. This is a societal issue. There has to be morality in society, right? When the morality is forgotten, action and reactions are elicited.

As the PUCL-K trenchantly observed:

For all those who believe in a constitutional democracy that India is, the Chief Minister's statement indicated that as far as he is concerned, Hindutva crimes will be condoned and the state sees their lawless actions as a legitimate expression of 'social morality'. The Chief Minister's statement reveals the BJP government's complete political alignment with those claiming to protect social morality and who have no compunctions in violating the constitutionally guaranteed rights of the individual based on dignity and equality.

This atmosphere of lawlessness found another flash point in attacks on the Christian places of worship which were intensified from September of 2021. PUCL-K in its report titled 'Criminalising practice of Faith' has documented the pattern and causal factors responsible for the increasing number of incidents against the Christian community.<sup>84</sup> The Report documented acts of criminal intimidation, physical abuse and criminal trespass by religious extremists clearly violating the privacy, dignity and sense of equality that the minorities are entitled to practice, profess and propagate their faith as guaranteed under Article 25 of the Constitution. However, the Karnataka State Government was a mute spectator and failed to initiate any steps to curtail the violence. The State Government only added insult to injury by passing an anti-conversion law during the Christmas season disrupting peace and harmony. In the analysis of the PUCL-K, the anti-conversion law is only a means to further target the Christian community's right to practice its faith using the bogey of 'conversion'. This law which is misleadingly titled the Karnataka Protection of the Right to Freedom of Religion Act has only further deprived Christians of the right to faith and granted legal protection to vigilante elements who continue to violate the rule of law, barge into private homes and disrupt the practice of faith. The Act also criminalizes inter-faith relationships through its criminalization of what it calls marriages for the purpose of conversion.

The time period since the Bommai Government has come to power has also witnessed targeting attacks on Muslim shops and homes by vigilante mobs in Shimoga<sup>85</sup> and

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<sup>84</sup> Criminalizing Practise of Faith – Hate Crimes against Christians in Karnataka: A Report by PUCL-Karnataka <https://www.pucl.org/reports/criminalizing-practise-faith-report-pucl-karnataka-hate-crimes-against-christians-karnataka>, last accessed on January 30, 2023

<sup>85</sup> Muslim shop employee too was attacked by mob during clash in Shivamogga (18 Aug 2022) Times of India, <https://timesofindia.indiatimes.com/city/mysuru/muslim-shop-employee-too-was-attacked-by-mob-during-clash/articleshow/93629511.cms>, last accessed on January 30, 2023

Belagavi.<sup>86</sup> There were also shrill and hate filled campaigns against halal meat,<sup>87</sup> the playing of the Azaan on loudspeakers<sup>88</sup> and the denying of Muslim street vendors and small businesses to vend nearby temples.<sup>89</sup>

There has been a serious deterioration in the enforcement of the rule of law with vigilantism being allowed to function with impunity. The vigilante action of Hindutva groups has not only received the tacit approval of the state, but the state has also gone on to fulfil some of core objectives of Hindutva through its policies, in particular policies in education sphere.

Textbooks of Class 1 to Class 10 were revised by the Karnataka Government, despite objections by writers, academics, religious leaders and Opposition parties<sup>90</sup>. These revisions erased significant chapters of Indian history and stories of eminent intellectuals and writers from the Dalit and Muslim communities, who were integral to the Constitutional imagination of a diverse, equal, secular, and democratic Indian society. These revisions were widely criticised by Dalit groups, intellectuals, and civil society organisations who asserted that the syncretic and diverse histories of Karnataka cannot be erased. In one of these revisions in a class 8 textbook, a paragraph glorifying the Hindutva ideologue Vinayak Damodar Savarkar was inserted, presenting an absurd message like a fact: 'Mr. Vinayak Savarkar used to sit on the wings of a bird and fly out to visit the homeland while he was imprisoned in the Andaman jail.'<sup>91</sup>

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<sup>86</sup> Karnataka: Muslim Couple's Chicken Shop Vandalised by Hindutva Group, Cops Advise 'Compromise' (19 Oct 2021) The Wire, <https://thewire.in/communalism/karnataka-muslim-couples-chicken-shop-vandalised-by-hindutva-group-cops-advise-compromise>, last accessed on January 2023

<sup>87</sup> Bajrang Dal launches Karnataka anti-halal drive, Muslim vendor 'thrashed' (1 Apr 2022) Times of India, <https://timesofindia.indiatimes.com/city/hubballi/halal-row-muslim-vendor-thrashed-by-hindu-activists-in-karnataka/articleshow/90580110.cms>, last accessed on January 6, 2023.

<sup>88</sup> Now, Hindutva groups start campaign against azan in Karnataka (4 Apr 2022) The Hindu <https://www.thehindu.com/news/national/karnataka/nw-hindutva-groups-start-campaign-against-azan/article65289814.ece>, last accessed on January 6, 2023.

<sup>89</sup> Economic boycott of Muslims from Karnataka temple fairs unconstitutional: Lawyers Forum (25 Mar 2022) The News Minute, <https://www.thenewsminute.com/article/economic-boycott-muslims-karnataka-temple-fairs-unconstitutional-lawyers-forum-162272>, last accessed on January 6, 2023.

<sup>90</sup> Karnataka orders corrections in textbooks revised by Rohith Chakrathirtha (28 June 2022) Indian Express, <https://indianexpress.com/article/cities/bangalore/karnataka-orders-eight-corrections-in-textbooks-revised-by-rohith-chakrathirtha-7994660/>, last accessed on January 30, 2023

<sup>91</sup> Savarkar flew out of Andaman jail on bulbul birds to visit motherland, says Karnataka school textbook (26 Aug 2022) The Hindu, <https://www.thehindu.com/news/national/karnataka/savarkar-flew-out-of-andaman-jail-on-bulbul-birds-to-visit-motherland-says-karnataka-school-textbook/article65815457.ece>, last accessed on January 6, 2023

Along with these changes in government school curricula, there have been reports of training camps by Rashtriya Swayamsevak Sangh in government-run schools and hostels.<sup>92</sup> These training camps included arms training, personality training and aspects of nationalism. Similarly, Bajrang Dal also hosted such training camps in schools. In a recent event at Sai Shankar Educational Institute in Kodagu<sup>93</sup>, they held training for around 110 participants from their cadres across the state. The cadres were seen using weapons like trishul (trident), daggers as well as air guns, and the organisers claimed that it was part of the training. A Bajrang Dal leader also told a news agency that the discussions were around 'love jihad', conversions, and cattle slaughter, and how to save Hindus from it.<sup>94</sup> Suresh Muthappa, district president of Vishwa Hindu Parishad, said, "More or less after 20 years, we got an opportunity to hold Hindu awareness camp at Kodagu. We distributed Trishuls and airguns for the purpose of self-defence of Hindus."



*Image 2 - Photo of a training camp organised by Bajrang Dal in Sai Shankar Educational Institute, Kodagu, where cadres were seen using weapons like 'trishul' (trident) and air guns*

As recently as November 15, 2022, the State Education Minister said that under the 'Viveka' Scheme, around 8,000 classrooms will be painted with saffron.<sup>95</sup> The Chief Minister, Basavaraj Bommai also issued a statement defending this move, by stating an ironic fact, "Saffron has nothing to do with any political ideology. We are painting the classrooms because of the recommendations of the architects and as a tribute to Swami Vivekananda."

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<sup>92</sup> Why are Karnataka Dalit organisations opposing RSS camps in schools? (15 Oct 2022) The Quint, <https://www.thequint.com/south-india/rss-training-camp-dalit-protest-karnataka#read-more>, last accessed on January 30, 2023

<sup>93</sup> 'How is arms training allowed in a school?': Outrage over Bajrang Dal's camp in Karnataka (17 May 2022) The News Minute, <https://www.thenewsminute.com/article/how-arms-training-allowed-school-outrage-over-bajrang-dal-s-camp-karnataka-164030>, last accessed on January 7, 2023

<sup>94</sup> 'How is arms training allowed in a school?': Outrage over Bajrang Dal's camp in Karnataka (17 May 2022) The News Minute, <https://www.thenewsminute.com/article/how-arms-training-allowed-school-outrage-over-bajrang-dal-s-camp-karnataka-164030>, last accessed on January 5, 2023

<sup>95</sup> Karnataka govt defends move to paint 'Viveka' classrooms in saffron (15 Nov 2022) Times of India, <https://timesofindia.indiatimes.com/city/bengaluru/karnataka-defends-saffron-viveka-classrooms/articleshow/95518160.cms>, last accessed on January 30, 2023

## 5.2. Role of Hindutva organisations in inciting hatred

The role of Hindutva organisations in inciting hatred has been deduced by testimonies and conversations with students and activists. It is based on the PUCL-K team viewing the social media hate campaign as well as the news. This is only a representative sample of the continuing hate campaigns.

Keeping in mind the communal continuum in Karnataka, some of which preceded the prohibition of the hijab and some of which followed it, this chapter will now examine the role of Hindutva organisations and Hindutva ideology during the period of the controversy.

Even before the interim order was issued by the Karnataka High Court, the Sangh Parivar began campaigning against the right to wear hijabs.<sup>96</sup> On January 21, Hindu Jagarana Vedike leaders warned of a saffron shawl campaign.<sup>97</sup> Within one week of the interim order issued by the High Court, three colleges in Karnataka witnessed protests against hijab-wearing Muslim students.<sup>98</sup>

In many parts of the state, ABVP and other Hindutva groups organised protest rallies in which students were asked to wear saffron shawls in educational campuses.<sup>99</sup> One of the most common slogans raised in these protests called for Hindus to defend their religion against Islam. Students shared with the PUCL-K team that some of the slogans raised in rallies of Hindu students wearing saffron shawls were 'Jai Sri Ram', 'Jai Bhawani Jai Shivaji', 'Rakhtada Kana Kana Kudiyutide, Hindu Hindu Ennutide' (Every drop of our blood is boiling, and it is saying we are Hindus), Navella Hindu Navella Ondu (We are all Hindus, We are all one), 'Bharat Mata Ki Jai' and 'Har Har Mahadev'.

Across the state, news reports show Muslim women who wore the hijab being heckled by members of the ABVP<sup>100</sup> while principals, faculty and even police stood by. The field visits demonstrated to the team that the testimonies about the harassment faced by Muslim women only scratched the surface.

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<sup>96</sup>Refer to the Chapter 1 titled 'Timeline of Events', 8<sup>th</sup> February 2022

<sup>97</sup> Udupi college 'hijab' row: Hindu Jagarana Vedike warns of saffron shawl campaign. (21 Jan 2022), Times of India, <https://timesofindia.indiatimes.com/city/mangaluru/udupi-college-hijab-row-hindu-jagarana-vedike-warns-of-saffron-shawl-campaign/articleshow/89045315.cms>, last accessed on 2 November 2022

<sup>98</sup> Karnataka considers uniform dress code as hijab vs saffron scarf flare-up returns to colleges, (7 Jan 2022) The Print, <https://theprint.in/india/karnataka-considers-uniform-dress-code-as-hijab-vs-saffron-scarf-flare-up-returns-to-colleges/797050/>, last accessed on 2 November 2022.

<sup>99</sup> How the Karnataka anti-hijab protests were part of a calculated plot across the state (10 Feb 2022) The News Minute <https://www.thenewsminute.com/article/how-karnataka-anti-hijab-protests-were-part-calculated-plot-across-state-160846>, last accessed on January 8, 2023

<sup>100</sup> Karnataka Muslim Student Booked for 'Resisting ABVP' To Continue Fight for Hijab (7 March 2022) The Quint, <https://www.thequint.com/news/education/karnataka-muslim-student-hiba-sheik-booked-for-resisting-abvp-to-continue-fight-for-hijab>, last accessed on January 5, 2023.

A report by The News Minute<sup>101</sup> compiled these protests and quoted Siddalinga Swamy of the Sri Rama Sene who made this public admission:

Our students' wing took part, we managed to gather a total of 150 students for the protest. We are running a campaign, urging students to put pressure on the education department and college authorities to enforce strict uniform in which hijab will not be allowed. To educate the students on this, we had called for a meeting on Sunday and gave instructions. We will continue the rest using social media.

Series of speeches and statements were made by members of organizations like the ABVP, the VHP, the Sri Ram Sene and even political leaders of the Bharatiya Janata Party.<sup>102</sup> VHP equated the advocacy of the Muslim students' right to education with 'Jihad', through its press statement<sup>103</sup> released on 9<sup>th</sup> February 2022: "Under the guise of hijab, anarchy by Jihadis and their backers unacceptable."

Sri Ram Sene Chief asked the government to kick out students insisting on the hijab in the classroom and argued that their insistence to wear the hijab shows a "terrorist mindset."<sup>104</sup> The dominant narrative (as detailed in Chapter 6) was that this determination to continue wearing the hijab while pursuing their education was an extension of a terrorist plot by radical and Muslim religious fundamentalists.

Certain Hindutva groups went one step further and called for violence against women wearing the hijab. For example, in Vijayapur in North Karnataka, an ABVP member gave a speech shortly after the interim order was issued, in which she said 'Let the government give us just one hour. Not just these six girls (of Udupi), but we will cut sixty thousand hijabis into pieces.' When asked to clarify, she said that she was referring to Muslims who wear the hijab, and those campaigning for their rights.<sup>105</sup>

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<sup>101</sup> How the Karnataka anti-hijab protests were part of a calculated plot across the state, (10 Feb 2022), The News Minute, <https://www.thenewsminute.com/article/how-karnataka-anti-hijab-protests-were-part-calculated-plot-across-state-160846>, last accessed on 12 December 2022.

<sup>102</sup> Refer to Chapter 1 titled, 'Timeline of Events', 5<sup>th</sup> February 2022

<sup>103</sup> [https://twitter.com/VHPDigital/status/1491332432561598466?t=Qxxsj3R3pt3U2JsOunF\\_NQ&s=08](https://twitter.com/VHPDigital/status/1491332432561598466?t=Qxxsj3R3pt3U2JsOunF_NQ&s=08), last accessed on January 6, 2023.

<sup>104</sup> Sri Ram Sena chief asks govt to kick out students insisting on Hijab in classroom (2 Feb 2022) Economic Times, <https://economictimes.indiatimes.com/news/politics-and-nation/sriram-sena-chief-asks-govt-to-kick-out-students-insisting-on-hijab-in-classroom/articleshow/89295950.cms?from=mdr>, last accessed on January 6, 2023.

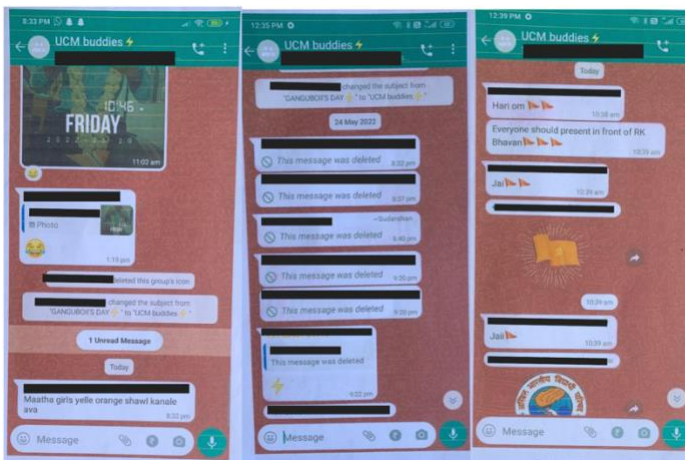
<sup>105</sup> Hijab case petitioners will be cut into pieces: ABVP leader, (27 Feb 2022), The Hindustan Times, <https://www.hindustantimes.com/india-news/hijab-case-petitioners-will-be-cut-into-pieces-abvp-leader-101645899320270.html>, last accessed on January 6, 2023



Members of the Sangh Parivar also filed complaints against teachers permitting students to wear of the hijab<sup>106</sup> and put pressure on college administration to prevent their entry. The PUCL-K team found that the ABVP and other Hindutva organisations also had a strong political influence on the college administration, especially in Mangalore.

In a law college, students told the PUCL-K team that after the judgement, the ABVP applied a lot of pressure on the college management to restrict the hijab. “When we approached the principal, he said that he was feeling very helpless because of such pressure from students.”

A student in Dakshina Kannada said that WhatsApp groups of different classes started receiving messages from members and supporters of ABVP urging students to bring saffron shawls to college. “Upon realising that there was a Muslim student in the group, they deleted the messages. But many of us had taken screenshots of them”, she said.



*Image 3 - Screenshots shared by a Muslim student of a WhatsApp group in which messages were circulated to ask students to bring saffron shawls and assemble*

Another student in Mangalore said that students identifying with the ABVP harassed them both on and off campus. She said, “Our photos were taken without consent and we were threatened by these boys. Sometimes they would talk very aggressively with us in the corridors of our college, and other times, outside the college gate.”

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<sup>106</sup>10th exams in Karnataka: Absentee number rises to 22000; 7 teachers suspended for allowing hijab (30 March 2022) Indian Express, <https://indianexpress.com/article/cities/bangalore/karnataka-10th-exam-absentees-hijab-row-teachers-suspension-7844963>, last accessed on January 5, 2023.



“We were very scared because many of these boys started picking fights with us even if we were just standing in the college premises. We even wrote a plea to the principal requesting him to intervene, but he refused to even accept our plea.”

Another student shared that after they were denied entry in to classes, they were also restricted from standing outside the classes to listen to the lectures. “So many of us started using the library and the corridors nearby. This is when Pranam N Shetty, State Committee Member of ABVP, who was known for his involvement in protests across Mangalore, clicked photos of us without our consent. After that the principal restricted our access to the library and did not allow any student to enter. Then all Muslim girls were given five minutes to leave the campus.”

Another student said that “Some of our Hindu friends told us that they were willing to help us with class notes and other support, but only in secret. They said that even if they are near us, they would be threatened. Everyone was scared”.

In contrast, in northern Karnataka, the students shared that the violence appeared to be very sudden in their part of the State. Students in Raichur reported that while they were aware of the Sangh Parivar’s activities, especially in coastal Karnataka, this was the first time they had seen it first hand in their own district. For example, after the interim order, the Sri Ram Sene organized an event where they called for ‘Love Kesar’ as a response to the ‘Love Jihad’.<sup>107</sup> The event had members raise swords and engage in all forms of hate speech and included the brandishing of weapons. The event also had the support of politicians from all the major political parties. This was unprecedented in their region.

With respect to Shimoga, the PUCL-K team was told by civil society activists that, “Since 2018, the ABVP has grown massively on college campuses. Members of the ABVP have often used the saffron shawls as a cultural symbol of the community in staging various social and political events. They also organised students, set up WhatsApp groups, actively recruited students into their organisation by offering them positions and set up different events to gain wider public support.”

While the ABVP and allied organisations do have the right to speech, associate and organise, they do not have the right to speech that promotes ‘hostility, discrimination or

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<sup>107</sup> Karnataka Sri Ram Sene calls for ‘love kesari’ to counter ‘love jihad’ (11 Apr 2022) News Nine, <https://www.news9live.com/state/karnataka/karnataka-sri-ram-sene-calls-for-love-kesari-to-counter-love-jihad-164133>, last accessed on January 6, 2023.

violence' against 'individuals and communities belonging to ethnic, national or religious groups'.<sup>108</sup>

The wages of hate were embodied most cruelly in the way events cascaded in Shimoga post the interim order. The hijab issue found a flash point in Shimoga with the killing of Harsha Jingade, a member of the Bajrang Dal on February 20, 2022. The murder in turn led to the breakdown of law and order, moving beyond the issue of discrimination and ostracism to the targeting of the entire minority community through acts of vandalism and arson. Though the ten accused were arrested within the same week, the motivation behind the murder is still unclear. Harsha had a history of criminal involvement, having been arrested many times before in multiple criminal cases. One theory was that the case appeared to revolve around a feud in a local criminal gang which had both Muslims and Hindus.<sup>109</sup> The NIA is now in charge of the investigation. Regardless of the truth of who was behind the killing there has been a state-wide campaign by Hindutva groups who claimed that this murder was a part of a campaign by Muslims against Hindus.

Harsha's murder was followed by the Hindu right's to nation-wide campaign against the hijab when they claiming that one of their own was killed in defending the restriction.<sup>110</sup> The timing of the murder allowed the Sangh Parivar to turn Harsha into a Hindutva icon and launch a social media campaign using the trope of martyrdom in order to spread hate.

Just before his murder, Harsha allegedly put up a post on Facebook regarding his support of the hijab order. Almost immediately, the murder was portrayed as a revenge action by Muslims against Harsha for putting up his post in favour of the hijab restriction. Even the

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<sup>108</sup> Rabat Plan of Action, <https://www.ohchr.org/en/documents/outcome-documents/rabat-plan-action>, last accessed on January 30, 2023

(The ground reality of how hate speech laws are utilized was recognized in the Rabat Plan of Action: 'At the same time members of minorities are de facto persecuted, with a chilling effect on others, through the abuse of vague domestic legislation, jurisprudence and policies. This dichotomy of (1) non-prosecution of "real" incitement cases and (2) persecution of minorities under the guise of domestic incitement laws seems to be pervasive. Anti-incitement laws in countries worldwide can be qualified as heterogeneous, at times excessively narrow or vague. Jurisprudence on incitement to hatred has been scarce and ad hoc, and while several States have adopted related policies, most of them are too general, not systematically followed up, lacking focus and deprived of proper impact assessments.')

<sup>109</sup> Karnataka: Police suspect past criminal record may hold key to murder of Bajrang Dal worker in Shivamogga (22 Feb 2022), Indian Express, <https://indianexpress.com/article/cities/bangalore/karnataka-bajrang-dal-worker-murder-criminal-records-7783940/>, last accessed on January 5, 2023

Karnataka Bajrang Dal activist murder: Probe points to local gang rivalries. (27 Feb 2022), Indian Express, <https://indianexpress.com/article/cities/bangalore/karnataka-bajrang-dal-activist-murder-probe-7791912/>, last accessed on January 5, 2023

<sup>110</sup> Justice For Harsha! Trends On Twitter After Bajrang Dal Activist Murdered In Karnataka's Shivamogga (21 Feb 2022) The Logical Indian, <https://thelogicalindian.com/trending/bajrang-dal-activist-murder-shivamogga-34060>, last accessed on January 30, 2023

police emphasised that his death had nothing to do with the hijab restriction and district administration extended prohibitory orders (CrPC 144) until February 28, 2022.<sup>111</sup> Despite this emphasis, the campaign continued; images of Harsha's dead body were quickly and widely circulated on social media, and were extremely gruesome. MLA Eshwarappa made speeches to communalize the murder.<sup>112</sup> Nearly 5000 people in the Shimoga district rioted in areas resided by Muslims, shouting slogans calling for revenge, vandalising, looting shops and burning vehicles.<sup>113</sup>

Civil society activists shared with us in detail the response to the alleged murder and the participation of BJP leaders, "In violation of the law, several senior BJP leaders led a procession of hundreds. The procession went through Muslim majority areas and a wave of violence against local Muslims followed, including arson and other forms of property damage. Notably Eshwarappa, and other BJP leaders, took part in the procession, despite the prohibitory orders."

A lawyer who was involved in providing legal support to members of the Muslim community shared the situation of hopelessness in which the Muslim community found itself after this one-sided attack on the community, with the police watching silently. As he explained, "Despite facing loss of property and threats of violence, the Muslim community did not have any recourse. Many of them were poor local business owners. They could not afford to devote the time and money in pursuing cases against the aggressors. Many also feared that there would be counter-cases placed against them if they decided to pursue the matter." Additionally, the team was not able to find any case of police actively trying to get justice for the Muslim victims of the riots.

It's ironic that the same police which projected the peaceful protests by Muslim students as a law and order concern, completely failed to contain the violence that erupted in Harsha's funeral procession. The police also completely failed the Muslim community in the quest for justice or reparation.

