



Switzerland's 'Burqa Ban'

For Prelims: [Supreme Court](#), [Hijab](#), [Fundamental Rights](#), Cases Related to Freedom of Religion

For mains: [Fundamental Rights](#), Judiciary, Government Policies & Interventions, [Women's Issues](#), Cases Related to Freedom of Religion.

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Why in News?

Switzerland's prohibition on face-covering garments, including **burqas and niqabs**, has come into effect from 1st January 2025.

- This measure, approved through a nationwide referendum in March 2021, reflects the ongoing **global debate over wearing hijabs and burqas**, an issue that has also sparked significant discourse in India.

Karnataka Government on Hijab Ban

- In 2022, the [Karnataka government passed an order](#) prohibiting the wearing of hijab (headscarf) in government educational institutions.
- The order cited **Section 133(2) of the Karnataka Education Act, 1983**, which grants the **state powers to issue directives** for government schools to follow.
- In 2013, the state used this **provision to make uniforms compulsory**. The latest order states that the **hijab is not an essential religious practice for Muslims** that can be protected under the Constitution.

What are the Key Highlights of the Burqas Ban by Switzerland?

- **Scope and Penalties:** The law bans covering the **nose, mouth, and eyes** in **public spaces** and **private buildings accessible to the public**.
 - **Violation** of the rule will be fined up to **1,000 Swiss francs**.
- **Exceptions:** Exceptions to the ban include **planes, diplomatic premises, places of worship, health and safety concerns, native customs**, weather conditions, artistic purposes, and personal protection with prior approval.

Which Countries Have Banned Face Veils?

- **France:** It is the first European country to **ban full-face veils in public in 2011**, following restrictions on religious symbols in schools since 2004.
- **China:** It has banned burqas, veils, and long beards in Xinjiang province in **2017** as part of anti-

extremism measures.

- **Belgium:** Full-face coverings were banned in 2011, with violators facing fines or up to 7 days in jail. The ban was upheld by the European Court of Human Rights in 2017.
- **Sri Lanka:** It has permanently banned face veils in **2021** citing national security, after a temporary ban following the **2019 Easter bombings**.
- **Tajikistan:** In 2024, it has **officially banned hijabs** for women despite over 95% of the population being Muslim.
 - Hijab is also banned in **Germany, Australia, Austria, Bosnia, Herzegovina, Canada, Kazakhstan, Kosovo, Kyrgyzstan, Russia, and Uzbekistan** with varying degrees of restrictions.

Iranian Hijab Movement

- **Historical Background:** Post-1979 Iranian Revolution, the **hijab was made mandatory for women**, sparking decades of resistance.
- **Protests and Symbolism:** Iconic acts like the "**Girl of Enghelab Street**" protest, where a woman waved her white headscarf on a stick, **symbolize defiance against the dress code**.
 - Protests reignited after the **death of Mahsa Amini**, allegedly due to strict hijab enforcement, leading to widespread demonstrations.
- **Government Crackdown:** Iran enforces the hijab mandate with fines and imprisonment for non-compliance, intensifying societal tensions.
- Currently the movement is supported by **both men and women who oppose the compulsory dress code**, reflecting broader demands for personal freedoms and women's rights.

What is the Status of Hijab Wearing in India?

- **Amna Bint Basheer v CBSE, 2016:** In [Amna Bint Basheer v CBSE, 2016](#), the Kerala HC ruled that **wearing a hijab is an essential religious practice** but **upheld the CBSE dress code**, allowing additional measures and safeguards as in 2015.
 - The [Central Board of School Education \(CBSE\)](#) argued that the dress code was to prevent unfair practices.
- **Kerala High Court, 2018:** In [Fathima Thasneem v State of Kerala, 2019](#), the case involved two girls who wanted to wear the **headscarf and the Christian missionary school** refused to allow the headscarf.
 - The court ruled in favour of the school's decision, stating that the "**collective rights**" of the school must take **precedence over individual student rights**.
- **Resham v. State of Karnataka, 2022:** Karnataka HC in March 2022, validated the state government's ban on hijabs in government colleges.
 - HC upheld the ban stating that **wearing a hijab did not qualify as an essential religious practice** and the ban **did not violate the Freedom of Speech and Expression**.
- **Split Verdict by Supreme Court (SC), 2022:** In [Resham v. State of Karnataka, 2022](#) case 2-judge bench of SC delivered a split verdict. The case has now been referred to a **larger bench of the SC**.