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<sup>111</sup> Karnataka: Bajrang Dal worker killed in communal hotspot of Shivamogga; 2 arrested (22 Feb 2022) Indian Express, <https://indianexpress.com/article/cities/bangalore/bajrang-dal-activist-stabbed-to-death-in-karnatakas-shivamogga-prohibitory-orders-clamped-7783213/>, last accessed on January 7, 2023

<sup>112</sup> Karnataka BJP Minister Eshwarappa booked for hate speech against Muslims (8 April 2022) The News Minute, <https://www.thenewsminute.com/article/karnataka-bjp-minister-eshwarappa-booked-hate-speech-against-muslims-162718>, last accessed on January 5, 2023.

<sup>113</sup> 'Police Complicit': Shivamogga Muslims Recount Carnage After Bajrang Dal Man's Murder (24 Feb 2022) The Wire, <https://thewire.in/communalism/shivamogga-muslim-violence-bajrang-dal>, last accessed on January 7, 2023

### 5.3. Social Media as an amplifier of hateful language

Conversations with Muslim students made it clear that social media platforms helped Hindutva groups amplify hatred against Muslim students. In all five districts, students reported that hate campaigns were popular and effective on social media, in spreading lies about Muslims, issue provocative statements about the threat to Hinduism, and call for staging protests wearing saffron shawls.

Saffron shawls had become a symbol of protest, as the Hindu students' counter-claim against the Muslim women's right to wear the hijab in class. An intense social media campaign was launched focussing on uniting Hindus against Muslims, and was accompanied by hateful and false information about the entire Muslim community. The team found hundreds of profiles that took to Twitter, Instagram, and WhatsApp to share viral images conveying hateful messages, such as comparing hijab-clad students to terrorists, portraying them as prey to be vanquished and devoured by the brave lions which are represented by Hindu students' rallies filled with saffron scarves.<sup>114</sup>



<sup>114</sup> [https://twitter.com/hindu\\_kanya/status/1491034220122177543?s=20&t=w6Gic5hAJl6oX-8xFaMzUwQ](https://twitter.com/hindu_kanya/status/1491034220122177543?s=20&t=w6Gic5hAJl6oX-8xFaMzUwQ), last accessed on January 7, 2023.

Shubham Pandey @Subh\_Shubham95 · Feb 9  
 #Islam is empowering women through Hijab & Burqa in India since centuries.  
 #HijabRow  
 #JaiShriRam

GIRL STUDENTS BEFORE ISLAM

GIRL STUDENTS AFTER ISLAM

"Not just these 6 girls, we'll cut 60,000 in hijab into pieces," an ABVP member calls for #Genocide against #Muslims in Karnataka's Vijayapura. "Muslims killed the Bajrang Dal member, isn't it? That's what I was referring to," Pooja told News9, defending her remark. #hatespeech

0:46 2,852 Views

7:46 PM · Feb 26, 2022 · Twitter Web App

Anjia TV @AnjiaTVnews  
 The Power Of Hindu Unity 🙌  
 If Hijab Is Your Choice Then Saffron Is Our Birth Right!  
 Jai Shree Ram 🙌  
 #KarnatakaHijabRow  
 #HijabBan

2:09 1,169 Views

6:37 AM · Feb 10, 2022 · Twitter for Android

Anjia TV @AnjiaTVnews  
 The Power Of Hindu Unity 🙌  
 If Hijab Is Your Choice Then Saffron Is Our Birth Right!  
 Jai Shree Ram 🙌  
 #KarnatakaHijabRow  
 #HijabBan

0:21 / 2:20

6:37 AM · Feb 10, 2022 · Twitter for Android

Himanahu Dixit @Himanah76260782  
 Updated version of hijab #JaiShriRam

Vikash Sharma @VikasK26502241  
 On the T.V screen vs Real life #JaiShriRam

9:14 PM · Feb 8, 2022 · Twitter for Android

If Hijabis their Fundamental Rights  
 then Bhagwais ours

HINDU ... ABHISEK, P @hindu\_ava\_108 · Feb 8  
 Updated Version of Hijab ...  
 #JaiShriRam #Hinduism

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On various social media platforms, videos demeaning women wearing hijabs were widely circulated.<sup>115</sup> Videos and pictures of images of women in hijabs were superimposed on images of animals and pornographic visuals. There were pictures of Muslim women armed with stones and guns committing acts of violence and other images of women in hijab being chased by Hindu mobs.

The narrative suggesting that saffron shawls are to be equated with the hijab as an effective counter to the latter was widely spread through such videos and viral content. This narrative built the base for either both (saffron shawls and hijabs) being banned, or both being permitted.

Muslim women students interviewed by PUCL-K recounted the shock at the speed at which students owing allegiance to the Bajrang Dal, ABVP or other groups, from their own colleges shared these images. A report by The News Minute presents how groups like Hindu Jagarana Vedike and Sri Ram Sene organised protests against the hijab to pressure authorities to enforce a hijab ban.<sup>116</sup> Another report details testimonies from various students, and reveals how groups mobilised them for protests with saffron shawls.<sup>117</sup>

Many students added that they were overwhelmed by the barrage of lewd behaviour and sexual harassment that they faced from anonymous men in the form of text messages. One girl described how four different men sent her voice messages and texts asking her to meet them. Some messages she recalled were, “I want you, even though you are Muslim, and I am Hindu” and “You do not need to be scared of your family.” She said that even though she refused to meet them, she was scared and hurriedly kept deleting these messages. Some girls said that they tried reporting this to the police, but did not succeed.

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<sup>115</sup> <https://twitter.com/Vinod4Ind/status/1491057973338148876?s=20&t=w6Gic5hAJ6oX-8xFaMzUwQ>,  
[https://twitter.com/AM719\\_RajA/status/1491031224818700289?s=20&t=w6Gic5hAJ6oX-8xFaMzUwQ](https://twitter.com/AM719_RajA/status/1491031224818700289?s=20&t=w6Gic5hAJ6oX-8xFaMzUwQ),  
[https://twitter.com/Rajiv\\_Singh/status/1491043248353124368?s=20&t=w6Gic5hAJ6oX-8xFaMzUwQ](https://twitter.com/Rajiv_Singh/status/1491043248353124368?s=20&t=w6Gic5hAJ6oX-8xFaMzUwQ)

<sup>116</sup> How the Karnataka anti-hijab protests were part of a calculated plot across the state (10 Feb 2022) The News Minute, <https://www.thenewsminute.com/article/how-karnataka-anti-hijab-protests-were-part-calculated-plot-across-state-160846>, last accessed on January 30, 2023

<sup>117</sup> TNM Investigation: How Hindutva group mobilised saffron-clad students in Udipi (9 Feb 2022) The News Minute, <https://www.thenewsminute.com/article/tnm-investigation-how-hindutva-group-mobilised-saffron-scarf-student-udupi-college-160810>, last accessed on January 30, 2023



Social media platforms effectively served as a second public space for the humiliation of Muslim women even when they were in their own homes. In Hassan, one of the students recounted a situation where a local media channel videotaped her being humiliated by a college lecturer. The video (screenshot of which can be seen here) was uploaded as a news item and was circulated on WhatsApp. She said, “On my first day of the new year in my college, a camera person climbed over the bamboo boundary of the college, came to me and asked me, ‘Why are you here? Where is your ID card?’ That day I got so scared that I came back home immediately. The video<sup>118</sup> went viral and all my friends saw it.”



While media channels openly violated all norms and ethics while covering stories of Muslim students and also broadcasted videos of hate speech, such videos were amplified on all social media platforms. The Muslim students shared with the PUCL-K team how these videos were used by students to threaten them, which added to the distress the girls were facing when they were being denied entry into their own colleges.

Speeches by prominent Hindutva ideologues were an important adjunct to the social media campaign organised by the Hindu Right. A good example of this trend is the platform given to speeches of Chaitra Kundapura.<sup>119</sup> A former television anchor, and public speaker for the Bajrang Dal, Kundapura gave many speeches, warning Hindus of ‘Love Jihad’.

Many of Chaitra’s speeches emphasised the need for spreading ‘Hindu’ culture and restricting the spread of ‘Muslim’ culture. In some speeches, she insisted that the violence and rowdiness of the Bajrang Dal was the main reason that Hindu culture is safe.<sup>120</sup> Clips of these videos went viral on social media in February, March, April and May of 2022.

<sup>118</sup> ಹಿಜಾಬ್, ಬರ್ಕಾ ಧರಿಸಿಬಂದ ವಿದ್ಯಾರ್ಥಿನಿಗೆ ಉಪನ್ಯಾಸಕರಿಂದ ತರಾಟೆ-ಹಾಸನದ ಸರ್ಕಾರಿ ವಿಜ್ಞಾನ ಕಾಲೇಜಿನಲ್ಲಿ ಘಟನೆ, (7 Feb 2022) Yashtel TV, <https://www.youtube.com/watch?v=Asl2-EOG4Vg>, last accessed on January 5, 2023

<sup>119</sup> Chaitra Kundapura mobilises youth with anti-minority talks in Dakshina Kannada (4 Mar 2022) News Nine, <https://www.news9live.com/state/karnataka/karnataka-hate-speech-chaitra-kundapura-mobilises-youth-with-anti-minority-talks-in-communal-hotbed-157024>, last accessed at on January 5, 2023.

<sup>120</sup> Hindutva Status (1 March 2022), *chaitrakundapurwhatsapp status*, <https://www.youtube.com/watch?v=Bw8voNxWVss>, last accessed on January 5, 2023. Hindutva Status (5 March 2022), *chaitrakundapur*, <https://www.youtube.com/watch?v=4OhLDoAnvrY>, last accessed on January 5, 2023

Social media, during the hijab controversy, played an invidious role in spreading messages which ostracised, humiliated and dehumanised Muslim women students. As our testimonies revealed, the online sphere functioned as an additional space in which Muslim women were made to experience both humiliation and fear. The online spilled over into the offline space with messages of humiliation and degradation affecting Muslim women in real time.

## 5.4. The underlying objective of Hindutva organisations

The anti- hijab campaign is couched in a language suggesting the requirement of an enlightened uniformity or nationality which is opposed by a patriarchal and insular community, such as the Muslim community. The purpose of targeting the hijab is not only to harass and humiliate Muslim girls but to produce a cultural homogeneity under the sign of Hindutva. In reality, it is part of a wider campaign to erase any trace of Muslim identity from public life.

The anti-hijab campaign has to be seen as part of a wider series of campaigns by Hindutva organisations. It is part of a long-standing campaign in different parts of the state to make the Muslim community vulnerable on multiple fronts, economic, social, political, and administrative. Simultaneously, the campaign aims to imbue the common sense of people with Hindutva assumptions. At the very core of these campaigns, is a consistent assault of dignity and formal equality which attacks Muslim girls rights to be equal citizens of India. It greatly hampers their ability to participate in a democracy making them feel unsafe and experience humiliation in public spaces. The forms of hate purveyed by the anti-hijab campaign has potentially very dangerous consequences which are gestured to by the Supreme Court in *Pravasi Bhalai Sangathan vs Union of India*<sup>121</sup> where it was held that:

Hate speech is an effort to marginalise individuals based on their membership in a group. Using expression that exposes the group to hatred, hate speech seeks to delegitimise group members in the eyes of the majority, reducing their social standing and acceptance within society. Hate speech, therefore, rises beyond causing distress to individual group members. It can have a societal impact. Hate speech lays the groundwork for later, broad attacks on the vulnerable that can range from discrimination, to ostracism, segregation, deportation, violence and, in the most extreme cases, to genocide. (emphasis supplied)

The point of deep concern about the anti-hijab campaign is that if the dehumanizing language as well as hate-filled content of the campaign is not substantively countered with the values of the Constitution, it will make the Muslim community even more vulnerable to ostracism, segregation, and, in the most extreme case, to genocide.

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<sup>121</sup> AIR 2014 SC 1591 - <https://indiankanoon.org/doc/194770087/>



## 6. Weaponising the Camera: Vigilante Action of the Kannada TV Media

Indian language news media performs the role of agenda-setting within the specific linguistic-political spheres that it operates in. The specific and directed nature of Indian language media in fact allows for greater effectiveness because news content and modes of delivery can draw on familiarity of anchors, idiomatic expressions, and latent social prejudice of the region to frame and convey its messaging.

In Karnataka, the reach of Kannada TV media extends over a primarily Kannada-speaking audience. Politicians in the state are also especially sensitive to news media coverage in these TV channels. The state responding to criticism by news media has been typically held to be a sign of a healthy democracy. But when TV news channels transgress fundamental rights and sensationalise and abandon objectivity in their coverage, every prejudiced news item results in one more irreparable tear in our social fabric.

In the case of the hijab controversy in Karnataka, a study of Kannada TV news media coverage in terms of its content and practices demonstrates the extent to which they wield the power to influence public perception and state action.

### **Structural Determinants of what makes it to Kannada news**

Editorial decisions regarding what is deemed news-worthy, how an issue is covered and whose voices are visibilised or invisibilised, are determined by who owns the media, to a large extent.

Campaign Against Hate Speech (a collective working on demanding accountability from the media) which studied the patterns of ownership of Kannada media in their report, *The Wages of Hate – Journalism in Dark Times*, found that:

Media houses are primarily owned by businessmen, politicians and journalists. While there has been a strong presence of all the three major political parties in the past, we found that recently ownership patterns have begun to shift towards people who have been close to the BJP-led National Democratic Alliance (NDA) in some form or the other.<sup>122</sup>

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<sup>122</sup> *Wages of Hate: Journalism in Dark Times*, Chapter II Hate Speech and Kannada Media (Media Ownership), Page 36

The report also found that there was an ‘overwhelming consensus that upper-caste hegemony in the contemporary newsroom is a major factor in the production of hate speech.’<sup>123</sup>

Today, the TV media industry heavily relies upon advertisements both from private entities and the State for their revenue. But the acquiring of advertisements and the quantum of advertisements available to a channel are dependent on their viewership. This viewership is periodically measured with ‘Television Rating Points’ and released by the BARC.<sup>124</sup>

As a result, a virtuous cycle of advertisers and viewers is created that drives the television industry. In effect, advertisers have become one of the most significant forces as a buyer in the industry that affects the industry mechanism as well as the content broadcasted.<sup>125</sup> Given the exorbitant costs of running a news channel, a sustainable revenue model to run an independent media channel free of these strings appears to be an impossibility.

The PUCL-K team saw these pushes and pulls in action while speaking with local level journalists. They found that there were many systemic pressures to push news presentation towards inflaming communal sentiments. Both television and print media journalists explained to the team that their news outlets had to compete with state and national news outlets for advertisements. The issue of funding impacted local level media houses as they are reliant on the local business community for revenue. Journalists also shared that ‘the Sangh Parivar has made substantive inroads in organizing the Hindu business class on the local level.’

They also pointed to a growing suspicion of the local media. This has made challenges to the dominant narrative difficult. There is also pressure to show the perspectives of the right, their manufactured hatred, resulting in the outlets giving uncontested space to them. In cases where the news outlet keeps a dedicatedly anti-communal position, right-wing politicians refuse to speak with the news outlet. When a news outlet is unable to speak with the right-wing, they are portrayed as biased. Journalists said that the public has become suspicious of any kind of critical news analysis. This has affected how reporters interface with the public.

These structural complexities in action are crucial to understand the stance taken by news channels when it comes to reporting on issues concerning minority practices and religions.

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<sup>123</sup> Ibid, p.43

<sup>124</sup> The TRP Scam has raised serious questions about methodology used by the BARC as well as its independence (10 Nov 2020) NewsLaundry, <https://www.newslaundry.com/2020/11/10/trp-scam-bars-tv-audience-measurement-system-is-rotten>, last accessed on January 5, 2023

<sup>125</sup> Raising the curtain: Media industry and the changing landscape (27 Jun 2022) Economic Times, [https://economictimes.indiatimes.com/industry/media/entertainment/media/raising-the-curtain-media-industry-and-the-changing-landscape/articleshow/92499946.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppsst](https://economictimes.indiatimes.com/industry/media/entertainment/media/raising-the-curtain-media-industry-and-the-changing-landscape/articleshow/92499946.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppsst), last accessed on January 5, 2023

The perpetuation of Islamophobia, creating and spreading the narrative that Hindus were in danger, and infantilizing young women's choices during the course of the hijab controversy reflect the dangers of media ownership by politicians and corporations that seek favour from the government of the day.

In the following section, we detail the patterns of Kannada news coverage that we witnessed, encapsulate the role played by them in shaping public discourse on the hijab and the ways in which the media adversely affected the fundamental rights of the hijab-wearing students. We end with detailing the various violations of the law by the media.

## 6.1. How Kannada TV media acted

The role of Kannada TV media during the hijab controversy (up until the interim order) has been three-fold:

1. Fuelling widespread anti-hijab sentiment;
2. Framing the issue as hijab vs sindhoor (and implicitly anti-Hindu);
3. Undertaking vigilante action that either coerced school, college and state authorities into forcing students to remove their hijab or directly forcing the students to remove their hijab.

### 6.1.1. Fuelling widespread anti-hijab sentiment

Kannada TV news media was at the forefront of escalating the issue into a state-wide problem. Muslim students' statements on their right to education and to wear the hijab were framed as problematic in the following ways:

1. Wearing the hijab would violate the need for uniformity in classrooms.
2. This 'demand' to wear the hijab was a demand for 'special' concessions—a concession other students were not seeking—and to be accorded 'special' treatment.
3. This concession or special treatment was being sought on the basis of their religious needs. Because classrooms are where everyone is to be treated equally, this concession was an excessive demand.

Sample this discussion, for instance, on Public TV. The anchor refers to the right to equality enshrined in the Indian Constitution to ask how these students can ask for special treatment. "Today they will ask for one thing. Tomorrow, they will ask for another... Why do you *have* to wear the hijab? If you really want to learn, do you need the hijab?"<sup>126</sup> Uniformity here becomes coterminous with equality.

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<sup>126</sup> <https://www.youtube.com/watch?v=aih8wZxck-c>, see from 11.12 minutes, last accessed on January 5, 2023

In another instance, a BJP MLC is allowed to state—without objection from the anchor—that if we allowed them to wear the hijab, they will ask us to allow them to do the namaz five times a day and to go to mosques on Fridays.<sup>127</sup> It is worth noting that the visuals of this show pit the hijab-clad girls against the saffron-clad students.



Image 4 - Screenshot of visuals displayed by News 18 Kannada clearly pitting Hijab wearing students against Saffron Shawl students, and framing the issue as “Hijab vs Saffron Shawl”.



Image 5 - Screenshot of graphics displayed by News 18 Kannada pitting Hijab wearing students against Saffron Shawl students and presenting it as “A Dharam Sankata”

<sup>127</sup> <https://youtu.be/VPgy8P-YvHs>, last accessed on January 5, 2023

## Absence of context

In framing Muslim students' articulations around the hijab as seeking special and irrational treatment, Kannada TV media failed to provide the relevant socio-historical context. That many Muslim students have been wearing the hijab and attending private and government educational institutions for decades in the state was barely ever mentioned in most news coverage. In the absence of such crucial context, the hijab-wearing student was rendered as an exceptional case and thrust cruelly into unwanted limelight. In this limelight, hijab-wearing students were framed as law breakers or those who did not care for the 'rule of law'.<sup>128</sup> The crucial context of this restriction being sudden and arbitrary in the middle of an academic year went unreported as a fact.

Take one instance. Public TV claimed that after its channel aired footage of hijab-wearing students in an Urdu school in Jewargi, Gulbarga, school authorities had counselled students to remove the hijab. "Everyone had come wearing the hijab, everyone. After Public TV's impact, teachers have come and got the hijab removed." The channel claimed that in Gulbarga, they had not 'cared at all' about the government's order, the interim order of the high court, the DC's order and the channel had aired these details. The on-ground reporter repeatedly held the school teachers responsible for not counselling the students to remove the hijab. Only when one of the teachers said that these are Muslim girls travelling in public transport from various villages around Jewargi and reaching school much before the scheduled start of school did the reporter stop his aggressive line of questioning. Meanwhile the camera kept capturing visuals of students without the hijab and did not stop even when the question papers were being handed out for examination. It even zoomed into one question paper. The gestures of the hijab-wearing teacher who kept covering her hair instinctively and then removing it when on screen inadvertently showed the extreme discomfort that Muslim women were subject to by a vigilante Kannada media.

Another aspect to note in this instance is that many channels had lined up outside this Urdu school, where it can be reasonably assumed that Muslim girl students from low-income families form a large proportion. Was the media waiting to create a sensational issue is a question that can be rightfully asked.

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<sup>128</sup> See for example: <https://www.youtube.com/watch?v=4N6ZGp9UaBc&list=RDCMUCL-OodciBGZ0k8K8rBZGe4w&index=2>, last accessed on 03.01.2023

ಪಬ್ಲಿಕ್ ಟಿವಿ ವರದಿ ಬಳಿಕ ಎಚ್ಚೆತ್ತು ವಿದ್ಯಾರ್ಥಿಗಳು ಧರಿಸಿದ್ದ ಹಿಜಬ್ ತೆಗೆಸಿದ ಶಿಕ್ಷಕರು | Public TV



Image 6 - Screensbot of Public TV disrupting class and violating the privacy of minor girls.

Yet another context that was barely emphasised was that it was the mobilisation of Hindu students wearing saffron shawls that triggered a state-wide escalation of the issue. Absence of this context allowed Kannada TV channels to present the issue initially as *hijab vs kesari* shawls while eliding the much longer history of Muslim girls wearing hijab as part of their uniform in schools and colleges across the state.

By deliberately ignoring the socio-historical context of the practice of wearing hijab as well as the political context of this controversy, Kannada TV news media succeeded in manufacturing the narrative that the practice of wearing the hijab was new, and that Muslim students were threatening an otherwise secular classroom.

## Painting Muslims as conservative

In yet another report on Public TV, the anchor offers unsubstantiated, derogatory and provocative commentaries even as footage of students wearing the hijab in classrooms was being repeatedly flashed. He says, "In Hubli, apparently some students wrote on their masks, 'Our time will also come.' Who are provoking these people to do these things? This is not something that will come to children on their own. They have been told to do this. What time will come? ...You should change with the changing times. Your community's men have deprived you of education. Only recently, more of you are getting educated. Compared to other religions, education levels are poorer among Muslims. Even then, if

you say you are going to continue like this, what should I say?”<sup>129</sup> Such loaded and partisan coverage regarding the issue repeatedly drives home the point that insisting on the hijab only implies that Muslims are choosing to stand apart as conservative, not modern, and are resisting assimilation into the ‘mainstream’.

In fact, the media also echoed statements by BJP MLAs and other leaders of Hindutva groups (these statements were also given ample coverage in the media), who claimed that the hijab ban will rescue Muslim women from their conservative and backward community. Such biased coverage played a major role in building public opinion in support of the ‘ban’.

## **Stark absence of empathy**

What was completely absent during the coverage was compassion towards children and young adults who were thrust onto TV screens and chased by reporters. Muslim students standing up for their right to education were reduced to being only adherents of one faith.

This lack of empathy was most visible in the fact that most channels did not even debate on what the impact of a complete ban on hijab would be on the educational prospects of Muslim girls and women. It is not surprising then that the trauma and fear caused by their insensitive and intrusive coverage was not the subject of any debate on television.

As one article pointed out, media coverage had created such strong anti-hijab sentiments that even a police constable during her heated conversations with hijab-wearing students exceeded her authority and called on the media to film the students and reveal their identifying details everywhere on TV.<sup>130</sup>

## **6.1.2 Framing the issue as ‘hijab vs sindhoor’ (and implicitly anti-Hindu)**

If Kannada TV news media initially framed the hijab controversy as Muslim women choosing hijab over education, their subsequent coverage framed the issue as having taken an anti-Hindu trajectory. This came in response to Muslim students and parents pointing out that educational institutions are saturated with Hindu practices such as celebration of Hindu festivals and recital of Hindu religious poems, and that Hindu students don markers specific to their religion such as bindi, flowers in the hair, bangles etc. News channels sought these sound bytes but framed them as Muslims questioning Hindu practices. The fact that even in the sound bytes that the channels aired, Muslim students were not challenging these Hindu practices but drawing attention to the reality that classrooms or

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<sup>129</sup> <https://www.youtube.com/watch?v=pe45speMm4k&list=RDCMUCl-OodciBGZ0k8K8rBZGe4w&index=2>, last accessed on January 5, 2023

<sup>130</sup> <https://www.thenewsminute.com/article/dangerous-twists-and-turns-kannada-tv-media-coverage-hijab-row-161204>, last accessed on January 5, 2023

educational institutions are not devoid of religious practices (and wearing the hijab was thus not an errant practice) was rarely ever acknowledged.

In a seven-minute news video,<sup>131</sup> TV9 Kannada aired repeated sound bytes of hijab-wearing students raising the issue of hypocrisy, whereby Hindu students are allowed to wear bindis, bangles and celebrate Hindu festivals in educational institutions but Muslim students are not allowed to wear the hijab. The anchor begins by saying these questions are taking us in ‘another direction’. While he does not explicitly state what this direction is, the channel chose to air bytes from central and state ministers who substantiate the channel’s framing of the issue as ‘Hijab vs Sindhoor’ and as questioning the Hindu way of life.



Image 7 - Screenshot of TV9 Kannada framing the issue as “hijab vs sindhoor”

Karnataka State Education Minister B.C. Nagesh’s sound byte was aired in which he states that the government was choosing to restrict sartorial, but not ornamental choices. ‘We are not asking these students to wear flowers in their hair and come to college, even though it is this country’s tradition, are we?’ Not only did the news channel not highlight to its viewers that the minister was framing only Hindu practices as ‘Indian’ practices but it was also clear that anchors operated with the same normative assumptions.

Union Minister C.T. Ravi’s statement was aired in which he said the following:

Who are these people to question kumkuma and bangles? The question here is whether schools should have uniform...We have Naga Sadhus (unclad

<sup>131</sup> <https://www.youtube.com/watch?v=Zcf4-xhYKls>, last accessed on January 5, 2023



ascetic men) who follow their tradition. They can go be like them. But in school, there needs to be a uniform. In school you cannot say you will come like a Nagu Sadhu.<sup>132</sup>

The egregious comparison between Naga Sadhus, who appear unclad in public, and the demand of hijab-wearing students received no critical comment from the channel. Later in the news programme, Sri Ram Sene's Pramod Muthalik is featured screaming angrily into the screen.

What are you saying? From now on, saraswathi puja, ganesha puja, bangles on the wrist, bindis on the forehead, it is part of this land, it is this land's tradition...How dare you speak against this?...The government should take fierce action against them.

In another instance, a BJP MLC is also seen making the same claims that Muslim practices are different from the cultural heritage of the land, which, according to her, can only mean, in effect, different Hindu festivals. She also says that at a later point in time, 'they' will say that Bharat Mata should wear a burqa, disrupting dominant imagery of her in a sari. No correction, interruption or commentary challenging this was offered by the anchor.<sup>133</sup>

In the above-mentioned video, what is of concern is not only that the channel framed the issue as one of hijab vs sindhoor but also did not call out the assumptions underlying the various leaders' comments that Hindu practices are indigenous/native practices and hence 'natural'. In another 2-minute news video aired by TV9 Kannada, Sri Ram Sene chief Pramod Muthalik is seen calling for the immediate suspension of a teacher who refused to allow a student wearing kumkum into classes since the interim order of the High Court had banned all religious insignia. Muthalik declared that the 'entire Hindu society would explode' if no action was taken against this particular teacher.<sup>134</sup> Such rabble-rousing was actively platformed without critical commentary by Kannada TV news media. A part of this rabble-rousing was the constant pitting of the sindoor as a cultural rather than a religious marker versus the hijab as only a religious marker. By presenting the sindhoor and other Hindu practices as cultural, news media and the individuals it platformed argued that to be Indian is to be Hindu.

### 6.1.3. Undertaking Vigilante Action

The interim order of the Karnataka High Court set off a wave of vigilantism, primarily led by Kannada TV media. While the scope of the interim order was limited to students in pre-university colleges, and even then, only to those colleges where the College Development

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<sup>132</sup> <https://www.youtube.com/watch?v=Zcf4-xhYKIs>, last accessed on 03.01.2023

<sup>133</sup> <https://www.youtube.com/watch?v=VPGy8P-YvHs>, see from 5 minute, last accessed on 03.01.2023

<sup>134</sup> <https://www.youtube.com/watch?app=desktop&v=5e9yh3uM3o8>, last accessed on 03.01.2023

Committees have prescribed a dress code, TV channels deemed it as a ban in effect in all schools and colleges as well as on teachers.

News reports emerged of TV channels targeting Muslim minority government schools and forcing school and college authorities to coerce their students, and in some cases even teachers, to remove their hijabs.<sup>135</sup>



Image 8 - Screenshot of Asianet Suvarna Reporter ambushing a teacher in school premises. Headlines translate to “Hijab wearing teacher has no explanations”... (for wearing the hijab)

In a report aired on 15.02.2022, an image of a teacher conducting class in a hijab was flashed. The ground reporter disrupting the class is seen ambushing the said teacher by asking her questions and later comments, “Being a teacher if you only behave like this how will the students behave?” The teacher is ambushed by the ground reporter, and is coerced to say that the hijab should not be worn inside the classroom.<sup>136</sup>

These channels filmed Muslim women removing their hijabs and burqas in parking lots, at school gates, outside the classrooms, while proudly proclaiming this to be their ‘impact’. In one particularly egregious instance, Dighvijaya TV aired a video of a young child being chased by its reporter even as the teacher implored them to let the child alone and promised that the child would remove the hijab inside the class.<sup>137</sup>

<sup>135</sup> <https://www.youtube.com/watch?app=desktop&v=JUQ-KdVIXvo>, last accessed on 03.01.2023

<sup>136</sup> <https://www.youtube.com/watch?v=JUQ-KdVIXvo>, last accessed on 03.01.2023

<sup>137</sup> This video has since been removed.

On 14 February 2022, when schools reopened after the three-day holiday declared by the Karnataka state government, Kannada TV news journalists all made a bee-line for schools to air the event. They went into classrooms,<sup>138</sup> repeatedly displayed<sup>139</sup> faces of students sitting in classrooms with their hijabs, interrogated school<sup>140</sup> and district<sup>141</sup> authorities about their supposed ‘violation’ of the interim order of the High Court and finally celebrated their ‘impact’<sup>142</sup> when students were made to sit in classrooms without the hijab or turned away for wearing the hijab.

Safety concerns and rights to privacy and dignity were repeatedly violated by media channels. For instance, in this report, Public TV repeatedly displayed faces of minor students.



Image 9 - Screenshot of Asianet Suvarna show casing minor students faces. Headlines are “Hijab wearing students in Maulana Azad School”

The ground reporter of Suvarna channel stated that the students were asked to remove the hijab citing the interim order of the High Court. He also specifically disclosed the details of the school and focused the camera on those students who are wearing the hijab. He then goes on to say, “Our cameraman is showing you the students in this school who are continuing to wear the hijab although the High Court’s interim clearly restricts any religious clothing inside classrooms.” This reporter also claimed that some students removed their hijab after seeing the camera of the news channel. He is seen disrupting classes by *first*

<sup>138</sup> <https://www.youtube.com/watch?v=iGfn1kuhI6Y>, last accessed on 03.01.2023

<sup>139</sup> <https://www.youtube.com/watch?v=kJWRJRXaFhfw&t=155s>, last accessed on 03.01.2023

<sup>140</sup> <https://www.youtube.com/watch?v=2TgndGR8xCE>, last accessed on 03.01.2023

<sup>141</sup> <https://www.youtube.com/watch?v=7rbXSQtCy4w>, last accessed on 03.01.2023

<sup>142</sup> <https://www.youtube.com/watch?v=4N6ZGp9UaBc&list=RDCMUCL-OodciBGZ0k8K8rBZGe4w>, last accessed on 03.01.2023

entering the classroom, *second* approaching students who are minor, and *third* questioning them as to why they are wearing hijabs despite being instructed by their teachers to remove their hijabs.<sup>143</sup>

## 6.2. Impact of TV media's coverage on hijab-wearing students

In one particular instance, the violent impact of media was experienced by two hijab-wearing students who were petitioners in the hijab case in the High Court and their families. Claiming to be undertaking investigative journalism, Suvarna News<sup>144</sup> aired a programme titled "Suvarna Focus".

The show begins by alleging a possible connection of the hijab issue with terrorist organisations like ISIS, and claims to reveal those responsible for inciting the Hijab controversy. The same line of news reporting continues for about 3.50 minutes and is followed by a statement by the Revenue Minister, R. Ashok, who claims that ISIS and KPD and other organisations are backing this controversy. There is no evidence to substantiate this statement of R. Ashok. The reporter then claims that they will reveal how these organisations were involved and how the entire controversy began. The show moves to the footage of a student belonging to the same class as the petitioners who approached the High Court. The field reporter is seen questioning this minor student from Government Women's College in Udupi about the entire incident without masking her face. His line of questioning leads to the names of the petitioners being revealed. The reporter travels to the place of residence of some of the petitioners who are minor students and interrogates their relatives and neighbours about their whereabouts. The footage of the statements made by the relatives and neighbours is shot on hidden cameras and the face and surroundings are also not blurred, thereby, revealing the location and identity of the petitioners and their family members. The footage also reveals the addresses of these petitioners, the names and occupations of their relatives.

Even though none of the statements of the relatives and neighbours suggests any connection to terrorist organisations such as ISIS supporting the hijab issue, these claims were continually made by the programme. The only evidence used to substantiate this claim are the statements by the Revenue Minister and the Home Minister, both of which are not backed by any credible source. Even the interview with the Principal of the Government Women's College, Udupi, again recorded secretly, did not substantiate the claims made by the channel.

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<sup>143</sup> <https://www.youtube.com/watch?v=Io9e3jiODtE&t=181s>, last accessed on 03.01.2023

<sup>144</sup> [https://hatespeechbeda.files.wordpress.com/2022/02/complaint-against-suvarna-news\\_25.2.2022.pdf](https://hatespeechbeda.files.wordpress.com/2022/02/complaint-against-suvarna-news_25.2.2022.pdf), last accessed on January 3, 2023

By publicly disclosing the names of the students and the areas they reside in, the TV channel opened the parents, relatives and students to possible physical violence from mobs. This program was broadcasted and circulated widely. Threatened for their safety, one of the petitioners was forced to file a criminal complaint against the cameraman and reporter of Suvarna news for entering their house without consent. Based on the complaint, a FIR was registered describing how they forced themselves into the premises, hounded the family members and caused psychological distress to the girl and her family. The FIR<sup>145</sup> has been registered for house trespass.

This kind of coverage resulted in a mob vandalising and attacking the place of work and relatives of one of the petitioners, Hazara. As reported in Varthabharati on 23.02.2022, this incident took place on 21.02.2022 at around 9.30pm when Hazara's father and brother were closing their hotel. A group of men on bike approached them, started questioning them and attacked her brother. Thereafter, the said group of men threw stones at the glass windows of the hotel run by her family. Hazara's brother had to be hospitalised as various injuries were inflicted on him. The same piece also suggests how revealing vital information about Hazara's family has resulted in customers no longer going to the hotel run by the family, and thereby resulting in loss of income and livelihood for the family.

In the conversations with the Muslim women students, PUCL-K found that such coverage in the media had a deep psychological impact on them. The enforcement of the sudden ban itself had caused them severe distress. On top of that, the atrocious coverage of the issue on television news left the students and the entire community feeling violated. A student shared, "The coverage of the issue disturbed me so much that I was trembling. They were saying very wrong things about my faith, and I kept going back to my family and community to confirm whether Islam is really as violent and regressive as they are making it out to be. But we were all filled with a lot of humiliation, because there was no real way for us to speak about our opinions, or even argue for our right to continue our education. Many young girls have had no choice, but to drop out."

Apart from the serious consequences on their academic lives, the actions of the media have had a direct impact on the mental health, self-confidence and the dignity of young Muslim women students.

### 6.3. Role of media: What it was versus what it ought to be

Was it the responsibility of the media to demand that schools, colleges and state authorities ask their students to remove the hijab, even in institutions where it was permissible? How does one view the media undertaking vigilante action? How were channels allowed to air such coverage, unimpeded? Are there no laws, regulations, prescriptions on how the media

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<sup>145</sup> Crime No:0020/2022, Malpe Police Station

should especially cover minor girls? What are the checks and balances in place to ensure ethical coverage?

In the following section, we will answer these questions by measuring the coverage detailed above against

- a. principles of news coverage
- b. the role of media as per its own standards
- c. specific guidelines for covering minor children

Each television channel has a choice (now a mandate after the Cable Television Network Amendment of 2021) to become a voluntary member of a self-regulatory mechanism. In the interest of protecting press freedom from State repression, the self-governance model centers the news industry as responsible for both setting standards and ensuring maintenance of these standards of coverage.

To this end, self-governance mechanisms lay down their own principles of regulations. While these principles vary among different self-regulatory bodies in their framing, they are largely in alignment with each other in their intent and purpose. All channels, irrespective of their membership in a self-regulatory mechanism, are governed and bound by the Cable Television Networks Act, 1995.

The News Broadcasting Code of Ethics and Broadcasting Standards<sup>146</sup> unequivocally states that the duty of the media is to keep the citizenry informed of the state of governance. It recognizes how the electronic media must conform to the highest standards of rectitude and journalistic ethics to discharge its solemn constitutional duty. The fundamental purpose of dissemination of news in a democracy is to educate and inform the people of the events taking place in society, so that the people of the country understand significant events and form their own conclusions.<sup>147</sup> It is critical to note that Asianet Suvarna 24\*7, News 18 Kannada, Public TV are voluntary members of this association and thus bound to these standards.

Both the Cable Television Network Act and the News Broadcasting Code of Ethics and Broadcasting Standards prescribe objectivity and neutrality as key standards to be met for news coverage.

However, as we have detailed, the role played by Kannada TV media in the weeks of coverage detailed above is in marked deviation from that of informing the citizenry of the state of governance.

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<sup>146</sup> Code of Ethics Broadcasting Standards, News Broadcasting And Digital Association [https://www.nbdanewdelhi.com/assets/uploads/pdf/1\\_CODE\\_OF\\_ETHICS\\_BROADCASTING\\_STANDARDS\\_1\\_4\\_081.pdf](https://www.nbdanewdelhi.com/assets/uploads/pdf/1_CODE_OF_ETHICS_BROADCASTING_STANDARDS_1_4_081.pdf), last accessed on January 30, 2023

<sup>147</sup> Ibid, p.1

We observe how during the hijab controversy, this role was to sensationalise the issue at hand, platform provocative statements by Hindu Right leaders, and vilify the Muslim community.

Two patterns in coverage are important to note here:

- The portrayal of Muslims as a patriarchal and conservative community seeking ‘special treatment’, rejecting the principle of uniformity and in effect assimilation in society;
- Framing the issue as hijab vs sindhoor, and Muslim students pointing to the prevalence of Hindu practices in educational institutions as being anti-Hindu.

In framing the issue at the outset in this fashion, Kannada TV channels abandoned principles of objectivity and neutrality.

By platforming intolerant views without context or comment, they did not distinguish for their viewers opinions from facts. Their heavy-handed framing of the issue left no room for the news viewers/news consuming publics to formulate their own opinions. The fundamental principle of journalistic standards prescribed by the NBDA states: ‘Professional electronic journalists should accept and understand that they operate as trustees of the public.... Therefore, make it their mission to seek the truth and report it fairly with integrity and independence.’<sup>148</sup> Cognizant of the power of news channels as the ‘most potent influence on public opinion’, special responsibility is placed on the same channels to ensure that ‘they do not select news for the purpose of either promoting or hindering side of any controversial public issue.’<sup>149</sup>

Broadcasters are mandated to ‘take responsibility in ensuring that controversial subjects are fairly presented, with time being allotted to each point of view.’<sup>150</sup>

In building the narrative against the hijab and against Muslim women following this practice, Kannada news channels have blatantly violated and ignored principles of ethical coverage. This was particularly so after the pronouncement of the interim order by the Karnataka High Court.

### **6.3.1. Media’s wilful misinterpretation of the High Court Interim Order demanding a blanket ‘hijab ban’**

After the High Court of Karnataka passed the interim order, Kannada TV channels took it upon themselves to decide on their own that this was applicable to all Muslim students and teachers in schools and colleges. Throughout the coverage mentioned in the above

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<sup>148</sup> Ibid, p.2

<sup>149</sup> Ibid, p.2

<sup>150</sup> Ibid, p.3

section, reporters were seen making a false interpretation of the Interim order of the High Court, dated 11.02.2022 in WP 2347/2022 to indicate a complete ban on hijab. The reporters claimed that as per the said order, there is a ban on hijab all over the state in educational institutions when this was far from the truth.

The High Court stated that they had not decided on the legal issues of wearing hijab in schools, and ordered that:

10. In the above circumstances, we request the State Government and all other stakeholders to reopen the educational institutions and allow the students to return to the classes at the earliest. Pending consideration of all these petitions, we restrain all the students regardless of their religion or faith from wearing saffron shawls (Bhagwa), scarfs, hijab, religious flags or the like within the classroom, until further orders.

11. We make it clear that this order is confined to such of the institutions wherein the College Development Committees have prescribed the student dress code/uniform.

This explicitly states that the order is limited to institutions where College Development Committees had already prescribed a restriction on wearing hijabs with the students' dress code/uniform. The order was not a blanket ban on the practice of hijab throughout the state by any means. The court had even stressed that "Whether wearing of hijab in the classroom is a part of essential religious practice of Islam in the light of constitutional guarantees, needs a deeper examination." Despite this emphasis, the channels misrepresented the order in public domain extensively. The Kannada media effectively enforced a hijab ban in educational institutions even as the matter was being heard in the Karnataka High Court.

The impact of this wilful misrepresentation became apparent especially in the testimonies shared by the Muslim women with the team. Students in all five districts shared that they themselves had read the interim order and tried to approach their college authorities to reason with them. Since the media distorted the order, they felt compelled to read the order and demand that the college authorities see reason.

### **6.3.2. A comprehensive violation of Code of Ethics, Program and Advertisement Code**

We now know that after laying the groundwork through their wilful misrepresentation of the High Court order on 14 February 2022, when educational institutions reopened after the closure announced by the Karnataka state government ended, Kannada TV channels rushed to report on how the order was being implemented. In the name of providing



ground coverage, investigative journalism and “enforcing” the interim order of the High Court, Kannada channels have:

- A. Routinely invaded schools/colleges: The reporters with their retinue of camera persons, cameras and mics entered school premises. Camera persons have barged into classrooms and recorded the reactions of minor children without their consent. They used this coverage indiscriminately on a loop showing children’s faces. They filmed, without their consent, Muslim women - both students (minor and major) and teachers wearing the hijab/burqa without their consent. In one such instance the reporter is repeatedly claiming that the students ‘don’t care’ and are disobeying the instruction of their teachers by wearing hijabs for the exam. The visuals are those of a hijab wearing student in a classroom and a group of students on the road.<sup>151</sup>
- B. Violated the privacy and dignity of students by aggressively asking students and teachers to remove the hijab/burqa in educational institutions:  
This demand for disrobing from both teachers and students and recording the act of disrobing is seen across the channels.

In the first two days after schools reopened, at least three TV channels went to the same minority government schools in Hyderabad-Karnataka and bullied school managements into getting their students to remove the hijab. In one particularly horrible case, Dighvijaya TV aired a video of a young child being chased by its reporter even as the teacher implored them to let the child alone and promised that the child would remove the hijab inside the class.

In one such report, while stating that students awaiting to write their exams were asked to remove their hijab by the school administration, the faces of minor students were displayed. The reporter says that the students were asked to remove the hijab citing the interim order of the High Court. Further, in the video, the ground reporter is seen specifically disclosing the details of the school and focusing the camera on those students who are wearing the hijab. He explains in his report that he is focussing on such young students because they are violating the High Court’s interim order. He reported that some students removed their hijab after seeing the camera of the news channel. He is seen disrupting classes by entering the classroom and approaching minor students and questioning them as to why they are wearing hijabs even after specific instructions from their teachers to remove their hijabs.<sup>152</sup>

A day after the interim order was passed, on the 15.02.22, an image of a teacher conducting class in a hijab was flashed. The ground reporter disrupting the class

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<sup>151</sup> <https://www.youtube.com/watch?v=kJWRJRXaHhw&t=155s>, last accessed on 03.01.2023

<sup>152</sup> <https://www.youtube.com/watch?v=1o9e3jiODtE&t=181s>, last accessed on 03.01.2023

is seen harassing the said teacher by asking her questions and later remarks gratuitously: “Being a teacher if you only behave like this how will the students behave”. The said teacher is ambushed by the ground reporter, resulting in creating fear and coercing her to state that the hijab should not be worn inside the classroom.<sup>153</sup>

In another act of active disruption, a Public TV reporter disrupts a class and speaks to teachers even as examination papers are being distributed and asks the teachers how come the students are allowed to sit in the classrooms with the hijab on. He then goes on to report live and speak to the anchor from the class room.<sup>154</sup>

- C. In a majority of these news coverages, names of educational institutes and districts are disclosed. For instance, a reporter from Asianet Suvarna is disclosing the details of the school and charging that the students of the said school are disobeying the order of the High Court.<sup>155</sup> This renders the Muslims students especially vulnerable to stalking and possible mob attacks. Such coverage created an atmosphere of pervasive fear among students and their parents. This is evident in the fact that the day after the schools reopened after the pronouncement of the interim order, the media reported that students did not attend their classes, despite their exams being underway.

All these patterns in media coverage are in gross violation of fundamental rights of individuals. Airing videos without consent of Muslim women removing the hijab/burqa or wearing it, is an affront to the fundamental right to privacy under Article 21. This kind of coverage is a particularly grave assault on their right to dignity. For the media to broadcast young Muslim women removing one part of their clothing in public only indicates the level of depravity and lawlessness prevalent in its coverage. While the media’s primary allegiance must be to the Constitution, it has also failed to uphold the fundamental principles of privacy, neutrality, objectivity and impartiality as enshrined in the Code of Ethics of the News Broadcasting Digital Standards Authority.<sup>156</sup>

The principle of privacy, specifically in the case of minors, states that any broadcast that intrudes on their privacy, the channel should attempt wherever possible to seek the consent of the parent or legal guardian. To the best of our knowledge, this consent was not taken from the parents/legal guardians.

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<sup>153</sup> <https://www.youtube.com/watch?v=JUQ-KdVIXvo>, last accessed on 03.01.2023

<sup>154</sup> <https://www.youtube.com/watch?v=2TgndGR8xCE>, last accessed on 03.01.2023

<sup>155</sup> <https://www.youtube.com/watch?v=iGfn1kuhI6Y>, last accessed on 03.01.2023

<sup>156</sup> <https://naanugauri.com/journalism-absent-hate-present-the-case-of-newsless-news-media-on-kannada-tv>, last accessed on 03.01.2023

Given that this coverage is that of minor children, TV channels are bound by the guidelines for media reporting on children. These guidelines<sup>157</sup> arose out of a litigation in the Hon'ble High Court of Delhi in Writ Petition (Civil) No. 787 of 2012. They were then adopted by the News Broadcasting Authority on October 5, 2012. Given that this is a High Court order, it is applicable to all channels.

The guidelines specifically state that:

2.1 Involvement of children in news/programs/documentaries etc must evidently be editorially justified including from a child rights' perspective.

2.3 Media must ensure that due consideration is given to a child's right to privacy and to prevent the child from being exposed to anxiety, distress, trauma, social stigma, risk to life & safety and further suffering in relation to reporting/broadcasting/publication of news/programs/documentaries etc. on and for children.

2.4 Media shall ensure that a child's identity is not revealed in any manner, including, but not limited to, disclosure of personal information, photograph, school/institution/ locality and information of the family, including their residential/official address.

2.5 Media shall not sensationalize issues or stories, especially those relating to children, and should be conscious of the pernicious consequences of disclosing/highlighting information in a sensational form and the harm it may cause to children.

2.6 Interviewing a child by the media:

c) That the manner and content of the interview doesn't affect/interfere with the child's right to privacy.

d) That if the interview is in the child's best interest, the same shall be done under supervision and consent of the child's parent(s) or legal guardian, or in the alternative, the competent authorities for the child.

e) That while interviewing a child, his/her consent may be obtained, depending upon his/her age and maturity.

2.10 To protect the identity of the child media shall ensure that any visual showing the face of the child must be completely morphed in cases where privacy /anonymity is required...

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<sup>157</sup> Media guidelines for reporting on children, News Broadcasting And Digital Association, [https://www.nbdanewdelhi.com/assets/uploads/pdf/8\\_GUIDELINES\\_FOR\\_MEDIA\\_REPORTING\\_ON\\_CHILDREN\\_E\\_web.pdf](https://www.nbdanewdelhi.com/assets/uploads/pdf/8_GUIDELINES_FOR_MEDIA_REPORTING_ON_CHILDREN_E_web.pdf), last accessed on 03.01.2023

To supplement the Code of Ethics of the News Broadcasting Digital Standards authority, the specific guidelines on Covering Reportage, and on Reporting Court Proceedings of the News Broadcasters Association sufficiently provide the landscape of permissible reportage. There are clear guidelines for Reporting Court Proceedings<sup>158</sup> such as:

2. In reporting any Court proceedings, whether in a civil or criminal matter, a news channel shall not identify itself with, or project or promote, the stand of any one contesting party to the dispute.
3. Conjectures and speculation shall be avoided in news reports relating to proceedings pending in a Court, Tribunal or other judicial forum.
- 4...that no news channel shall broadcast anything: Which purports to report a journalist's or the news channel's own opinion, conjectures, reflections, comments or findings on issues that are sub judice or which tend to be judgmental in relation to the subject matter that is pending in a Court, Tribunal or other judicial forum.

Despite these guidelines, channels have presented not only one side of the dispute but have presented it as the only correct side. They, in fact, took it upon themselves in the pendency of the matter to ensure that the interim order is widely deliberately misinterpreted so as to benefit the State which was a party to this dispute. The State went against this claim of fundamental rights of the petitioners, and hence the media did not report on this claim.

What is of importance to understand here is that television channels by becoming members of the News Broadcasters Association (NBA) also agree to adhere to the principles enshrined in the Code of Ethics, Guidelines and Advisories issued by the NBA. While some channels such as TV9 Kannada are not members of this association, Asianet Suvarna 24\*7, News 18 Kannada, Public TV are members of this association. Dighvijay News, News X Kannada are members of a similar self-governance model under the News Broadcasters Federation.

Arguably, even those channels that are not part of any self-regulatory mechanism are still bound by the above-mentioned Delhi High Court order in Writ Petition (Civil) No. 787 of 2012. Crucially, they are also bound by the Program and Advertisement Code<sup>159</sup> of 1995 which mandates that:

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<sup>158</sup> Specific Guidelines for Reporting Court Proceedings, News Broadcasting And Digital Association,

[https://www.nbdanewdelhi.com/assets/uploads/pdf/14\\_SPECIFIC\\_GUIDELINES\\_FOR\\_REPORTING\\_COURT\\_PROCEEDINGS\\_15\\_9\\_10.pdf](https://www.nbdanewdelhi.com/assets/uploads/pdf/14_SPECIFIC_GUIDELINES_FOR_REPORTING_COURT_PROCEEDINGS_15_9_10.pdf), last accessed on January 8, 2023

<sup>159</sup> Program and Advertisement Code, Cable Television Network Rules, 1994, <https://mib.gov.in/sites/default/files/pac1.pdf>, last accessed on January 8, 2023

Rule- 6. Programme Code. – (1) No programme should be carried in the cable service which:-

(c) Contains attack on religions or communities or visuals or words contemptuous of religious groups or which promote communal attitudes;

(d) Contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half-truths;

(i) Criticises, maligns or slanders any individual in person or certain groups, segments of social, public and moral life of the country;

(k) Denigrates women through the depiction in any manner of the figure of a woman, her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to women, or is likely to deprave, corrupt or injure the public morality or morals;

(l) Denigrates children;

(m) Contains visuals or words which reflect a slandering, ironical and snobbish attitude in the portrayal of certain ethnic, linguistic and regional groups;

Evidently, there is no dearth of regulations, guidelines that the media ought to follow. Then why did the media undertake this format of vulture journalism? Was it that they were not aware of these regulations? Was this refusal to abide by the ethics of journalism deliberate? Were they aware of the impact their coverage would have on the fundamental rights of an entire community of Muslim girl students? Did the reporters obtain consent from higher authorities and from parents of the young girls to show the girls' faces repeatedly on television? Did the reporters have permission to record women lecturers and students removing their hijabs? The interim order of the High Court is restricted to some colleges. Why did channels send their TV channels into schools as well? Why were their reporters chasing hijab-wearing students?

In order to ask these critical questions of the channels airing grossly unethical coverages, three joint delegations led by the Campaign Against Hate Speech attempted to meet the editors of TV9 Kannada, Asianet Suvarna 24\*7 and Public TV.

Since the mechanisms of redressal within the self-regulation framework are primarily conciliatory and not adversarial in nature, it requires the first opportunity to be given to the editor to remedy the grievance of a news consumer. Keeping this in mind as the first step, editors were approached.

In two out of the three instances, the delegations were denied entry into their offices; meeting their editors was out of the question.

Public TV cited COVID protocols as a reason for denying entry. Three reporters came consecutively to meet the delegation and inform them that they could speak on behalf of the channel's coverage. When the delegation asked to meet the editors, they refused and said no one was available. The delegation then asked them to receive our letter of grievances

and provide an acknowledgement that they have received it but they refused to do that as well. They instead asked the team to send a legal notice after which they would reply to it. Similarly, the office of TV 9 Kannada also denied entry to the delegation in office. They told the delegation that it was not possible to meet the Editor and that there was no way to get an appointment with him. Eventually, a person from the Administrative Team and later, an advocate from their Legal Team came out to clarify that for any concerns, a complaint could be filed on their website. They even refused to sign an acknowledgement for the receipt of the letter of grievances, and said it was not the practice of their organisation to give acknowledgements. On insistence that the channel must formulate ways to engage with its viewers, they claimed that persons authorised to receive memorandums were not in office that day. Towards the end, they shared a phone number with the team and asked them to call by the end of the month to find out if members from the Editorial Team were available and willing to meet with the team. The group, consisting of senior journalists, social activists and lawyers, left after waiting for about an hour at their gate.

Suvarna channel after much persistence allowed an audience with the editor. The delegation had an in-depth conversation with the editor but the editor insisted that they should rethink their opinion on the controversy. The delegation was left with the empty assurance that in the instances where reporters were chasing young Muslim students, the editor would look into it. He in fact went to the extent of saying if the delegation was of the opinion that the channel was misinterpreting the Order, then the court must be approached to issue a clarification to the media. Without this, they would not change how they report the Order.

This experience of approaching news channels was extremely revealing of the lack of mechanism within TV channels to address the grievances of the news-consuming public. Their refusal to engage with people who watch their channels, and instead stating that they would respond only if it was legally incumbent upon them to do so, displays a startling lack of accountability. It raises serious questions about the channels' commitment to the principles of self-regulation and ethics envisioned in them. These grievances of unethical coverage were brought to the attention of a series of channels editors by way of both email as well as through social media campaigns. Specifically, the delegations that attempted to meet the editors of Asianet Suvarna, TV9 Kannada and Public TV submitted memorandums detailing these grievances. Through their negligent and wilfully ignorant response, one can deduce that the media's continual chasing of hijab-wearing students, portrayal the issue of wearing hijab as anti-Hindu and so on was not an aberration but a calculated and deliberate policy.

The delegation specifically brought the channels' attention to the continuing violation of the fundamental rights of dignity, education, choice and privacy by the media conducting

itself as a vigilante group. A letter to this effect was also sent to all Deputy Commissioners of Karnataka to initiate action against the untenable actions of the media.<sup>160</sup>

One of the authorities which showed a fidelity to constitutional values was the District Child Welfare Committee of Shimoga, who issued summons to representatives of several Kannada news channels for violating the rights of children and causing distress to them in their coverage of the hijab ban.<sup>161</sup> In their letter to the media, they said, “It has been observed that some of the media, while covering the controversial issue of hijab, have been interfering with the rights of the children. We have observed certain scenes aired on social websites which were recorded in a way which caused mental disturbances among the children. This is violation of Juvenile Justice Act 2015 section 75 and many channels including Suvarna News, TV9, Dighvijaya TV, Power TV, News First Live TV, Public TV and BTV have directly telecast scenes from schools in Shivamogga.”

The repeated efforts to highlight the violations of both fundamental rights and of well settled canons of journalism give no room for the channels to plead ignorance. More so, their role on the ground demanding the removal of the hijab in educational institutions across the board, restricting the entry of Muslim students and wilfully misinterpreting the High Court order, requires it to be recognized as a series of vigilante actions. Undoubtedly, this vigilante action must be seen as unlawful and as an affront to the Constitutional values.

The Kannada media must be held publicly accountable for the complete abdication of its duty to the news-consuming public, to Muslim students, and to its role as the ‘fourth estate’ in a democracy. It is necessary to place responsibility through legal mechanisms on the media for the sinister role they played in the denial of fundamental rights of the Muslim girl students and Muslim women at large that they put at risk. For the irreparable psychological fear they created among Muslims in Karnataka, and for the educational losses that individual female students have had to endure, the Kannada news channels must tender an unconditional apology.

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<sup>160</sup> Letter to Deputy Commissioners by Campaign Against Hate Speech, [http://puclkarnataka.org/wp-content/uploads/2023/01/CAHS-letter-to-DCs\\_15.3.2022.pdf](http://puclkarnataka.org/wp-content/uploads/2023/01/CAHS-letter-to-DCs_15.3.2022.pdf), last accessed on January 30, 2023

<sup>161</sup> Shivamogga: Hijab issue - CWC summons TV news representatives over alleged child rights abuse (19 Feb 2022), Daiji World) <https://www.daijiworld.com/news/newsDisplay?newsID=928216>, last accessed on January 30, 2023

## 7. The Politics of Banning the Hijab: A Discourse on Gendered Islamophobia

The experiences of assault and otherising of Muslim women students recounted above arise in a specific historic context: namely, a continuing global and domestic discourse on the hijab that has a varying socio-political significance. This section attempts to provide a panoramic view of this discourse.

By the term, ‘hijab discourse’, we refer to the assemblage of meanings, narratives, and symbols attached to the wearing of the hijab by Muslim women. Even though the hijab is largely a religious symbol, carrying the meaning of a ‘barrier, past which one cannot see’, Muslim women may choose to wear the hijab or the purdah, for a variety of reasons: a political symbol, a symbol of liberation, or just as a dress they feel comfortable in, and also as a means to confront and challenge various forms of prejudice and discrimination. In the last two decades, hijab- or purdah-wearing Muslim women have been specifically targeted at the global level for observing this practice in public spaces, as interpreted by dominant networks of the media, the state, and the public sphere, in India and elsewhere.

These attacks which are carried out solely due to an individual’s religious identity can be seen within the broader framework of ‘Islamophobia’ and Islamophobic attacks.

A commonly accepted definition of Islamophobia is as follows: ‘it is a type of racism that targets expressions of Muslimness or perceived Muslimness’ (UK All-Party Parliamentary Group (APPG)). In other words, it is ‘an outlook or world-view involving an unfounded dread and dislike of Muslims, which results in practices of exclusion and discrimination.’ (Runnymede Report, University of Sussex, 1996). This prejudice towards Muslims, Islam and Islamic beliefs gained prevalence in public discourse, especially after the 9/11 attacks in the USA, the rise of the militant ISIS, and terror attacks by Islamic extremists in Europe, and similar developments elsewhere.

However, the manifestation of Islamophobia takes different forms. In many countries, it has taken the form of physical assault, hate crimes, and wrongful prosecution. While it may extend to violence, more typically, it is represented in everyday actions, including hateful comments and behaviour, stereotyping and aggression directed against visible identity markers (hijab, skull-cap, beard). Additionally, Islamophobic culture often manifests itself in institutional discrimination, taking the form of discriminatory policies and practices, or ‘systemic violence’.<sup>162</sup>

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<sup>162</sup> Submission by Citizens Against Hate to Special Rapporteur on Freedom of Religion or Belief on his report on anti-Muslim Hatred and Discrimination to the 46<sup>th</sup> session of the Human Rights Council <https://www.ohchr.org/sites/default/files/Documents/Issues/Religion/Islamophobia-AntiMuslim/Civil%20Society%20or%20Individuals/CitizensAgainstHate.pdf>, last accessed on January 30, 2023



An important aspect of Islamophobia is gendered Islamophobia. The effect of Islamophobia is especially felt by Muslim women due to the hijab being a visible symbol of their religious faith. Studies reveal that women in hijab rather than Muslim men are the predominant target of anti-Muslim attacks, not only because they are more easily identifiable as Muslims, but because they are seen to represent a threat to the moral order that the attackers are seeking to defend.

In the context of the state, Gendered Islamophobia consists of forms of violence that it takes recourse in order to monitor, control, oppress, punish, and maim Muslim women. A community report in collaboration with a few civil rights organisations has pointed out how a negative construction of Muslim girls and women poses them as a security threat to the state on one end of the spectrum, and as inherently oppressed, on the other.<sup>163</sup> As a consequence, a number of laws have been framed in many countries regulating and restricting the hijab in public places, such as schools and governmental offices.

This negative construction of the hijab-wearing woman is extended to the behaviours and related perceptions of non-state actors as well--which contributes to further stereotyping and dehumanising narratives against Muslim girls and women. These two types of negative perceptions--state and non-state--come together to form an entire culture of impunity at the global level that sanctions myriad forms of violence against Muslim women.

In the Indian context, there is incontrovertible evidence to show that Muslim women with visible Muslim markers of any kind have always been attacked, assaulted and raped during the anti-Muslim pogroms. This pattern can be seen during the pogroms in Muzaffarnagar in 2013, Gujarat in 2002, and in North East Delhi in 2020. During the pogrom in 2020, the sexualisation and the fetishisation of Muslim women's bodies by the Hindutva groups was evident in the forms of violence that were adopted by them.

The growing dominance of the Hindutva movement in public culture, especially in the social media, has been marked by several instances of a public call for violence against Muslim women, going unchecked by any law. A recent example is an app called 'Clubhouse' where individuals have not only called for sexual violence against Muslim women, but have included graphic details of such acts. Again, since July 2021, apps such as Sulli Deals and Bulli Bai have been made by Hindutva sympathizers to 'auction' prominent and vocal Muslim women. This forms the context for the recent systematic campaign against the hijab.

Hence, Muslim women in India as else everywhere are in double jeopardy and are rendered vulnerable due to their gender and their religion. The hijab is perceived as a hyper visible symbol of religiosity and of Muslim women, who need 'saving' from their own obscurantist religion and culture. In the context of women's education, what we may call the liberal

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<sup>163</sup> Swann, M. S. B. (1985). 'Education for All: A Summary of the Swann Report on the Education of Ethnic Minority Children' Runnymede Trust

feminist view on the hijab has been tersely expressed by Fadela Amana: “The veil is the visible symbol of the subjugation of women and therefore has no place in the mixed, secular spaces of France’s public school system.”

As Sur E. has pointed out, this discourse ‘casts women as victims of male domination, brutality, and oppressive religious practices, as fragile and waiting to be rescued. Contrarily, such a typology only increases the challenges that Muslim women face in everyday life<sup>164</sup>.’ It leaves them stuck in an unenviable position where they are unable to engage with other pressures affecting their well-being. M. Sarkar observes: “The popular discourses that exist about the backwardness of Muslim women hardly consider the lack of education, opportunity, accessibility, poverty, and unemployment. Rather, they solely focus on oppression within the community, and viewing women as incapable of thinking independently.”<sup>165</sup> Even in cases where women insist on their choice to wear it, their claims are interpreted as an example of ‘false consciousness’, of how Muslim women are blind to their own oppression, that they are passive victims.

This view fails to recognize the agency of women and, in fact, reinforces the dominant attitudes of male superiority. As S. Schlikoglu points out, ‘Liberal feminist discourse has an understanding of agency that can only be recognized in the presence of resistance. What it needs to accept is the possibility of difference....In fact, the practice of the hijab is an agentive investment into one’s ethical self-formation.’<sup>166</sup>

But opinion among feminists is itself divided. Countering the dominant idea that the hijab is symbol of oppression are contemporary practices that celebrate Muslim identity and as women. In the mid-1970s, some Muslim women in Egypt began a movement called the ‘Sahwah’ (awakening) that sparked a period of heightened religiosity that began to be reflected in the hijab as a dress code, in order to both publicly announce their religious beliefs as well as a way to simultaneously reject Western influences of dress and culture. Many Muslim women also viewed the hijab garment as a positive resource, as a way to avoid harassment and unwanted sexual advances in public, and to instead allow them to enjoy equal rights of complete legal, economic, and political status. Thus, the hijab is a fluid symbol that functions simultaneously as a symbol of oppression and of pride and respect, the right to freedom of expression and the right to practise one’s religion, albeit devoid of the usual stereotypes surrounding the practice of Islamic faith.

In the Indian context, the anti-hijab discourse described above intersects with what may be called ‘a discourse of secular modernity’, a default discourse that currently dominates

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<sup>164</sup> Sur, E. (2014). Revisiting the marginal locations of Muslim women on various sites in India. *Space and Culture, India*, 1(3)

<sup>165</sup> Sarkar, M. (2008). *Visible histories, disappearing women: producing Muslim womanhood in late colonial Bengal*. Duke University Press

<sup>166</sup> Schlikoglu, S. (2018). Revisited: Muslim Women’s agency and feminist anthropology of the Middle East. *Contemporary Islam*, 12(1), 73-92

discussions of the hijab issue in mainstream media and public opinion, including among a section of women activists and the educated middle class. This form of secular discourse betrays a discomfort with the hijab garment, and is often to be found in casual and off-hand remarks such as: ‘The hijab is antiquated’; ‘Is the hijab truly a female choice or are Muslim women being coerced into wearing it?’; ‘It is a custom that is enforced on women by a patriarchal and backward society, that has retreated from progress’; ‘In modern society, you don’t find such clothing’; ‘Why would any woman cover herself with a black garment in such a hot country like India?’

This discourse speaks the language of modernity but represents Muslim women as a homogenous community across class, caste, education, and regional location. It uniformly sees Muslim women as meek victims lacking any political subjectivity.

It needs to be pointed out that the current discourse of secularism in India is increasingly moving away from the spirit of accommodation that marked secular discourse in the first five decades of independence, when the Indian State, in principle, if not in practice, supported all religions equally. This system of accommodation incorporated Western ideas of secularism in combination with Indian traditions of religious and ethnic pluralism, ensuring a certain measure of social stability, despite outbreaks of communal violence, now and then. However, at the present time, the secular discourse has passed over into the dominant discourse of a majoritarian state that claims to be secular modern, but its policies and actions promote a particular religion over others. The current discourse finds its sharpest expression in Justice Gupta’s judicial opinions in the Supreme Court judgement on the wearing of the hijab:

- ‘Secularism is applicable to all students, therefore permitting one religious community to wear their religious symbols [by inference, the hijab, but not the Sikh turban, or religious symbols of other religions] would be antithesis to secularism.’
- ‘The sectarian approach that certain students will carry their religious beliefs to secular schools run by the State would be the antithesis of the State.’
- ‘The religious belief or faith of an individual cannot be carried out in a secular school maintained out of state funds.’
- ‘When students are attending a school, their religious identities should be left behind.’

Justice Hemant Gupta’s judgement, despite his disavowal of the Western model of secularism (which is based on the separation of the Church and the State), takes it closer to that concept in that it calls for a unified cultural identity in the classroom, in the form of the uniform. What is missing from this narrative is the fact that even with the exact same uniform, differences of class and caste among students persist. As Sruthisagar Yamunan has pointed out, this judgement is ‘couched in a language fit for the military ... where an

unwavering commitment to what the State deems to be disciplined is demanded from students.<sup>167</sup>

In such attempts to restrict the space of the secular, one can see the workings of a majoritarian state that denies the peaceful co-existence of a secularism with a plurality of freely chosen religious discourses.

In India, the antagonism towards the hijab shown by a section of feminist activists and the Hindu Right has revolved around the perception of the hijab as a religious practice. The Hindu right appropriates the language of the feminists to justify the discrimination against Muslim women. It must be said here straightaway that the purpose is not to set up an equation of aspects of feminist discourse with Hindutva. It goes without saying that while Hindutva is aiming at producing a uniform Hindu consciousness, the liberal feminist discourse aims to produce a feminist subject, but certainly does not seek to create a Hindu consciousness—far from it.

In fact, during the civil society protests following the hijab ban, Indian feminists, in Bangalore and elsewhere, came out in large numbers in vigorous support of Muslim women's right to education and their right to choose. They extended solidarity and provided ground-level support in negotiating these rights.

As this report demonstrates, the prevalent discourse around the hijab that has been outlined above, has served as a tool for the Hindutva project (which has also been reflected in the High Court judgement) of political polarisation carried out by the BJP-ruled government. In all narratives about Muslim women and their choice of wearing, emerging from different political positions, what is missing is the representation of the young Muslim woman, her understanding about why she chooses to wear the hijab. This narrative is especially prevalent in the media, social media, and films. While the dominant perception assumes that the hijab serves to oppress Muslim women, women who wear it possess, as they revealed to the PUCL-K team in their testimonies, qualitatively different understandings of how wearing the hijab functions in their respective lives.

In the conversations with Muslim women students, our attempt was to understand their subjectivity in an educational context. They experienced the hijab ban as a denial of their autonomy and agency. As the PUCL-K team listened to the Muslim girls' stories close up and large, what became clear was that for them, the hijab is a visible carrier of their self-identity and a way of remaking their own world by freely negotiating with their culture's normative values and practices. Many of them felt that wearing the hijab gave them the ability to move freely in public spaces, such as educational institutions and work places, and thus enabled them to integrate more fully in society—contrary to the dominant perception

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<sup>167</sup> Yamunan, S. (17 Oct 2022), In Supreme Court hijab judgement, an inversion of Indian secularism, Scroll.in, <https://scroll.in/article/1035123/in-supreme-court-hijab-judgment-an-inversion-of-indian-secularism>, last accessed on December 12, 2022

about the hijab as a regressive practice. In fact, studies have shown that when restrictions were placed on the hijab in France, the gap between Muslims and non-Muslims actually widened. However, they have also had to struggle with their teachers' negative assumption that they are unaware of being oppressed by their own faith and by a community that does not value education for women. Journalists and political leaders repeatedly asked, "Are they coming to college for studying or for their religion? Let them go to their madrasas if they want to prioritise the hijab."

In insisting simultaneously on their right to education as well as the right to choose to wear the hijab, the Muslim students interviewed by PUCL-K are confronting the dominant discourse on the hijab that has obstructed their educational possibilities that have in recent years opened up in Karnataka. In doing so, they are invoking an alternative discourse of gender justice. In this respect, their struggle is at one with the rallying cry 'Jin, Jiyan, Azadi' (Women, Life, Freedom) of Iranian women who are protesting the custodial killing of Mahsa Amini, a young woman, by the notorious Iranian 'morality police' for wearing her hijab 'too loosely.' The slogan 'Jin, Jiyan, Azadi' originates in the Kurdish resistance movement in Turkey and reflects similar struggles of women for complete autonomy and liberation.<sup>168</sup>

As Apoorvanand and Alishan Jafri argued, "Though the contexts of the protests in Iran and India are different, women in both countries are making the same statement. They are telling the state that they want to live their lives as free, thinking individuals – not as dull identical clones. In both cases, it is a battle between individuals and the state for ownership of the self."<sup>169</sup>

The testimonies of Muslim students also throw light on how a new generation of Muslim women are, to quote Shahrukh Alam, 'at the same time negotiating their freedoms vis-à-vis their own community, which might be closing in on itself in the face of persecution.'<sup>170</sup>

Political minorities organise around their primary identity, and all other inequalities and bigotries within remain suspended in the moment, especially when faced with a 'disciplining state'. Justice Dhulia provides a way by making available to all such individual spaces for critical thinking, and on their own terms. He cites approvingly two judgments from South Africa and the UK to make the point: 'The school argued that if Sunali did not like the

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<sup>168</sup> Songs Of Blood And Revolution: A Tale Of Melody And Resistance (10 Dec 2022) Outlook India, [https://www.outlookindia.com/culture-society/songs-of-blood-and-revolution-a-tale-of-melody-and-resistance-weekender\\_story-243767](https://www.outlookindia.com/culture-society/songs-of-blood-and-revolution-a-tale-of-melody-and-resistance-weekender_story-243767), last accessed on January 30, 2023

<sup>169</sup> Hijab debate: In Iran and in India, Muslim women are fighting for control of their bodies (2 Oct 2022) Scroll.in, <https://scroll.in/article/1034074/hijab-debate-in-iran-and-in-india-muslim-women-are-fighting-for-control-of-their-bodies>, last accessed on January 30, 2023

<sup>170</sup> Narrative on hijab, in Iran and India, frames our attitudes towards minorities (15 Oct 2022) The Indian Express, <https://indianexpress.com/article/opinion/columns/narrative-on-hijab-in-iran-and-india-frames-our-attitudes-towards-minorities-8209215/>, last accessed on January 30, 2023

Code, she could simply go to another school that would allow her to wear the nose stud. I (i.e. Justice Dhulia) cannot agree... the effect of this would be to marginalise religions and cultures, something that is completely inconsistent with...our Constitution.’ And: ‘Young girls from ethnic, cultural or religious minorities growing up here face difficult choices: How far to adopt or to distance themselves from the dominant culture. A good school will enable and support them.’

In the Indian context, the hijab discourse found expression in a high-pitched campaign launched in the media, between January 31 and February 2022, for a total ban on the practice in the field of education. The discourse constructed a binary between the hijab as a regressive religious practice and a progressive secular education. In our media section, we have discussed this in detail. Here, we will only consider its chief characteristics:

1. A great majority of influential commentators, mostly leaning towards the BJP, were more in favour of the ban on the wearing of the hijab in schools and colleges than opposed to the ban. Most of these views were based on polarised news sources, not on informed opinion or research.
2. As is elaborated in the chapter titled, ‘Weaponising the Camera: Vigilante Action of the Kannada TV Media’, the Kannada media set up false binaries, such as Muslim vs. Hindu, hijab vs sindhoor, as we witnessed in the confrontation staged before the media between women students wearing the hijab and Hindu male students sporting turbans and scarves outside the MGM College in Udupi. Such binaries are, it goes without saying, false and staged for the media for a political purpose, but the consequences of this for Muslim women are, as we have seen, very real. To quote Mobashra Tazamal, a human rights activist and researcher on Islamophobia:

Muslim women’s bodies have been made a theater upon which contentious politics around identity and nation-building takes place. Any sort of control over the appearance of a Muslim woman is a gateway to greater restrictions, policing and eventual criminalization of free expression. Both hijab bans and forced hijabs have the same impact, they result in socio-economic isolation for Muslim women, and make them prone to different forms of violence from wider society and ruling authorities. The central issue has always been and will always be freedom to choose. (‘On the Politicisation of Muslim Women’s Bodies’ *Bridge Initiative*, [A Georgetown University Initiative](#) 23 Nov. 2022)

3. More broadly, mainstream opinion on the issue, as distinct from Hindutva ideology, tends to see Hinduism as essentially cultural and Islam as essentially religious, hence a ‘religious garment’ such as the hijab could not be allowed in secular educational institutions. (It goes without saying that many cultural events at schools and colleges start with the ‘diya’ lighting ceremony, which is considered to be a ‘secular’ cultural symbol, which, in fact, it is not.) In fact, many of these

commentators wondered about Muslim girls choosing to participate in their own subjection by wearing the hijab, which, to them, is the ultimate symbol of oppression.

4. As we have pointed out earlier in this section, the hijab discourse has largely overshadowed, in fact, eclipsed, the experiences as well as the insights and experiences of Muslim women.

The core point which this chapter seeks to make is that the reason behind the hijab ban in the Indian context has to do with a discomfort with Muslim identities in the public sphere and a desire to erase signs of being Muslim and produce a homogenous Indian nation premised on Hindutva. As such Islamophobia and in particular gendered Islamophobia as practiced by the Hindu right in India is linked to a vision which seeks to obliterate the Constitutional vision founded as it is on an equal respect for difference and diversity.

## 8. Role of civil society

While Muslim women students struggled to assert their right to education and repeatedly faced harassment from students, teachers and college authorities, civil society organizations responded in different ways to the educational crisis in Karnataka. Several organizations held protests in towns and cities, organised online placard campaigns, poster-campaigns, rallies and candle light vigils to condemn the gross violations of the rights of Muslim women students. Bands of organisations across Karnataka also came together in different forums and asserted the Constitutional values of secularism, drawing upon the syncretic histories of Karnataka to counter the narratives of hate and prejudice against hijab-wearing Muslim women and girls. Most importantly, at the district level, local civil society organisations, women’s rights activists, and human rights groups reached out to students in their efforts to negotiate with college authorities and approached the district administration to request for state support in continuing their education. However, despite such efforts, students, parents, Muslim teachers, and other members of the Muslim community experienced the hijab crisis as an isolating, alienating moment for the entire community.

Several students and members of the Muslim community told the team that nobody from any organisation, especially non-Muslims outside their district, visited them to enquire about the incidents of harassment and humiliation felt by them as well as deprivation of their education. A Muslim teacher at a school in Hassan said, “Nobody has come to ask us about what happened. We have been waiting, but nobody has listened to our stories.” An activist in Raichur shared, “Human rights organisations, especially those run by non-Muslims, should have come forward in a bigger way. It was a terrible moment for the young girls and there should have been more support for the entire community at the ground level, to ensure that the students are allowed to continue their education.”

The sudden and arbitrary nature of the imposed ban caused extreme distress in the entire Muslim community. This, accompanied by the hostile narrative propagated by mainstream Kannada media as well as the unbridled spread of hate on social media, made the community feel alienated and isolated, in their struggle for fundamental rights to education, privacy, and dignity. The legitimisation of this ban in the High Court’s interim order only worsened the situation on the ground, forcing Muslim students to drop out of colleges, to remove their hijabs against their will in order to continue their education, or, shift to institutions run by Muslim groups.

It was at this time that civil society organisations stepped in and provided ground-level support to the affected students. Yet, they were unable to challenge this sweeping ban and counter the narrative of hate systematically propagated by Hindutva groups. There were many factors which deterred efforts of protests, public action, and resistance to the High Court order. This chapter details the various forms which their resistance took, but it is



crucial to understand how the state, with the connivance of the media, overwhelmingly clamped down on spaces of dissent and protest.

## **Staging public protests, public action, and resistance: An uphill struggle**

By means of the arbitrary and unrestricted application of Section 144, the police restricted the rights of Muslim women students and civil society organisations in various districts to assemble and protest against the sudden and arbitrarily imposed ban.

In Bangalore, when hundreds of women and LGBTQ+ community members gathered to protest against the violations of the rights of Muslim women students, the police gave oral instructions to the organisers of the protest prohibiting the use of the word ‘hijab’ in the protests.

The organisers told the team: “We had to exercise extreme caution. While several Muslim women attended the protest, many others expressed fear of being further targeted. With the rapid escalation in violence and hate speech, we were forced to exercise extreme caution, to ensure that the Muslim community does not face more arbitrary state action or violence from the Hindutva groups.

We also had to give strict instructions to all those who attended the protest that the placards and banners that we held should not contain the word ‘hijab’ because of such instructions by the police.

While we firmly believed that the right to assemble and express our solidarity with the Muslim students was an integral part of exercising our fundamental duties and freedom of speech and expression, it was extremely disheartening to come to terms with the highly policed political climate. The right to protest is a fundamental right, but the process of informing the local police has turned into a mandate to obtain prior permission.”

In an order dated March 3, 2022,<sup>171</sup> the Karnataka High Court banned protests across the city and designated only the Freedom Park for people to assemble and protest. The High Court said, “We deem it appropriate to direct the State Government to ensure that no protests, processions etc., are held in the entire city of Bengaluru except at a park known as Freedom Park, Gandhinagar, Bengaluru, by any group, political or non-political organisation, or any other organisation, and also ensure that any such processions, protests, protest marches etc., are held in an organised manner and ensure that traffic in the city does not get adversely affected especially during the rush hours.”

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<sup>171</sup> Interim Order dated March 3, 2022 in W.P. 5781/2022

Civil society organisations objecting to the actions of the government were denied their right to assemble, in several instances across Karnataka. In fact, even a candlelight vigil organised by ‘Bahutva Karnataka’, a citizens’ forum for plurality and communal harmony, was cancelled because the police withdrew permission for the protest.

On 29 March 2022, when Muslim women students of Government PU College, Yelahanka, Bangalore were denied entry into their college, their principal passed derogatory comments about their religion and called them ‘Nalayak’ (useless). He also confiscated their phones. In response to this incident, student-activists from All India Students’ Association (AISA) told the PUCL-K team that they distributed copies of the High Court judgement to students. They took up this task so that students are aware of the scope of the judgement, in case the college administration arbitrarily barred the entry of more students. Forty police personnel were deployed near the college bus stop, and forty more officials were standing at the entrance to the college. The police detained two student-activists for almost 9 hours and assaulted them. They tried to insinuate that these students were a part of a grand conspiracy and repeatedly remarked, “We know you are with Hizbul Mujahideen. We know you are doing this work as underground activists.” Despite lawyers’ timely interventions, an FIR was filed against the student-activists for allegedly creating public nuisance. The police also entered false information in the FIR, stating that they were shouting provocative slogans and had tried to incite communal violence.

Such incidents were common in various parts of Karnataka. FIRs were lodged against protesting Muslim women students, activists, and citizens who opposed the imposition of the hijab restriction without following due process.

This repressive political environment severely constricted the exercise of fundamental rights of organized civil liberties groups and citizens, which is critical to the functioning of a democracy. The restrictions on freedom of speech and expression and the right to dissent and spaces for public speech stifled voices of the vulnerable groups and isolated the Muslim community further.

In times of severe repression such as this, the only thing that can preserve the values enshrined in the Indian Constitution and keep alive the beating heart of a democracy is to remember and value every voice that resists the assaults on people’s fundamental rights. The following sections present a few of the notable initiatives launched by civil society organisations in Karnataka:

## 8.1. Proclaiming the message: ‘Karnataka Stands for Communal Harmony’

To counter the divisive messaging and hate campaigns of Hindutva groups in educational institutions as well as on mainstream media, civil society organisations across the state issued a public appeal to citizens to stand for communal harmony and peace. Through

candlelight vigils, peaceful protests, and social media campaigns, many groups came together to oppose the arbitrary ban of the hijab. Religious leaders of different faiths came together to appeal for peace, highlighting the syncretic and diverse histories of Karnataka. They declared in one voice that the rights of the students to education should not be violated. Some of the notable leaders were Dr Shivamurthy Murugha Sharanaru, pontiff of Murugha Mutt, Chitradurga, Maulana Suleman Khan of All-India Milli Council, Basavamurthy Madara Chennaiiah Swami of Chitradurga, Immadi Siddarameshwara Swami of Bovi Gurupeeta, Maulana Maqsood Imran Saheb of Jamia Masjid City Market, Bengaluru, and State Waqf Board chairman NK Muhammad Shafi Sa-Adi.<sup>172</sup>

In Udupi, a large coalition of progressive civil society organisations organised a rally and a state-level convention, ‘Samarasyada Nadige, Sahabalve Samavesha’ issuing a call for inter-faith harmony. This rally saw the participation of almost 8,000 people from all walks of life, and proclamation of messages of peace, harmony, and justice from various religious leaders, social activists, and concerned citizens. Due to the participation of an enormous number of people, the rally and the convention were successful in presenting a united stand against the onslaught of communal forces under this majoritarian regime.

In Shimoga, a rally for peace and fraternity was organised by Karnataka Rajya Raitha Sangha and Dalit Sangharsha Samiti. It was called, Shantiya Kade Namma Nadige – which means ‘our march towards peace’.<sup>173</sup> This initiative was an important assertion of civil society, especially because Shimoga has over the years turned into a fertile ground for communal violence and continuous attacks on establishments and residents of Muslim communities.

## 8.2. Acts of Solidarity

One of the first occasions in which students came out in support and solidarity with the Muslim women students was when a few male students in IDGS Government College, Chikkamagaluru staged a protest, while donning blue shawls as a symbolic counter to saffron shawls used by Hindutva groups. Through their slogans, they demanded justice for Muslim women students and raised the slogan, ‘Jai Bhim’, invoking the figure of Dr. BR Ambedkar, in opposition to the prevailing slogan, ‘Jai Shri Ram’.<sup>174</sup>

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<sup>172</sup> Karnataka hijab row: Leaders of all faiths join hands for peace, ask parties not to stoke fire, (20 Feb 2022), The Times of India, <https://timesofindia.indiatimes.com/city/bengaluru/karnataka-hijab-row-leaders-of-all-faiths-join-hands-for-peace-ask-parties-not-to-stoke-fire/articleshow/89695191.cms>, last accessed on January 5, 2023

<sup>173</sup> March to spread message of harmony and peace in Shivamogga, (30 Aug 2022), The Hindu, <https://www.thehindu.com/news/national/karnataka/march-to-spread-message-of-harmony-and-peace-in-shivamogga/article65830001.ece>, last accessed on January 5, 2023

<sup>174</sup> Hijab row: Dalit students wear blue scarves in solidarity with Muslim girls (7 Feb 2022) The Siasat Daily, <https://www.siasat.com/hijab-row-dalit-students-wear-blue-scarves-in-solidarity-with-muslim-girls-2271176/>, last accessed on January 30, 2023

In an open letter signed by over 2000 Indian intellectuals, various groups including AIPWA, PUCL, AILAJ, AIPF and Democratic Teachers Front expressed solidarity with the Muslim women students, and proclaimed that the “alienation of Muslim women students through the imposed ban is an apartheid, created by the violence unleashed by Hindu supremacist groups.”<sup>175</sup>

In an interview with the PUCL-K team, a well-known activist from Shimoga, K.L. Ashok shared with the team a powerful anecdote that symbolised solidarity with the Muslim women students, “Amidst this politics of division, a young Hindu student wore a hijab in an act of public solidarity with her Muslim friend to college. This video went viral across WhatsApp groups.”

Another initiative to express solidarity was by a group of women and LGBTQ+ groups who organised two rallies in Bangalore, in protest against the arbitrary ban and assault on the rights of Muslim women students. One was a march for Dignity, Plurality, Autonomy, and Peace held on February 26, 2022. Another was a women’s march towards Town Hall, in which almost 300 people participated. These protests saw the participation of women’s rights activists, LGBTQ+ rights activists, domestic workers, sex workers, social activists, concerned citizens, students and many other people. They read out specific demands to the state government, to ensure justice for the students who had lost their access to educational spaces.

The organisers of the rallies also reached out to people across the country, inviting them to express in writing their solidarity with the Muslim students of Karnataka. Hundreds of letters poured in from people of all age groups, with heartfelt messages of solidarity and hope. These were compiled in a booklet called ‘Letters of Solidarity’ and shared with some Muslim students in Karnataka.

### 8.3. Sustained local interventions

Local civil society organisations actively assisted Muslim women students in making representations to college authorities to permit them to continue their studies until the end of the academic year. They also accompanied students to the Block Education Officer, the Deputy Commissioner, and other district level administrative officials to ensure that their pleas were given a serious hearing by these authorities.

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<sup>175</sup> Karnataka hijab row: 2,000 intellectuals write open letter in solidarity with Muslim students (10 Feb 2022) The New Indian Express, <https://www.newindianexpress.com/nation/2022/feb/10/karnataka-hijab-row-2000-intellectuals-write-open-letter-in-solidarity-with-muslim-students-2417861.html>, last accessed on January 21, 2023

In most districts, these groups comprised members of the Muslim community, women's rights activists, and other local leaders. Many such members interviewed by the PUCL-K team shared that any negotiation with the authorities in this matter was an uphill struggle, to say the least.

In their interventions on behalf of the students, Karnataka's civil society attempted to assume many roles, right from providing practical support by various means to the students who were affected by the issue, to demanding accountability on the part of the state. However, despite their best efforts, these interventions by the civil society had a very limited impact in comparison to the scale at which events were unfolding. This is due to the fact that what Karnataka witnessed during the months between December 2021 and November 2022 was a complete collapse of the state administrative machinery, and its replacement by vindictive actions seemingly motivated only by animus towards the Muslim women students whose interests the state was mandated to protect. When its dereliction of its constitutional responsibility was sought to be brought to the attention of the Karnataka Government, the right to protest was curbed and the petitions submitted by civil society were ignored.

## 8.4. Civil society representations to state authorities

On March 29, 2022, civil society organisations in Karnataka such as Bahutva Karnataka, All India Students Association (AISA), Campaign against Hate Speech (CAHS) and Naveddu Nilladiddare ('If we Do Not Rise) submitted a representation to the Department of Primary and Secondary Education in relation to a circular (No EP74SLB2022) issued by them. The circular, which was released a mere two days prior to the SSLC exams in the state, in effect mandated that students from all educational institutions must remove the hijab to be allowed entry into examination halls.

However, the representation pointed out that such a notification went way beyond the ambit of the High Court order and was, therefore, in violation of the order. It stated that:

- i. The High Court order only regulates wearing of the hijab within the classroom whereas the circular extends such regulation to examination halls as well.
- ii. The High Court order is applicable only in educational institutions that have a prescribed uniform. However, the circular seeks in effect to implement the order even in institutions that have no prescribed uniform.

The representation demanded that the Department issue a clarification that the circular cannot be used as a means to stop Muslim students wearing hijab from entering or appearing for examinations. Further, the representation pointed out that Mr. BC Nagesh, Karnataka Minister of Primary and Secondary Education and Mr. Araga Jnanendra, Karnataka Home Minister, have repeatedly given incorrect statements to the media about the ambit of the High Court order and deliberately misrepresented the order before the

public. The Minister of Primary and Secondary Education even threatened police action against students who ‘violate’ the order, according to the representation.

Other civil society organisations in the state too charged B.C. Nagesh with having played a central role in perpetuating the relentless harassment of Muslim students and thereby causing great prejudice to the community. His misleading statements to the media about the scope of Government circulars and the interim and final order by the Karnataka High Court had serious ramifications. This undoubtedly contributed to the rampant misuse of the High Court order across educational institutions in Karnataka, and led to serious discrimination against Muslim students as well as teachers.

A legal notice issued by All India Lawyers’ Association for Justice (AILAJ) to the minister brings out the grave impact his statements had on the ground.<sup>176</sup> It highlighted an instance in Gadag, when seven teachers were suspended on March 29, 2022 for allowing students wearing the hijab to attend their SSLC exams.<sup>177</sup> The notice while reminding the Minister of his constitutional oath and his duty towards promoting the welfare of those from marginalised communities also demanded that he immediately withdraw his misleading and dangerous statements to the media.

Another significant civil society intervention was made through a representation to the Karnataka State Commission for Protection of Child Rights (KSCPCR). The representation succeeded in getting the KSCPCR to officially declare that the sequence of events following the hijab restriction led to severe distress among students.

The Commission observed that disallowing Muslim women students from entering the premises of educational institutions with their hijab is both humiliating and a violation of the Fundamental Right to Education and Dignity, under Article 21 and 21A of the Constitution of India. It noted that, ‘children have experienced fear due to the events that have happened in schools and colleges’. It further recommended to the Department of Public Instruction in a letter dated 15.03.2022 that:

- i. Measures be taken to permit the students to appear for the examinations and provide another opportunity for those students who have been forced to miss exams.
- ii. Mental health of students of the schools and colleges where such exploitation and incidents of insult/ harassment has taken place be evaluated and arrangements made for online consultation.

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<sup>176</sup> K’taka HC judgment on hijab: Notice to Minister Mr. BC Nagesh seeking withdrawal of misleading statements (31 Mar 2022)

<https://ailaj.wordpress.com/2022/04/04/ktaka-hc-judgment-on-hijab-notice-to-minister-mr-bc-nagesh-seeking-withdrawal-of-misleading-statements>, last accessed on January 2023

<sup>177</sup> Hijab in SSLC exam: 7 teachers suspended (30 Mar 2022) Times of India, <https://timesofindia.indiatimes.com/city/hubballi/hijab-in-sslc-exam-7-teachers-suspended/articleshow/90528730.cms>, last accessed on January 7, 2023

- iii. Measures be taken to create awareness among the officials concerned about the interim orders of the Hon'ble High Court.

The foregoing section has presented a few of the initiatives taken by the civil society to assert the constitutional values of secularism. As pointed out earlier, civil society in varied ways also extended solidarity and support to both the Muslim community and students, through protests, candle light vigils, negotiating with different State authorities and calling for state accountability at large.

When PUCL-K Karnataka set out to the five districts in June to listen to Muslim women students and teachers, the first overwhelming response was, "Where were you in February, March and April?"

This call for accountability by the students to civil society organisations to more effectively extend solidarity, urgently provide support and publicly assert fundamental rights demands serious critical reflection from the civil society.

However, given the constraints of time, this report has not been able to document the local response emerging from different districts nor has it been able to fully document the anxieties of the entire Muslim community. This report is only a representative effort to draw the attention of the wider public about how much more the community expects the civil society and the state to do. This remains a continuing and urgent need.

## 9. Legal Analysis of the High Court & Supreme Court Judgements

No matter how society wants to stereotype us, the bottom line is this:

Two of our fundamental rights have been snatched from us: Our right to education and our right to choice. We wished the judges could have shown us some compassion.

- A law student from Dakshina Kannada

The courts have played a central role in the ongoing hijab controversy through their acts of both omission and commission. The two key judgments that merit a closer analysis are the judgements of the Karnataka High Court in *Resham v State of Karnataka* and the Supreme Court in *Aishat Shifa vs State of Karnataka*. In *Resham*, the Court stressed the importance of uniform and disregarded the question of the right to education. In *Aishat Shifa*, which produced a split verdict, Justice Gupta sanctified the decision in *Resham v State of Karnataka* mirroring its reasoning. However, the opinion of Justice Dhulia brought the focus back on the arbitrary denial of the right to education which was the core of the violation faced by the Muslim students. While *Resham* as well Justice Gupta's opinion were formalistic opinions failing to appreciate how the petitioners before them were affected by the ban, Justice Dhulia's opinion was rooted in an understanding of how core rights such as privacy, dignity and equality were violated.

### 9.1 Resham v State of Karnataka

The genesis of the legal case lay in the arbitrary decision of the Government Girls College, Udupi barring the hijab inside the classrooms. The college enforced this restriction right from 31 December, 2021 in the absence of rule, resolution, or guideline. Following the sudden imposition of this restriction, the Karnataka Government set up an Expert Committee to resolve the controversy at the Government Girls Pre-University College, Udupi. The government stated that all students at the college should adhere to uniform rules till the committee decides on the issue and maintain 'the status quo' till the issue is resolved by the expert committee. On 31<sup>st</sup> January, 2022, the President of the College Development and Management Committee (CDMC) and Udupi BJP MLA K Raghupati Bhat passed a resolution to prohibit the hijab in the classroom. Following this development, on the same day, the affected students filed a Writ Petition in the Karnataka High Court, challenging the decision of the CDMC.

The matter initially went before a single judge, Justice Krishna Dixit, who passed an order on 9<sup>th</sup> February, 2022 requesting the Hon'ble Chief Justice to 'consider if these matters can



be heard by a larger Bench, considering the enormous public importance of the issues involved.’ The matter was listed by the Chief Justice who then passed a consequential interim order on 10<sup>th</sup> February, 2022 which stated that, ‘Pending consideration of all these petitions, we restrain all the students regardless of their religion or faith from wearing saffron shawls (*Bhagwa*), scarfs, *hijab*, religious flags or the like within the classroom’, also stating that ‘this order is confined to such of the institutions wherein the College Development Committees have prescribed the student dress code/uniform.’

The final judgement of the Karnataka High Court was delivered on March 15, 2022 by a bench of three judges, Chief Justice Awasti, Justice Dixit, and Justice Khazi who unanimously upheld the legality of the Government Order of the state government that essentially banned the hijab in colleges which have a uniform prescribed by a College Development Committee. They ruled that the hijab is not an essential part of Islam. After concluding that the hijab is not a part of the essential practice of Islam and the right to wear it is not protected under Article 25, the court concluded that the right to wear a hijab is at best a ‘*derivative right* which can be circumscribed, consistent with...discipline & decorum’ in what it called ‘*qualified public places like schools, courts, war rooms, defence camps, etc.*’ The judgement was extensively criticised by constitutional law scholars as being based on an incorrect appreciation of the principles of constitutional law. The following are some of the main critiques of the High Court judgement.

## **An incorrect focus on Hijab as Essential Religious Practices (ERP)**

The High Court judgement focused on whether the right to wear the hijab was an essential religious practice or not. This detracted from the issue at hand, namely the denial of the right to education of Muslim girl students.

The ERP test has come under severe criticism by legal thinkers and scholars. Judges themselves have expressed their discomfort with the doctrine for it compels them to adjudicate in the realm of theology as opposed to law. In this regard, framing the hijab issue as a matter of religion and essential practice was limiting in that it gave the court all but two ways to proceed in: (i) to accept the argument and allow the hijab on the basis of a highly antiquated and expressly misogynistic and patriarchal logic, and create a legal fiction where women have no agency in the matter; or (ii) to reject the argument, and in the process, deny the elements of actual agency that are involved here.<sup>38</sup> In the instant case, the court in ruling that the hijab is not an essential religious practice denies the women’s right to frame the hijab as a matter of choice and agency for themselves. The constraint of approaching the issue through the ERP test, therefore, leaves us with little room to recognise the complex reasons that influence women’s choices to wear or not wear the hijab. It divests Muslim women of their agency and also negatively impacts their freedom to practice their religion in a manner that they deem fit.

## Failure to focus on the principle of non-discrimination as per Article 15 of the Indian Constitution

While the impugned GO did not explicitly restrict the wearing of the hijab, it legalized such orders in PU colleges, government schools and private schools that have a dress code. With respect to institutions that do not have any dress Code, the GO held that such institutions must ensure that the students' attire must accord with '*equality & integrity*' and *would not disrupt the 'public order'*. The dubious phrasing i.e., 'clothes that do not threaten equality, unity, and public order must be worn', legitimizes and allows for discriminatory action against Muslim women.

The GO states, "*students are following practices as per their religion, which is adversely affecting equality in such schools and colleges*", and relies upon several court orders to reason that '*restricting students from coming to school wearing head scarfs or head covering is not in violation of Article 25 of the Constitution*'. Therefore, the government notification was meant to specifically target the practice of covering one's head as mandated by religion, and although framed in the language of facially neutral criteria, it disproportionately infringed upon the rights of hijab-wearing girls and women. However, the court dismisses this interpretation of a fundamental constitutional wrong of discrimination by saying: "*By no stretch of imagination, it can be gainfully argued that prescription of dress code offends students. In matters like this, there is absolutely no scope for complaint of manifest arbitrariness or discrimination inter alia under Articles 14 & 15, when the dress code is equally applicable to all the students, regardless of religion, language, gender or the like. It is nobody's case that the dress code is sectarian.*" A closer reading of the order would establish that it fails the test of non-discrimination both on grounds of sex and religion.

## Failure to address the Right to privacy and Freedom of Expression

The petitioners had further contended that the women's right to autonomy and privacy would be gravely infringed upon if the restrictions on the hijab were not revoked. While dismissing the contention, the High Court, as pointed out earlier, stated that the right to freedom of expression, speech and privacy were only '*derivative rights*' (a category carved out by the court which enjoys no constitutional sanction) and could not be claimed in '*qualified public spaces*' (a category that once again has no constitutional basis) such as schools as they were inferior to '*substantive rights*'. Oddly, the court goes on to compare schools to prisons and war rooms and reasons that rights protections in '*qualified public places*' such as these are significantly weaker. The HC says, "*Such 'qualified spaces' by their very nature repel the assertion of individual rights to the detriment of their general discipline and decorum.*" This interpretation is a serious affront to the ruling of the Supreme Court in *Puttaswamy* where it has held that the right to privacy is a core fundamental right and includes an individual's decisional autonomy. The Supreme Court had clearly stated that an individual's right to make choices that do not conform with societal norms or calls for 'homogeneity' are an integral component of the right to privacy. Moreover, an individual's right to make sartorial choices,

which may also include expressing their faith in public through their choice of attire, will be protected by the right to privacy.

The court's repeated insistence on establishing homogeneity through uniforms strikes at the heart of fraternity and fraternal ways of living. It compels the petitioners and others alike to surrender their right to individuality as well as religious and cultural rights to college managements in order to be able to access another fundamental right i.e., the right to education.

The crucial error the Court makes is that it sanctifies the *uniform* instead of sanctifying education; instead of looking at the uniform as *instrumental* to achieving the goal of an inclusive and egalitarian right to education (and which would, therefore, require accommodation where accommodation would better serve that goal), it treats the uniform (and its associated values of sameness, homogeneity etc.) as the goal itself.<sup>39</sup> Curiously enough, the court goes on to trace out the origins of uniforms in great detail, emphasising their significance only to conclude, "*No reasonable mind can imagine a school without a uniform*". This was odd as neither party to the case had approached the court challenging the need for uniforms or its constitutionality nor was it anybody's case that they do not want to wear uniforms as prescribed by the institution. What was being asked for and indeed had been recognized in many colleges and schools around the country, including the Government PU College (before the ban) was to reasonably accommodate the concerns around dignity, equality, and expression.

## **Failure to apply the principle of reasonable accommodation**

The Court dismissed any via media solution between the interest of the state to prescribe a uniform and the interests of the individual to manifest their faith or to express their identity via their dress. A via media solution would have been based upon the '*principle of reasonable accommodation*' and allowed for students to, in addition to the uniform, also wear a hijab of the colour of '*prescribed dress code*.' However, the Court argues that any such accommodation '*would establish a sense of 'social-separateness' and would 'offend the feel of uniformity which the dress-code is designed to bring about amongst all the students regardless of their religion & faiths.*' The Karnataka High Court cites examples of balancing rights such as the uniforms prescribed in Kendriya Vidyalayas which allows for scarf and turban in a prescribed colour, only to dismiss the practice in Kendriya Vidyalayas as militating against the very concept of the school uniform.

The petitioners invoked the *MEC for Education: KwaZulu-Natal and Others v Pillay*<sup>178</sup> to substantiate the requirement for 'reasonable accommodation' in such matters. In the instant case, a student in a South African school was refused permission to wear a nose-

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<sup>178</sup> Pillay v KwaZulu-Natal MEC of Education (2006 10 BCLR 1237 (N); 2006 (6) SA 363 (EqC))

stud in her classroom by the school authorities. The South African Constitutional Court held that such denial of permission amounted to unfair discrimination and grossly violated her right to freedom of religion and culture, and her right to expression. However, the Karnataka High Court held that a hijab was incomparable to a nose-stud as the latter was *ocularly insignificant* and *would not in any way affect the uniformity which the dress code intends to bring in the class room*. It further cited examples of balancing rights such as the uniforms prescribed in Kendriya Vidyalayas which allows for scarf and turban in a prescribed colour, only to dismiss it as militating against the very concept of the school uniform.

## **Failure to protect the fundamental right to education to be guaranteed by the state without discrimination**

As a direct consequence of the restriction on hijab by colleges, the government order and the interim order of the High Court, thousands of Muslim girls across the state were robbed of their access to education, and a sizeable number of women were even unable to appear for their examinations. Appalling scenes of girl students being physically pushed out of educational campuses have emerged since the issue broke out. This constitutes an unconscionable violation of the right to education under Article 21A and Article 21. The right to access education without discrimination on grounds of sex or religion under Article 15 have also been violated. It is apparent that Muslim women in this instance are gravely disadvantaged by the unreasonable barriers to their education that have been placed by the state. Despite the alarming nature of the violation of Muslim women's right to education and elaborate contentions on this question of law by the petitioners' counsels, the court dismisses this grave constitutional violation by making the off-hand statement that '*school dress code to the exclusion of hijab, bhagva, or any other apparel symbolic of religion ... does not rob off the autonomy of women or their right to education*'

The decision of the High Court of Karnataka to uphold a de facto prohibition on Muslim women students wearing the hijab while attending classes in *Resham v. State of Karnataka* has imperilled their right to education as well as the associated constitutional rights of privacy, dignity and non-discrimination of Muslim women students.

## **9.2. Aishat Shifa vs The State of Karnataka**

The decision in Resham was appealed in the Supreme Court. The petitioners urged an urgent hearing of the appeal, on 24<sup>th</sup> March, 2022 as '*exams were approaching*' and there was a danger of the '*students losing one year*'. The Supreme Court however declined the request for an urgent listing of appeals against the Karnataka High Court verdict which had upheld the power of colleges to ban wearing of hijab by female Muslim students in government educational institutions in the State. In fact, Chief Justice, N.V. Ramana asked the '*petitioners*

*not to sensationalise the issue and refused to give any specific date for hearing the matter.*<sup>179</sup> The matter was finally listed on September 5 for final hearing before Justices Hemant Gupta and Sudhanshu Dhulia. The hearings were widely reported in the media and were held over ten days. The hearings achieved some notoriety due to some of the opinions expressed by Justice Hemant Gupta in particular.

Justice Hemant Gupta, after hearing submissions by senior advocate Devadatt Kamat, sought to know<sup>180</sup> whether the freedom of expression could be stretched to the freedom to dress as a person pleases. Advocate Devdutt Kamat, according to *LiveLaw*, had said that the petitioner, a hijab-wearing student, agreed that there would be *'reasonable restrictions'* on this right and was not opposed to wearing the uniform but simply sought to wear the hijab along with it. At that point, Justice Gupta said, *'You can't take it to illogical ends. Right to dress will include right to undress also.'*<sup>181</sup>

On another date of hearing Justice Hemant Gupta indicated his concerns when he noted that, *'you may have a religious right to practise whatever you want to practise. But can you practise and take that right to a school which has uniform as a part of dress you have to wear? That will be the question.'*

On the other hand, Justice Dhulia was implicitly critical of the position of the Karnataka government when he asked how 'students will prepare for the great diversity of the country when none is allowed in their classrooms.'<sup>181</sup>

According to another report, Justice Dhulia also said that the hijab should be seen as an eye-opener, *a window to prepare students for the diversity of the country in culture, dress, and cuisine.*<sup>182</sup>

In short, the line of questioning seemed to indicate that the judges were on two opposite ends of the spectrum in terms of judicial philosophy. This hunch was proved right in the final judgement which was delivered on 13<sup>th</sup> October, 2022, the two-judge bench giving a split verdict. Justice Gupta dismissed all appeals, upheld the constitutionality of Karnataka government's order dated 05.02.2022 and the Karnataka High Court order imposing restrictions on the hijab. Justice Dhulia, on the other hand, set aside the Karnataka High

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<sup>179</sup> [Hijab Row] Supreme Court declines request for urgent hearing of appeal against Karnataka High Court verdict (24 March 2022), Bar and Bench, <https://www.barandbench.com/news/hijab-row-supreme-court-declines-request-urgent-hearing-appeal-against-karnataka-high-court-verdict>, last accessed on 14 December 2022

<sup>180</sup> <https://thewire.in/618141/hijab-ban-challenge-justice-hemant-gupta-undress-devadatt-kamat/>

<sup>181</sup> 'Not Quran Interpreters' to 'Right to Undress': 7 Oral Remarks by SC During Hijab Ban Hearings (22 Sept 2022) The Wire, <https://thewire.in/law/hijab-ban-supreme-court-sudhanshu-dhulia-hemant-gupta-oral-remarks>, last accessed on January 7, 2023

<sup>182</sup> How will students prepare for diversity when none is allowed in classrooms, asks Supreme Court (22 Sept 2022) The Hindu, <https://www.thehindu.com/news/national/how-will-students-prepare-for-diversity-when-none-is-allowed-in-classrooms-asks-sc/article65919407.ece?homepage=true>, last accessed on January 7, 2023

court order, quashed the government order dated 05.02.2022, and held that *there shall be no restriction on the wearing of hijab anywhere in schools and colleges in Karnataka.*

With the split verdict, the matter goes back before the Supreme Court to be now decided by a larger Bench. As of now, the restriction on the hijab as per the Karnataka High Court order will continue to remain in force.

## Opinion of Justice Gupta

Justice Gupta begins by initiating an inquiry into the idea of secularism as understood in the West and in India. According to his analysis, the West believes in a strict separation between the state and the church, and that the State be blind to religion and religious identity, whereas Indian secularism consists in the Indian state treating all religions equally.

It would, as a consequence, mean that all religious groups in India have the right to express their faith while the state can regulate such expression in the interest of morality, public order, and health.

However, Justice Gupta's opinion distorts this settled framework of Indian secularism by arguing that even if wearing the hijab is a religious belief, the *religious belief cannot be carried to a secular school maintained out of State funds,* and that the *students have many years ahead of them where they can carry on their religious faith, but the Government Order mandating wearing of uniform cannot be faulted with since the object is in tune with the principles of the Constitution.*

The constitutional vision of secularism and plurality, however, is that of free expression of one's faith and not forced invisibilisation of identities. Deviating from this core idea will impair the assertion of selfhood.

Justice Gupta also misinterprets the idea of fraternity as homogeneity, and does not see the notification as violating the same. For him, allowing students to wear the hijab will mean that students will *overtly appear differently* and *would not form a homogenous group of students in a school where education is to be imparted homogeneously and equally irrespective of any religious identification marker.*

This conflation of the idea of fraternity with homogeneity, does not do justice to the idea that fraternity is really about encouraging friendly relations between people who come from diverse ways of life.

While Justice Gupta does not pronounce on whether the hijab is an essential religious practice, and while not denying that wearing of the hijab is a fundamental right, he sees this right as being subject to reasonable restrictions, the main among them being discipline. Thus implicitly, schools are special enclaves where the fundamental right to wear a hijab can be restricted on grounds of discipline.

Justice Gupta takes a formalistic understanding to the issue of discrimination arguing that there is no discrimination against students attending classes. If they choose *'not to attend classes due to the uniform that has been prescribed, it is a voluntary act of such students and cannot be said to be in violation of Article 29 by the State'* and that *'A student, thus, cannot claim the right to wear a headscarf to a secular school as a matter of right.'* Justice Gupta fails to appreciate the importance of the hijab to personhood and dignity, thereby holding that the prohibition of the hijab in school is not the prohibition on entering school. J. Gupta's opinion leaves the impression that women students are voluntarily denying themselves education, whereas in reality, the state by prohibiting the wearing of the hijab to school is actively denying students the right to education.

Justice Gupta's opinion anchors itself on upholding uniformity and discipline in educational institutions. *'If, the norms of the uniform in the school are permitted to be breached, then what kind of discipline is sought to be imparted to the students?'* he asks. Arguing that the Government order dated 05.02.2022 *'reinforces the right to equality under Article 14'* as opposed to violating it, he even goes to the extent of arguing that the reasonable accommodation sought by students is *'contrary to spirit of Article 14 as it would result in different treatment of students in secular schools.'*

He further states that *in college, the students should look alike, feel alike, think alike and study together in a cohesive cordial atmosphere. That is the objective behind a uniform, so as to bring about uniformity in appearances.* This view grossly militates against the constitutional vision of equality which entails (i) substantive and not formal equality; and (ii) non-discrimination, both direct and indirect. It fails to recognise that uniformity does not guarantee equality and that facially neutral provisions of law can be discriminatory in their impact. Such a limiting judicial interpretation of equality under the Indian Constitution threatens to dislodge the carefully-built constitutional jurisprudence on equality over the years.

Justice Gupta's opinion hinges on the importance of the uniform and the need to *'ensure uniformity while imparting education'* as a means to *'encourage a secular environment in the schools'*. While he does not deny that the right to wear the hijab is a fundamental right, he sees the state prohibition as a *'reasonable restriction'* by the state. According to him, there cannot be a *'single addition or subtraction'* to the uniform. He arrives at the paradoxical conclusion that the government order, *'promotes an equal environment where such fraternal values can be imbibed and nurtured without any hindrance of any kind.'*

The opinion of Justice Gupta fails to substantially engage with the case of the petitioners that their right to dignity, privacy, and equality is impaired by this arbitrary ban. The many failures of Justice Gupta's opinion are thrown into stark relief by Justice Dhulia's opinion grounded firmly in legal reasoning, judicial precedents as well as imbued with a sense of compassion.

## Opinion of Justice Dhulia

Justice Dhulia's opinion, at its heart, recognises that this is not an abstract argument but rather a judgment that will have real life implications for young Muslim women students, in flesh and blood. He does so most poignantly by referencing the incident in which Aishat Shifa and Tehrina Begum (second year students of Government Pre- University College in Kundapura) were one fine day stopped from entering their college because they were wearing a hijab. In Justice Dhulia's opinion, the Government produced an *ex post facto* justification for this illegal action by passing a government order which allowed for the prohibition on the wearing of the hijab on the ground that the hijab was not a part of the 'uniform,' and wearing it was not *'in the interest of unity, equality and public order.'*

Justice Dhulia foregrounds the lack of any rationale underlying the state action as neither Aishat Shifa and Tehrina Begum had ever in the past *'faced any objection from anyone, including the college administration and their wearing of hijab inside their classroom was never an issue.'*

For Justice Dhulia, to ask the question as to whether hijab is an essential practice of religion or not, is to ask the wrong question. Arguments in both the High Court, the Supreme Court, as well as the wider media discourse were saturated with coverage on whether the wearing of the hijab was an essential practice in Islam. In J Dhulia's understanding, what is an *essential practice of religion*, only becomes relevant when *the rituals and practices of a denomination or a sect of a particular religion sought protection against State intervention* or where *an individual right was asserted against a religious practice*. The case of the right to wear a hijab was by contrast a case of an individual right to freedom of religion and conscience under Article 25 which had an interplay with the 'freedom of expression' under Article 19(1)(a). Justice Dhulia comes to the simple yet elegant conclusion that, *'If the belief is sincere, and it harms no one else, there can be no justifiable reasons for banning hijab in a classroom.'*

Justice Dhulia finds the apposite Supreme Court precedent in *Bijoe Emanuel v. State of Kerala*. In this case the appellants were three children belonging to the Jehovah's Witness faith who were expelled for not singing the national anthem in school (even though they stood respectfully when the anthem was being played). The Supreme Court found that the children did not sing the anthem as they *'sincerely believe their faith forbids them to sing for anyone but Jehovah.'* Drawing parallels between *Bijoe Emanuel* and the instant case, J. Dhulia concludes that, *'the girls before us today face the same predicament as the Jehovah's Witnesses'* as they too *'wear hijab as an article of their faith.'*

Justice Dhulia also draws from comparative jurisprudence from both the US and South Africa to buttress his conclusions. In *West Virginia State Board of Education v. Barnette*, the US Supreme Court held that a school board could not prescribe a compulsory flag salute by the students. Justice Jackson observed that, *'no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion..'*



The South African constitutional court decision referenced by Justice Dhulia concerned a question of whether a young Tamil girl could be prohibited from wearing a nose stud as part of her culture/religion to school. The Court recognized the right of the girl to wear a nose ring to school, observing that, *'religious and cultural practices can be equally important to a person's identity. What is relevant is not whether a practice is characterised as religious or cultural but its meaning to the person involved.'* J. Dhulia holds that *reasonable accommodation in this case would be a sign of a mature society which has learnt to live and adjust with its differences.*

Justice Dhulia's judgement is imbued with a constitutional concern for the right of girl students to equal access to education. He notes the *'unfortunate fallout of the enforcement of hijab ban in schools in Karnataka'* was that *'some of the girl students have not been able to appear in their Board examinations, and many others were forced to seek transfer to other schools, most likely madrasas, where they may not get the same standard of education. This is for a girl child, for whom it was never easy, in the first place, to reach her school gate.'* Thus, he concludes that the hijab may be the *ticket to education* for many girl students as that may be the only way a *conservative family* may permit a girl child to go to school.

J. Dhulia, while admitting that schools do need discipline, states that they are not required to have the *discipline and regimentation of a military camp*. Importantly, he holds that *discipline cannot be at the cost of dignity and autonomy*.

This approach by J. Dhulia is significant also because it reframes the question of the *hijab* in terms of its importance to the Muslim woman. By extension, it makes constitutional room for the complex reasons that influence women's choices to wear or not wear the hijab and challenges the popular understanding of the hijab as only bearing religious connotations.

Justice Dhulia strikingly invokes the significance of the Indian Constitution by calling it a *document of trust*, which also includes *the trust the minorities have reposed upon the majority*. Recognising that our Constitution does not mandate homogeneity, J. Dhulia opines that educational institutions are spaces where students learn to *rejoice and celebrate this diversity and not to be alarmed by it*. Relying on Dr. Ambedkar's vision, he says that cultivation of fraternity is the only safeguard against the denial of liberty and equality.

Getting back to the facts with which he began, Justice Dhulia concludes that, *'By asking the girls to take off their hijab before they enter the school gates, is first an invasion on their privacy, then it is an attack on their dignity, and then ultimately, it is a denial to them of secular education. These are clearly violative of Article 19(1)(a), Article 21 and Article 25(1) of the Constitution of India.'*

However, strong as Justice Dhulia's opinion is, it remains a split verdict. This split verdict will only prolong the students' wait for justice. An urgent intervention by a larger bench of the Supreme Court is the only way the ambiguity over the future of lakhs of Muslim women students can be adequately addressed.

One hopes that Justice Dhulia's opinion becomes much like the dissent of Justice Khanna in *ADM Jabalpur v Shivkant Shukla*<sup>183</sup>, 'the intelligence of a future day' and the grievous error of the Karnataka High Court is swiftly corrected by a larger bench of the Supreme Court.

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<sup>183</sup> 1976 AIR 1207, 1976 SCR 172 - <https://indiankanoon.org/doc/1735815/>, last accessed on January 30, 2023

## 10. Conclusion

What this report has documented is a state of continuing violation of the rights of Muslim women students. They have been denied the right to education, as well as the core rights of dignity, freedom of expression and non-discrimination.

This denial of the right to education of Muslim women is part of a larger politics which is attempting to erase Muslim identity from the public space. As such the politics around the hijab ban ties in to this larger politics which aims to invisibilise, marginalize and ostracise the Muslim community. In fact, there is fear in the Muslim community that the hijab ban will be progressively extended to other public spaces.

In the long run, the hijab ban must be looked at not simply as an issue impacting the Muslim community, but in larger terms, as one involving our country's future. The question is: Can a country's social development and growth remain unaffected if some groups are going to be left out? There has been a recognition among social scientists that taking aboard the concerns of different sections of society makes for a participatory development, and decreases the tension among different groups and individuals. These are important factors in maintaining social stability and peace. This is especially true of today's global world where migration of peoples across the world is an ineluctable reality, and where the same group may be a minority in one part of the world and a majority in another.

University spaces are the training grounds for citizenship, where students, through a common experience, develop shared understandings of how society functions. These spaces are critical in creating a sense of solidarity across the diverse cultural and religious communities of the country, and promoting the value of fraternity between students as well as a shared understanding of the irreducible value of dignity. As the Preamble pithily puts it, 'fraternity, assuring the dignity of the individual and the unity and integrity of the nation'.

To achieve this Preambular value, it is important that our educational spaces be as diverse as the country we live in. University spaces should actively ensure that people from all parts of society are represented with a diversity of people along the lines of community, religion, creed, or gender.

What was worrying was that in many colleges, the team heard members of the administration repeat that they envisioned a future of an 'equal' society premised upon the invisibilization of markers of Muslim identity such as the hijab. These did not reflect a vision of a plural and diverse society rooted in our constitutional values but rather a society and a future quite at odds with the Constitution.

This abdication of what Ambedkar would have called 'constitutional morality' was most evident in the response of the State of Karnataka. It consciously and deliberately went out of its way to deny Muslim women the right to choose their attire. It privileged uniform

over education. At all points in time, it consciously shirked its constitutional responsibility under Article 41<sup>184</sup> to make ‘make effective provision for securing the right to education’ and its constitutional responsibility to ensure the right to education without discrimination under Articles 21-A, 21 and 15.

The Karnataka Government has an inalienable constitutional responsibility to respond to the continuing violations of fundamental rights of young Muslim women. More than a year after the hijab was first suddenly prohibited in a PU college in Udupi, Muslim women students across Karnataka continue to struggle to pursue their education and face psychological distress and isolation. This is due to the abdication of constitutional responsibilities by the government.

What comes as a silver lining in this otherwise dark horizon is that the women the team spoke to were strong, independent-minded, and steadfast. They confidently asserted their rights to dignity within their education spaces, in spite of actions by authorities aimed at humiliating them. From rural to urban areas, in the north, the south, and the coast of the state, these women kept telling the team how they only wished to go to college and complete their studies.

The women we had spoken to showed a prescriptive faith in the democratic spirit of the society. They understood that society had failed to live up to its promise to protect their rights, but they said that this is not the way it should be. All of the students understand one of the most basic principles of the constitutional promise, that rights are not given in parts, but must be read as a whole. They understood that being forced to choose between rights is itself a loss of rights.

The women asserted their right to dignity across the board. The right to dignity includes the right to the promise of education, with access to economic independence. It includes the right to being an equal part of society; it includes the right to expression of identity through forms of dress and attire.

The other sign of hope comes from the response of the students the team spoke to who were bystanders to what unfolded. Students desired peace in the classroom at a time of crisis and wanted to focus on their education. The fact that in spite of the enormous power of the right wing, Hindu students do not uniformly subscribe to the anti-hijab campaign indicates that the idea of India as a plural and diverse country is still in the balance.

In these conversations, the team realised how much is at stake in this issue. The issue reaches far beyond the right of a woman student to cover her head in a public space. It

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<sup>184</sup> Article 41 of the Indian Constitution: The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want

touches upon the most basic question of a democracy as a form of what Ambedkar called, 'combined and associated living', namely the importance of respecting individuals not as a means to an end but as ends in themselves. The question of course is: How do all citizens learn the practice of democracy as a practise of 'combined and associated living'?

# 11. Recommendations

## A. To the State Government

- i. Should immediately withdraw its order dated February 5 which allows for educational institutions to prohibit the wearing of the hijab.
- ii. Should immediately withdraw prosecution initiated against Muslim students, teachers or any such individual for carrying out peaceful protests during the period of February - April 2022.
- iii. Should compensate students for the loss they have suffered due to its unconstitutional and arbitrary action which has deprived Muslim girl students of their constitutional rights to education, expression, dignity and non-discrimination.
- iv. Should act in consonance with Directive Principle under Article 41 which mandates the state to 'make effective provision for securing the right to education and the right to freedom of expression.
- v. Should act in accordance with its constitutional obligation to ensure that Muslim students' right to education without being discriminated against is guaranteed, as mandated by Article 15.
- vi. Should ensure that the students' right to dignity, privacy and expression is protected within schools and colleges, as mandated by Article 21 and Article 19 (1)(a).

### A.1. Department of Collegiate Education & Department of Public Instruction

- i. Should fulfil their constitutional and legal obligations to ensure the right to education of all students.
- ii. Should issue a directive to all schools and colleges, clarifying that the Karnataka High Court judgement does not mandate a ban and ensure that educational institutions do not wilfully impose a blanket hijab ban.
- iii. Should issue directives to educational institutions to provide admissions to Muslim students who were forced to drop out due to the blanket hijab ban.
- iv. Should take cognisance of the unconstitutional actions of vigilante forces within classrooms and educational campuses. Strict guidelines must be issued to prohibit discrimination, misinformation, harassment, intimidation or the spread of communal hatred amongst college authorities, faculty and students.
- v. Should ensure that all colleges and universities are in strict compliance with the University Grants Commissions (Promotion of Equity in Higher Educational Institutions) Act, 1956 and take legal/disciplinary action against administrators, faculty and students who violate clause 3 of Act. Clause 3 mandates that all higher educational institutions must:

- a. Safeguard the interest of the students without any prejudice to their caste, creed, religion, language, ethnicity, gender and disability.
- b. Eliminate discrimination against or harassment of any student in all forms by prohibiting it and by providing for preventive and protective measures to facilitate its eradication and punishments for those who indulge in any form of discrimination or harassment.
- c. Promote equality among students of all sections of society.
- vi. Should ensure that all schools and Pre-University (PU) colleges institute preventive and protective measures to strictly prohibit any form of stereotyping, discrimination and violence based on religion, gender, sexual orientation, gender identity, caste, ethnicity and disability.
- vii. Should put in place guidelines to ensure that all schools and colleges in the state foster an environment which promotes the Constitutional values of secularism, democracy and plurality.
- viii. Should implement a mandatory sensitisation of college authorities and faculty towards fundamental rights and constitutional principles, especially the principles of equality, non-discrimination, freedom of expression and dignity.
- ix. Should take action where Muslim students are arbitrarily prevented from appearing for examinations. Action must also be initiated during instances of other overt forms of harassment (such as refusing to sign records) and intimidation.
- x. Should compile information on how attendance in exams has been impacted by the hijab ban and make them publicly available.
- xi. Should ensure that students are educated about the syncretic and diverse histories of the country as embodied in the principles of the Constitution.
- xii. Should ensure compensation and restitution for the trauma and losses suffered by students.
- xiii. Should ensure special arrangements to conduct interim examination for Muslim students with immediate effect and ensure there is no disruption caused to their career and future.

#### A.2. Department of Women and Child Development

- i. Should ensure the protection of the rights of all women and children to dignity, privacy, non-discrimination and education as per the mandate of the Constitution.
- ii. Should take cognisance of the instances of sexual harassment, violence and discrimination suffered by both Muslim women and children, after the hijab restriction in Karnataka.
- iii. Should immediately initiate programmes for providing mental health support for students adversely affected by the hijab verdict.
- iv. Should document and collect information on the impact of the hijab verdict on Muslim students' right to education.

## **B. To the District Administration**

- i. Deputy Commissioners and other district administrative authorities should immediately issue written notifications clarifying the ambit of the High Court judgement and emphasise that it did not mandate for a ban on the hijab.
- ii. Through powers and responsibilities vested in their office, they should ensure that journalistic coverage does not violate constitutional rights of the citizens, especially minor children. They must ensure that journalistic coverage adheres to the laws<sup>185</sup>, regulations as well as principles of impartiality, neutrality and objectivity.
- iii. The District Administration must insist on written official communication from higher authorities and desist from acting over orders issued orally or over WhatsApp or other media, especially when such orders prima facie violate the fundamental rights of citizens.

## **C. To the Karnataka State Police**

- i. Should extend protection to all the petitioners and their families who had appeared before the High Court and Supreme Court and ensure their physical safety and security.
- ii. In cases of administrative lapses which result in human rights violations, district police must ensure a strict compliance with the law. In cases of orders received orally, WhatsApp or other media especially when such orders prima facie violate the fundamental rights of citizens, police must insist on written official communication from higher authorities.
- iii. Should take swift action in registering criminal cases against members of vigilante groups who have been visibly seen in videos and images harassing and stalking Muslim women students.
- iv. Should take preventive measures to strictly prohibit students from engaging in hate speech, social boycott of Muslim students and promoting hatred between communities.
- v. Should act on the complaints that were filed by Muslim women students in an unbiased manner and file FIRs against college authorities, Hindutva groups or any individual who violated the right to dignity, privacy and freedom of expression of the students and their families.
- vi. Should initiate inquiry against their personnel who were involved in threats to members of the Muslim community or threats to those who were working with or providing space to members of the Muslim community and take appropriate action against such personnel in this regard.

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<sup>185</sup>These are cited in a letter from Campaign Against Hate Speech to all Deputy Commissioners of Karnataka - [http://puclkarnataka.org/wp-content/uploads/2023/01/CAHS-letter-to-DCs\\_15.3.2022.pdf](http://puclkarnataka.org/wp-content/uploads/2023/01/CAHS-letter-to-DCs_15.3.2022.pdf)



- vii. Should undertake departmental inquiry and initiate disciplinary action against their personnel in cases of unauthorised actions which resulted in the violation of fundamental rights of the Muslim students as well as inaction when Muslim students were being subjected to ostracism, hatred and violence.
- viii. Should take suo-moto cognisance and file FIRs against
  - a. Members of Parliament (MP) and Members of Legislative Assembly (MLA) who gave hate speeches against the Muslim students and the community at large, under Section 153 A of the IPC
  - b. College administrations who took arbitrary actions and went beyond the orders of the State Government and the High Court inciting discriminatory actions against Muslim students.
  - c. Individuals who attacked Muslim students within educational institutions and in public spaces.
- ix. Vigilante groups who disrupted and continue to disrupt law and order, incite hatred, engage in hate speech and vilification of Muslims.
- x. Police should ensure that the right to peaceful expression of dissenting opinions as well as peaceful assemblies and protests is fully protected.
- xi. The right to peaceful protest should not be extended to protecting illegal actions, harassment and the creation of a hostile environment for students.
- xii. Should publish all orders imposing Section 144 of the CrPC in all districts of the state between 01.01.2022 and 30.04.2022.
- xiii. In compliance with the Guidelines for Communal Harmony, 2008, Peace Committees comprising prominent citizens, community leaders and representatives of political parties, civil society organisations, etc., should be set up, and periodic contacts with them should be maintained by the concerned officers at the police station, sub-divisional and district levels.

#### **D. College Administration**

- i. Should strictly refrain from discriminating against students based on gender, religion, caste, sexual orientation, gender identity and disability.
- ii. Should ensure a safe and vibrant learning environment for students from all sections of the society.
- iii. Should conduct sensitisation workshops on issues of gender, caste, class, religion and other markers of discrimination.
- iv. Should desist from acting upon oral instructions regarding the governance of their educational institutions, especially when such orders violate legal and constitutional safeguards of the students and should strictly insist on written orders.
- v. Should ensure that students are not subjected to arbitrary surveillance and harassment by police authorities.

## **E. To the Media**

- i. Channels must publicly commit themselves to responding to the grievances of the news-consuming publics and necessarily establish the procedure on their channels for raising their grievances.
- ii. All TV channels must voluntarily become members of self-regulatory bodies such as News Broadcasters and Digital Standards Authority), News Broadcasters Federation and strictly adhere to their respective Code of Ethics. Strict action must be taken suo moto by the regulatory authorities against journalists, anchors and channels that flout these guidelines.
- iii. Regulatory agencies must take prompt punitive action against hate speech, fake news, violations of privacy and dignity especially of minors, and other forms of unethical media coverage. They must effectively implement their own guidelines and standards. Especially in circumstances of channels airing continuing coverage that are tantamount to hate speech targeting a particular community and fake news, the self-regulatory bodies must take action against the channels in a time-bound manner.
- iv. During the pendency of a matter in court, media channels must report court proceedings in a neutral, balanced way without expressing their preferences for or identifying with any one stand of the contesting parties. The parties must not be pitted against each other, neither must their viewpoints. Channels must accurately and authentically represent the proceedings in courts well as the decisions. The channel must distinguish clearly between facts and allegations during reporting. It must be the responsibility of the media to ensure that issues of public importance that are decided in courts are represented on TV with legal accuracy.
- v. All journalism schools must impart training of the journalists regarding fundamental rights enshrined in the Constitution, especially regarding media practices and the ethics of reporting.
- vi. TV channels must ensure that their staff undergo training with respect to fundamental rights enshrined in the Constitution, as well as media practices and the ethics of reporting, specifically with respect to children during communally tense situations.
- vii. All media houses must adhere to the Programme and Advertisement Code, prescribed under the Cable Television Networks Act, 1995. District Level and State Level Monitoring Committees prescribed under the Act must be constituted and proactively monitor the coverage of regional media and Kannada media in particular.
- viii. All TV channels must refrain from taking recourse to aggravating commentary or lurid visuals that inflame communal tensions or that pit one community against the other.

- ix. Media houses must develop internal guidelines to regulate the reporting relating to vulnerable communities, minors and on-going court cases to ensure that the coverage does not alienate, further stigmatise, and incite violence against vulnerable groups.
- x. Media houses must ensure that their coverage, especially pertaining to communal violence and the violation of the rights of minority communities, is limited to stating accurate facts. Further, they must ensure that their coverage embodies the principles of the Constitution and does not perpetuate stereotypes representations of a community.
- xi. Coverage of statements by elected representatives, political parties and activists must be contextualised and categorised if they come within the rubric of hate speech, or are otherwise unconstitutional.

**F. To the Karnataka State Human Rights Commission (KSHRC), Karnataka State Minorities Commission (KSMC), Karnataka State Commission for Protection of Child Rights (KSCPCR) and Karnataka State Commission for Women (KSCW)**

- i. The Commissions should take suo-moto cognisance of the violations of the rights of Muslim students, women and minors, and intervene in cases of harassment, discrimination and hate speech against Muslims.
- ii. The Commissions should mandatorily respond with immediate effect in writing to complaints and memorandums received from affected students, women's rights groups, student groups and other civil society organisations.

**F.1. Karnataka State Human Rights Commission**

- i. Should constitute an independent team to conduct a state-level inquiry to look into the impact of the High Court judgement on Muslim women students.
- ii. Should file suo-moto cases against college authorities for the harassment meted out to students.
- iii. Should initiate action against police officials who violated the right to dignity and privacy of Muslim women students by subjecting them to surveillance, intimidation and harassment.
- iv. Should recommend that cases be filed against media houses for hate speech as well as incitement of hatred and violence.
- v. Should frame recommendations regarding police conduct in schools and educational institutions to ensure that students are not subjected to arbitrary surveillance and harassment by police authorities.

**F.2. Karnataka State Minorities Commission**

- i. Should conduct a study to assess the ramifications of the hijab judgement on the Muslim women students with a specific focus on the mental health impact.

- ii. Should inquire into cases where the petitioners and their families in the hijab ban case faced criminalization, physical assault, and demolitions of private businesses for taking appropriate legal action.
- iii. Should take cognisance of complaints and memorandums by affected Muslim students and initiate appropriate action as statutorily mandated.
- iv. Should make public their response to complaints or memorandums regarding cases of violence or harassment suffered by Muslim students in the wake of the hijab controversy.

### F.3. Karnataka State Commission Protection of Child Rights

- i. Should conduct an independent inquiry into the violations of the rights of Muslim students under the age of 18 in schools and PU colleges following the blanket hijab ban.
- ii. Should inquire into the cases of students who have lost an academic year, focusing on its psychological impact.
- iii. Should recommend that institutional mental health support be provided to the affected students by a team of psychologists.
- iv. Should frame recommendations to ensure that students are not subjected to arbitrary surveillance and harassment by police authorities.

### **G. To the Karnataka State Legal Services Authority**

- i. Should take appropriate legal measures to ensure that Muslim students are guaranteed protection against discrimination and hate speech.
- ii. Should offer quality legal representation to Muslim students, so that the fundamental rights guaranteed to them in the Constitution, are upheld.

### **H. To Civil society**

- i. Should make efforts to reach out to Muslim women students, document incidents of violence, harassment and discrimination and assist the students in their struggle for justice.
- ii. Should facilitate dialogues between religious communities to strengthen communal harmony and educate all communities to enable them to resist hate speech and divisive forces within and outside educational institutions.
- iii. Should work towards establishing broader coalitions between Muslim student community, Muslim community leaders and organisations with other civil society organisations.
- iv. Should respond to and deal with the causes for the systemic targeting, harassment and discrimination of the Muslim community, especially Muslim women and children.
- v. Should organise programmes celebrating the constitutional idea of fraternity.

- vi. Should work with the youth in the affected districts to educate and sensitise them about the constitutional value of secularism and equality to counter the division among students in educational institutions.

### **I. To Elected Representatives**

All elected representatives should act in accordance with the oath taken “to bear true faith and allegiance to the Constitution of India as by law established and uphold the sovereignty and integrity of India.”, and therefore:

- i. When it is brought to the notice of the speaker that members have engaged in hate speech, incited violence, and hatred amongst communities, the Speaker must initiate prompt disciplinary proceedings against the members for the violation of the Constitutional oath.
- ii. Members of the Legislative Assembly must work towards ensuring that the constitutional principles of fraternity and non-discrimination are not violated and the rights of the minority community to life and dignity are protected.
- iii. As Presiding officers of the CDCs, the Members of Legislative Assembly must work in consultation with communities, especially when it comes to decisions that would have an impact on those local communities.
- iv. The Speaker through a process of consultation with members from all parties must formulate, amend or introduce a code of conduct for parliamentarians, especially concerning speech which can lead to the incitement of hatred and violence.
- v. The Speaker must act to fulfil their constitutional responsibility to ensure that the Code of conduct for Legislative Assembly members is enforced and appropriate disciplinary action is taken in case of any violation.

## 12. List of Abbreviations

ABVP: Akhil Bharatiya Vidyarthi Parishad  
ADC: Assistant Deputy Commissioner  
AILAJ: All India Lawyers Association For Justice  
AIPF: All India People's Forum  
AIPWA: All India Progressive Women's Association  
AISA: All India Students' Association  
APPG: All-Party Parliamentary Group  
ASP: Additional Superintendent of Police  
BARC: Broadcast Audience Research Council  
BEO: Block Education Officer  
BJP: Bhartiya Janata Party  
CAHS: Campaign Against Hate Speech  
CBSE: Central Board of Secondary Education  
CDC: College Development Committees  
CDMC: College Development and Management Committee  
CrPC: Criminal Procedural Code/ Code of Criminal Procedure  
CS: Civil Society  
DC: Deputy Commissioner  
DDPE: Deputy Director of Primary Education  
DMK: Dravida Munnetra Kazhagan  
DySP: Deputy Superintendent of Police  
ERP: Essential Religious Practices  
FIR: First Information Report  
GFGC: Government First Grade College  
GO: Government Order  
HC: High Court  
HoD: Head of Department  
KSCPCR: Karnataka State Commission for Protection of Child Rights  
KSCW: Karnataka State Commission for Women  
KSHRC: Karnataka State Human Rights Commission  
KSMC: Karnataka State Minorities Commission  
MLA: Member of Legislative Assembly  
MLC: Member of the Legislative Council  
NBA: News Broadcasters' Association  
NDA: National Democratic Alliance  
NIA: National Investigation Authority  
PSI: Police Sub-Inspector  
PU: Pre-University  
PUCL: People's Union for Civil Liberties  
TC: Transfer Certificate  
TRP: Television Rating Points  
UCM: University College of Mangalore  
VHP: Vishwa Hindu Parishad

## 13. Annexures

**Annexure 1:** Collation of media reports which reveal the ways in which Muslim women students faced the impact of the Government Order on their right to education.

Sl. No.	Place of the incident	Details of the incident	Nature of the Impact	Media House, Date of Reporting
1.	Kundapura, Udupi	In Kundapura, 28 students wearing hijabs were barred from entering the Government PU College premises.	28 students denied entry.	India Today <sup>186</sup> , 03. 02. 2022
2.	Kundapura, Udupi	In Kundapura's Bhandarkar's Arts and Science Degree College, 40 students staged a protest after the authorities refused to let them in.	40 students denied entry.	The Quint <sup>187</sup> , 04. 02. 2022
3.	Kundapura, Udupi	In Udupi's Dr B.B. Hedge College, 9 Muslim students were barred from entering college with a hijab by a large group of men, including students dressed in saffron shawls. The gates were subsequently locked after their refusal to take off the hijab.	9 Muslim students denied entry.	The Guardian <sup>188</sup> , 09. 02. 2022
4.	Bagalkot, Bagalkot	In Bagalkot Government Girl's High School, only one out of 19 Muslim girl students attended classes	18 out of 19 Muslim students did not attend classes.	The Indian Express <sup>189</sup> , 16. 02. 2022

<sup>186</sup> <https://www.indiatoday.in/india/story/karnataka-hijab-row-udupi-muslim-students-protest-1908874-2022-02-04>

<sup>187</sup> <https://www.thequint.com/news/india/another-karnataka-college-disallows-girls-wearing-hijab-to-attend-classes#read-more>

<sup>188</sup> <https://www.theguardian.com/world/2022/feb/09/violent-clashes-over-hijab-ban-in-southern-india-force-schools-to-close>

<sup>189</sup> <https://indianexpress.com/article/cities/bangalore/karnataka-hijab-row-students-parents-protest-7775553/>

5.	Shivamogga	At Shivamogga High School, a student boycotted school-level exams after she was not allowed to enter the examination hall wearing a hijab	1 student was not allowed to enter an exam with a hijab.	
6.	Indavara, Chikkamagaluru	At a government institution in Indavara village of Chikkamagaluru district, girls in hijab were not let inside the school and were asked to return home.	Many girls who wore hijab asked to return home.	
7.	Bidar	In Bidar, as many as 114 students from seven schools were sent back home for defying the HC direction and refusing to remove the hijab inside the classroom.	162 students from 14 schools were sent back.	Deccan Herald <sup>190</sup> , 18. 02. 2022
8.	Shivamogga	In Shivamogga, as many as 20 students from three schools were sent back home for defying the HC direction and refusing to remove the hijab inside the classroom.		
9.	Chitradurga	In Chitradurga, as many as 18 students from 2 schools were sent back home for defying the HC direction and refusing to remove the hijab inside the classroom.		
10.	Chikkamagaluru	In Chikkamagaluru, as many as 18 students from a school were sent back home for defying the HC direction and refusing to remove the hijab inside the classroom.		
11.	Chikkaballapur	In Chikkaballapur, 2 students from a school were sent back home for defying the HC		

<sup>190</sup> <https://www.deccanherald.com/state/top-karnataka-stories/karnataka-govt-collects-data-on-muslim-students-1082700.html>



		direction and refusing to remove the hijab inside the classroom.		
12.	Shiralakoppa, Shivamogga	As many as 58 students at Shiralakoppa in Shivamogga district who had refused to remove their hijab and staged a demonstration against the government pre-university college administration were allegedly suspended.	58 students suspended	Indian Express <sup>191</sup> , 19. 02. 2022
13.	Harihar, Davangere	Girls wearing hijab were denied entry. The pupils refused to go inside without the scarf, stressing that it was as important as education and that they cannot give up their right.	Students denied entry (number not indicated)	The New Indian Express <sup>192</sup> , 19. 02. 2022
14.	Udupi	According to the information available with the education department, over 232 students in degree colleges are missing their classes and examinations due to the hijab row in the state. In addition to this, the data compiled by the Muslim Okkoota, a coalition of organizations representing the Muslim community in Udupi, shows that at least 183 more pre-university students are also missing their classes and examinations in Udupi.	Around 400 students missed classes and examinations	The News Minute <sup>193</sup> , 21. 03. 2022
20.	Mangalore, Dakshina Kannada	Six students of the Uppinangadi Government Pre University College were suspended for	6 students suspended	Deccan Herald <sup>194</sup> , 02. 06. 2022

<sup>191</sup> <https://indianexpress.com/article/cities/bangalore/58-girls-suspended-from-college-in-ktaka-for-wearing-hijab-holding-protest-7781580/>

<sup>192</sup> <https://indianexpress.com/article/cities/bangalore/58-girls-suspended-from-college-in-ktaka-for-wearing-hijab-holding-protest-7781580/>

<sup>193</sup> <https://www.thenewsminute.com/article/hijab-ban-aftermath-over-400-muslim-girls-udupi-colleges-stay-out-class-162127>

<sup>194</sup> <https://www.deccanherald.com/state/top-karnataka-stories/six-students-suspended-12-sent-back-for-wearing-hijab-in-karnataka-1114658.html>

		wearing hijab in spite of a series of warnings.		
21.	Mangalore, Dakshina Kannada	In another instance, 12 students were sent back for wearing hijab while attending classes.	12 students sent back	
22.	Hampankatta, Dakshina Kannada	16 girl students from Mangalore University College near Hampankatta who came wearing hijab on Thursday were denied entry into the classrooms and sent back home by the Principal.	16 students denied entry into classrooms	
23.	Uppinangady, Dakshina Kannada	The Uppinangady Government First Grade College management suspended 23 girl students who staged a protest demanding permission to wear the hijab inside classrooms.	23 students suspended	NDTV <sup>195</sup> , 07. 06. 2022
24.	Mangalore, Dakshina Kannada	5 girls collected their TCs from the Hampankatta University College administration as they were denied permission to attend classes wearing hijab.	5 students collected their TCs	The Quint <sup>196</sup> , 21. 06. 2022
25.	Mangalore, Dakshin Kannada	2 students have taken NOCs from the Hampankatta University College to enroll in other institutions	2 students took NOCs	The Quint <sup>197</sup> , 23. 06. 2022
26.	Mangalore, Dakshin Kannada	1 girl was issued a TC in the Hampankatta University College	1 student issued TC	

<sup>195</sup> <https://www.ndtv.com/india-news/23-girl-students-suspended-from-karnataka-college-for-hijab-protest-3045552>

<sup>196</sup> <https://www.thequint.com/south-india/karnataka-hijab-row-students-seek-transfer-certificates-due-to-hijab-ban-in-college#read-more>

<sup>197</sup> <https://www.thequint.com/south-india/karnataka-hijab-row-two-muslim-girl-students-get-noc-one-takes-tc#read-more#read-more>

27.	Udupi and Dakshin Kannada	145 out of the total 900 Muslim girl students from government, aided and constituent colleges of MU in Dakshina Kannada and Udupi districts who had enrolled for various courses in 2020-21 and 2021-22 had collected TCs.	145 student collected TCs	Deccan Herald <sup>198</sup> , 20. 08. 2022
28.	Udupi	One of the petitioners in <i>Resham v. State of Karnataka</i> who were told to either remove the hijab or stay at home, hasn't been to school since February. She has missed her exams and subsequently, her promotion to the 11th-grade.	1 student missed writing her examination	NPR News, 24. 08. 2022

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<sup>198</sup> <https://www.deccanherald.com/state/mangaluru/hijab-ban-16-muslim-girls-from-mangalore-university-colleges-drop-out-1137668.html>

**Annexure 2:** Question no. 2 raised by MLA Sowmya Reddy in the Karnataka Legislative Assembly to ask the state government to furnish data:

(2) How many students between the ages of 6 and 18 dropped out of education because of the Government order restricting hijab? (Please provide constituency-wise data and data from Bengaluru.)



**ಕರ್ನಾಟಕ ವಿಧಾನಸಭೆ**

ಪುಕ್ಕಿ ಗುರುತಿಲ್ಲದ ಪ್ರಶ್ನೆ ಸಂಖ್ಯೆ :	1496
ಸದಸ್ಯರ ಹೆಸರು	ಶ್ರೀಮತಿ ಸೌಮ್ಯರೆಡ್ಡಿ (ಜಯನಗರ)
ಉತ್ತರಿಸಬೇಕಾದ ದಿನಾಂಕ	22.09.2022
ಉತ್ತರಿಸಬೇಕಾದ ಸಚಿವರು	ಪ್ರಾಥಮಿಕ ಮತ್ತು ಪ್ರೌಢ ಶಿಕ್ಷಣ ಹಾಗೂ ಸಕಾಲ ಸಚಿವರು

ಕ್ರ.ಸಂ	ಪ್ರಶ್ನೆ	ಉತ್ತರ
ಅ)	ರಾಜ್ಯ ಸರ್ಕಾರದ ಸಮೀಕ್ಷೆಯ ಪ್ರಕಾರ ರಾಜ್ಯದಾದ್ಯಂತ ಹಾಗೂ ಬೆಂಗಳೂರು ನಗರದಲ್ಲಿ 2018-19ನೇ ಸಾಲಿನಲ್ಲಿ, ಕೋವಿಡ್-19ರ ನಂತರದಲ್ಲಿ ಶಾಲೆಗೆ ದಾಖಲಾಗದ, ದಾಖಲಾತಿ ಪಡೆದಿರುವ ಹಾಗೂ ಶಾಲೆಯನ್ನು ತೊರೆದಿರುವ ಒಟ್ಟು ಮಕ್ಕಳ ಸಂಖ್ಯೆ ಎಷ್ಟು; (ಅಂಕಿ ಅಂಶಗಳನ್ನು ಮಕ್ಕಳ ವಯಸ್ಸು ಶೇಕಡವಾರು ಹಾಗೂ ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರವಾರು ವಿವರ ನೀಡುವುದು)	ಗ್ರಾಮೀಣಾಭಿವೃದ್ಧಿ ಮತ್ತು ಪಂಚಾಯತ್ ರಾಜ್ ಇಲಾಖೆ, ನಗರಾಭಿವೃದ್ಧಿ ಇಲಾಖೆಗಳ ಮುಖಾಂತರ ನಡೆಸಲಾದ ಸಮೀಕ್ಷೆ ಪ್ರಕಾರ ಶಾಲೆಗೆ ದಾಖಲಾಗದ, ದಾಖಲಾತಿ ಪಡೆದಿರುವ ಹಾಗೂ ಶಾಲೆಯನ್ನು ತೊರೆದಿರುವ 6 ರಿಂದ 14 ವಯೋಮಾನದ ಮಕ್ಕಳ ಸಂಖ್ಯೆ ಮತ್ತು ಶಿಕ್ಷಣದ ಮುಖ್ಯವಾಹಿನಿಗೆ ತರಲಾದ ಮಕ್ಕಳ ಸಂಖ್ಯೆಗೆ ಲಭ್ಯವಿರುವ ತಾಲ್ಲೂಕುವಾರು ಪ್ರಗತಿ ವಿವರವನ್ನು ಅನುಬಂಧ -1 ರಲ್ಲಿ ಮತ್ತು 15-16 ರ ವಯೋಮಾನದ ಮಕ್ಕಳ ಸಂಖ್ಯೆಗೆ ಲಭ್ಯವಿರುವ ತಾಲ್ಲೂಕುವಾರು ಪ್ರಗತಿ ವಿವರವನ್ನು ಅನುಬಂಧ-2 ರಲ್ಲಿರಿಸಿದೆ.
ಆ)	ಹಿಜಾಬ್ ರಹಿತ ಆದೇಶದಿಂದ ಶಾಲೆಯನ್ನು ತೊರೆದಿರುವ 6 ರಿಂದ 18ರ ವಯೋಮಿತಿಯೊಳಗಿನ ಬಾಲಕಿಯರ ಒಟ್ಟು ಸಂಖ್ಯೆ ಎಷ್ಟು? (ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರವಾರು ಹಾಗೂ ಬೆಂಗಳೂರು ನಗರಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಪ್ರತ್ಯೇಕವಾಗಿ ಮಾಹಿತಿ ನೀಡುವುದು)	ಹಿಜಾಬ್ ರಹಿತ ಆದೇಶದಿಂದ 6 ರಿಂದ 16 ರ ವಯೋಮಿತಿಯೊಳಗಿನ ಯಾವುದೇ ಬಾಲಕಿಯರು ಶಾಲೆಯನ್ನು ತೊರೆದಿರುವುದಿಲ್ಲ.  ಪ್ರಥಮ ಪಿ.ಯು.ಸಿ. ಮತ್ತು ದ್ವಿತೀಯ ಪಿ.ಯು.ಸಿ ವ್ಯಾಸಂಗ ಮಾಡಿ ಕೇವಲ ಹಿಜಾಬ್ ರಹಿತ ಆದೇಶದ ಕಾರಣದಿಂದಲ್ಲದೇ ಬೇರೆ ಕಾರಣದಿಂದಲೂ 17 ರಿಂದ 18 ವಯೋಮಾನದ ಒಟ್ಟಾರೆಯಾಗಿ 1010 ಬಾಲಕಿಯರು ಶಾಲೆಜನ್ನು ತೊರೆದಿರುತ್ತಾರೆ. ವಿವರಗಳನ್ನು ಅನುಬಂಧ-3ರಲ್ಲಿರಿಸಿದೆ ಮತ್ತು ಬೆಂಗಳೂರು ನಗರಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಪ್ರತ್ಯೇಕವಾಗಿ ಮಾಹಿತಿಯನ್ನು ಅನುಬಂಧ-4 ರಲ್ಲಿರಿಸಿದೆ.

ಸಂಖ್ಯೆ: ಇ.ಪಿ 369 ಪಿ.ಜಿ. 2022

(ಬಿ.ಸಿ. ಸುಜೇತ್)

ಪ್ರಾಥಮಿಕ ಮತ್ತು ಪ್ರೌಢ ಶಿಕ್ಷಣ ಹಾಗೂ ಸಕಾಲ ಸಚಿವರು.

147 (6)

ಅನುಬಂಧ-೩			
2021-22ನೇ ಸಾಲಿನ ಪ್ರಥಮ ಪಿಯುಸಿ ಮುಸ್ಕಿಂ ವಿದ್ಯಾರ್ಥಿನಿಯರ ಮಾಹಿತಿ			
ಜಿಲ್ಲೆಯ ಸಂಕೇತ	ಜಿಲ್ಲೆ	ತಾಲ್ಲೂಕು	ಕಾಲೇಜು ತೊರದ ವಿದ್ಯಾರ್ಥಿನಿಯರ ಸಂಖ್ಯೆ
AN	BENGALURU NORTH	BANGALORE NORTH	60
AS	BENGALURU SOUTH	BANGALORE SOUTH	103
AS	BENGALURU SOUTH	ANEKAL	3
BB	BENGALURU RURAL	DEVANAHALLI	2
BB	BENGALURU RURAL	DODDABALLAPUR	3
BB	BENGALURU RURAL	HOSAKOTE	4
BB	BENGALURU RURAL	NELAMANGALA	1
BR	RAMNAGARA	CHANNAPATNA	3
BR	RAMNAGARA	KANAKAPURA	1
BR	RAMNAGARA	MAGADI	0
BR	RAMNAGARA	RAMANAGARAM	9
CC	BELLARY	BELLARY	9
CC	BELLARY	HUVINAHADAGALI	0
CC	BELLARY	HAGARIBOMMANAHALLI	0
CC	BELLARY	HOSPET	2
CC	BELLARY	KUDLIGI	0
CC	BELLARY	SANDUR	1
CC	BELLARY	SIRUGUPPA	1
DC	CHIKKODI	ATHANI	3
DC	CHIKKODI	CHIKKODI	2
DC	CHIKKODI	GOKAK	1
DC	CHIKKODI	HUKKERI	1
DC	CHIKKODI	RAIBAG	3
DD	BELAGAVI	BELGAUM	13
DD	BELAGAVI	BAILHONGAL	0
DD	BELAGAVI	KHANAPUR	1
DD	BELAGAVI	RAMDURG	0
DD	BELAGAVI	SOUNDATTI	2
EB	BAGALKOTE	BAGALKOT	2
EB	BAGALKOTE	BADAMI	2
EB	BAGALKOTE	BILGI	0
EB	BAGALKOTE	HUNGUND	0
EB	BAGALKOTE	JAMKHANDI	19
EB	BAGALKOTE	MUDHOL	5
EE	VIJAYAPUR	BIJAPUR	23
EE	VIJAYAPUR	BASAVANA-BAGEWADI	3
EE	VIJAYAPUR	INDI	0
EE	VIJAYAPUR	MUDDEBIHAL	0
EE	VIJAYAPUR	SINDGI	1
FF	BIDAR	BIDAR	22
FF	BIDAR	AURAD	0
FF	BIDAR	BASAVAKALYAN	4
FF	BIDAR	BHALKI	4
FF	BIDAR	HUMNABAD	6
GD	DAVANAGERE	DAVANGERE	6
GD	DAVANAGERE	CHANNAGIRI	6

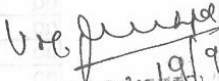
ಕರ್ನಾಟಕ ರಾಜ್ಯ ಸರ್ಕಾರ  
 ಕರ್ನಾಟಕ ರಾಜ್ಯ ಸರ್ಕಾರ  
 ಕರ್ನಾಟಕ ರಾಜ್ಯ ಸರ್ಕಾರ

GD	DAVANAGERE	HARIHAR	0
GD	DAVANAGERE	HONNALI	0
GD	DAVANAGERE	JAGALUR	0
GG	CHITRADURGA	CHITRADURGA	4
GG	CHITRADURGA	CHALLAKERE	0
GG	CHITRADURGA	HIRIYUR	0
GG	CHITRADURGA	HOLALKERE	0
GG	CHITRADURGA	HOSADURGA	0
GG	CHITRADURGA	MOLAKALMURU	0
HH	CHICKAMAGALUR	CHIKMAGALUR	3
HH	CHICKAMAGALUR	KADUR	7
HH	CHICKAMAGALUR	KOPPA	0
HH	CHICKAMAGALUR	MUDIGERE	3
HH	CHICKAMAGALUR	NARASIMHARAJAPURA	1
HH	CHICKAMAGALUR	SRINGERI	0
HH	CHICKAMAGALUR	TARIKERE	1
JG	GADAG	GADAG	2
JG	GADAG	MUNDARGI	1
JG	GADAG	NARGUND	0
JG	GADAG	RON	0
JG	GADAG	SHIRAHATTI	0
JH	HAVERI	HAVERI	6
JH	HAVERI	BYADGI	1
JH	HAVERI	HANGAL	0
JH	HAVERI	HIREKERUR	11
JH	HAVERI	RANIBENNUR	6
JH	HAVERI	SAVANUR	0
JH	HAVERI	SHIGGAON	2
JH	HAVERI		11
JJ	DHARWAD	DHARWAR	0
JJ	DHARWAD	HUBLI	24
JJ	DHARWAD	KALGHATGI	0
JJ	DHARWAD	KUNDAGOL	0
JJ	DHARWAD	NAVALGUND	4
KK	KALBURGI	GULBARGA	14
KK	KALBURGI	AFZALPUR	0
KK	KALBURGI	ALAND	0
KK	KALBURGI	CHINCHOLI	1
KK	KALBURGI	CHITTAPUR	7
KK	KALBURGI	JEWARGI	1
KK	KALBURGI	SEDAM	0
KY	YADGIR	SHAHAPUR	12
KY	YADGIR	SURAPURA	0
KY	YADGIR	YADAGIR	8
LL	HASSAN	HASSAN	13
LL	HASSAN	ALUR	2
LL	HASSAN	ARKALGUDU	1
LL	HASSAN	ARASIKERE	4
LL	HASSAN	BELUR	7
LL	HASSAN	CHANNARAYAPATNA	0
LL	HASSAN	HOLENARASIPUR	1
LL	HASSAN	SAKLESHPUR	3
LL	HASSAN		3
MC	CHIKKABALLAPUR	BAGEPALLI	3

MC	CHIKKABALLAPUR	CHIKKABALLAPUR	2
MC	CHIKKABALLAPUR	CHINTAMANI	0
MC	CHIKKABALLAPUR	GOURIBIDANUR	3
MC	CHIKKABALLAPUR	SIDLAGHATTA	1
MM	KOLAR	KOLAR	10
MM	KOLAR	BANGARPET	4
MM	KOLAR	MALUR	0
MM	KOLAR	MULBAGAL	1
MM	KOLAR	SRINIVASAPURA	3
NC	CHAMARAJANAGAR	CHAMARAJANAGAR	0
NC	CHAMARAJANAGAR	GUNDLUPET	2
NC	CHAMARAJANAGAR	KOLLEGAL	5
NC	CHAMARAJANAGAR	YELANDUR	0
NN	MYSURU	MYSORE	26
NN	MYSURU	HEGGADADEVANAKOTE	1
NN	MYSURU	HUNSUR	0
NN	MYSURU	KRISHNARAJANAGAR	0
NN	MYSURU	NANJANGUD	0
NN	MYSURU	PERIYAPATNA	0
NN	MYSURU	T NARASIPUR	2
PP	MANDYA	MANDYA	2
PP	MANDYA	KRISHNARAJAPETE	0
PP	MANDYA	MADDUR	1
PP	MANDYA	MALAVALLI	3
PP	MANDYA	NAGAMANGALA	2
PP	MANDYA	PANDAVAPURA	1
PP	MANDYA	SRIRANGAPATNA	1
QQ	UTTARA KANNADA	KARWAR	0
QQ	UTTARA KANNADA	ANKOLA	0
QQ	UTTARA KANNADA	BHATKAL	2
QQ	UTTARA KANNADA	HALIYAL	0
QQ	UTTARA KANNADA	HONNAVAR	1
QQ	UTTARA KANNADA	KUMTA	2
QQ	UTTARA KANNADA	MUNDAGOD	0
QQ	UTTARA KANNADA	SIDDAPUR	0
QQ	UTTARA KANNADA	SIRSI	2
QQ	UTTARA KANNADA	SUPA	0
QQ	UTTARA KANNADA	YELLAPUR	3
RK	KOPPAL	KOPPAL	24
RK	KOPPAL	GANGAVATHI	6
RK	KOPPAL	KUSHTAGI	0
RK	KOPPAL	YELBURGA	5
RR	RAICHUR	RAICHUR	14
RR	RAICHUR	DEODURG	7
RR	RAICHUR	LINGSUGUR	5
RR	RAICHUR	MANVI	3
RR	RAICHUR	SINDHANUR	17
SS	DAKSHIN KANNADA	MANGALORE	48
SS	DAKSHIN KANNADA	BELTHANGDI	6
SS	DAKSHIN KANNADA	BANTWAL	17
SS	DAKSHIN KANNADA	PUTTUR	14
SS	DAKSHIN KANNADA	SULLIA	0

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SU	UDUPI	UDUPI	5
SU	UDUPI	KARKALA	1
SU	UDUPI	KUNDAPURA	9
TT	SHIMOGA	SHIMOGA	8
TT	SHIMOGA	BHADRAVATHI	0
TT	SHIMOGA	HOSANAGAR	1
TT	SHIMOGA	SAGAR	0
TT	SHIMOGA	SHIKARIPURA	3
TT	SHIMOGA	SORAB	0
TT	SHIMOGA	THIRTHAHALLI	5
UU	TUMKUR	TUMKUR	26
UU	TUMKUR	CHIKKANAYAKANAHALLI	0
UU	TUMKUR	GUBBI	12
UU	TUMKUR	KORATAGERE	0
UU	TUMKUR	KUNIGAL	2
UU	TUMKUR	MADHUGIRI	2
UU	TUMKUR	PAVAGADA	0
UU	TUMKUR	SIRA	6
UU	TUMKUR	TIPTUR	1
UU	TUMKUR	TURUVEKERE	3
VV	KODAGU	MADIKERI	2
VV	KODAGU	SOMAWARPET	0
VV	KODAGU	VIRAJPET	1
TOTAL			828

  
 19/9/22  
 ಉಪ ನಿರ್ದೇಶಕರು (ಪ್ರಾ.ಶಿ.ಕೆ.)  
 ಪದವಿ ಪೂರ್ವ ವಿಭಾಗ ಇಲಾಖೆ  
 ಮಲ್ಲೇಶ್ವರಂ, ಬೆಂಗಳೂರು - 12



ಅನುಬಂಧ-03.

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ಅನುಬಂಧ-03		
2021-22ನೇ ಸಾಲಿನ ದ್ವಿತೀಯ ಪಿಯುಸಿ ಮುಸ್ಸಿಂ ವಿದ್ಯಾರ್ಥಿನಿಯರ ಮಾಹಿತಿ		
ಜಿಲ್ಲೆ	ತಾಲ್ಲೂಕು	ಕಾಲೇಜು ತೊರದ ವಿದ್ಯಾರ್ಥಿನಿಯರ ಸಂಖ್ಯೆ
AN-BENGALURU NORTH	1-BANGALORE NORTH	6
AS-BENGALURU SOUTH	2-BANGALORE SOUTH	8
CC-BALLARI	12-BELLARY	2
DC-CHIKODI	22-CHIKODI	1
DC-CHIKODI	23-GOKAK	1
DC-CHIKODI	26-RAIBAG	2
DD-BELAGAVI	19-BELGAUM	2
DD-BELAGAVI	27-RAMDURG	1
EE-VIJAYAPURA	37-INDI	1
FF-BIDAR	40-BIDAR	47
FF-BIDAR	41-AURAD	2
FF-BIDAR	42-BASAVAKALYANA	3
FF-BIDAR	43-BHALKI	7
FF-BIDAR	44-HUMNABAD	6
GD-DAVANAGERE	45-DAVANGERE	1
GG-CHITRADURGA	51-CHITRADURGA	3
GG-CHITRADURGA	53-HIRIYUR	1
GG-CHITRADURGA	56-MOLAKALMURU	1
JH-HAVERI	69-HAVERI	19
KK-KALABURAGI	81-GULBARGA	4
LL-HASSAN	91-HASSAN	1
LL-HASSAN	92-ALUR	4
LL-HASSAN	98-SAKALESHPURA	6
MC-CHIKKABALLAPURA	100-BAGEPALLI	2
MC-CHIKKABALLAPURA	103-CHINTAMANI	2
MC-CHIKKABALLAPURA	108-SHIDLAGATTA	6
MM-KOLAR	101-BANGARPET	2
NN-MYSURU	114-MYSORE	4
NN-MYSURU	116-HUNSUR	2
NN-MYSURU	120-T NARASIPURA	1
SS-DAKSHINA KANNADA	148-MANGALORE	3
SS-DAKSHINA KANNADA	150-BANTWAL	1
UU-TUMAKURU	163-TUMKUR	28
UU-TUMAKURU	171-TIPTUR	1
VV-KODAGU	175-VIRAJPET	1
TOTAL		182

*[Handwritten Signature]*

19/9/22

ಬಂಧು ಸಿಬಿಇ ಸಂಖ್ಯೆ: 1/2022  
 ಪದವಿ ಕಾಲೇಜು ವಿದ್ಯಾರ್ಥಿನಿಯರ  
 ಮಟ್ಟದಲ್ಲಿ, ಪಂಚಾಯತನ - 1



"Two of our fundamental rights have been denied at once! Our right to education and our right to freedom of expression", said a Muslim woman student in Dakshina Kannada district.

'Closing the Gates to Education - Violations of rights of Muslim women students in Karnataka' is a report by PUCL-K, which studies the impact of the de facto ban imposed by the Government of Karnataka. This report foregrounds the voices of the Muslim students, who were not only actively prevented from accessing their right to education, but also bore the brunt of a climate of hate and misinformation. Through the testimonies, the report identifies a series of violations of fundamental rights of Muslim women students as they asserted their right to education and dignity. The report critically examines the role of college authorities, the administration, the police, the media and Hindutva organisations.