Divergent views

A look at what was emphasised by the two verdicts on the hijab ban

DELIVERED BY

JUSTICE HEMANT GUPTA

“Secularism is applicable to all citizens, therefore, permitting one ... community to wear their religious symbols would be antithesis to secularism.”

SCHOOL AND RELIGION: Religion has no meaning in a secular school run by the state. “Students are free to profess their religion and carry out religious activities other than when they’re attending a classroom.”

UNIFORM, EQUALITY: “... Uniform fosters a sense of ‘equality’ amongst students- instills a sense of oneness, diminishes individual differences...”

DELIVERED BY

JUSTICE SUDHANSHU DHULIA

“Wearing hijab should be simply a matter of choice. It may or may not be a matter of essential religious practice, but it still is, a matter of conscience, belief, expression.”

CLASSROOM IS DIFFERENT: Though discipline is required in educational institutions, they can't be put on par with a jail or a military camp, as was cited by HC while describing schools as “qualified public spaces”

TICKET TO EDUCATION: “If it is worn as a matter of her choice, as it may be the only way her conservative family will permit her to go to school... her hijab is her ticket to education”

Constitutional Framework for Religious Freedom in India

- The Indian Constitution guarantees the **Right to Freedom of Religion** under **Articles 25-28**, enshrined in **Part III (Fundamental Rights)**:
 - **Article 25(1)**: Ensures the "**freedom of conscience and the right to freely profess, practice, and propagate religion**," providing a negative liberty where the state cannot interfere with religious practices.
 - **Article 26**: Grants the "**freedom to manage religious affairs**," allowing religious denominations to establish and manage institutions for religious and charitable purposes, subject to public order, morality, and health.
 - **Article 27**: Prohibits the state from **compelling citizens to pay taxes** for promoting or maintaining any particular religion, reinforcing the principle of secularism.
 - **Article 28**: Regulates **religious instruction in educational institutions**, restricting religious instruction in state-funded or state-recognized institutions, except where explicitly permitted.
- Additionally, **Articles 29 and 30** safeguard the **cultural and educational rights of minorities**, emphasizing the protection of their unique identities.

What are the Arguments in Favour and Against Such Ban?

- **Arguments in Favour of Ban:**
 - **Uniformity and Discipline**: Enforcing a dress code **promotes uniformity** and fosters **discipline** in educational institutions.

- It **prevents the display of overt religious symbols**, maintaining a **neutral and inclusive space** free from religious divisions.
- **Gender Equality:** Hijab and similar practices are often viewed as **tools of patriarchy that perpetuate gender inequality** and restrict women's freedom.
- **Integration into Society:** Prohibiting such practices can **encourage integration into the broader society**, avoiding potential alienation caused by visible religious markers.
- **Not Absolute Fundamental Right:** Fundamental rights are not absolute and are **subject to reasonable restrictions**.
 - The right to religion under Article 25 **cannot override other fundamental rights**, particularly in **government-funded educational institutions**.
- **Security Concerns:** Such bans also aim to **prevent anonymity that may hinder identification**, deter **misuse of garments to conceal weapons**, and **enhance public safety** in high-risk areas.
 - For example: **2019 Easter bombings in Sri Lanka**, the suicide bombers blended in with the public.
- **Arguments Against Ban:**
 - **Freedom of Religion: Article 25** of the Indian Constitution guarantees the **right to practice and profess religion**, banning such practices may create a sense of alienation and exacerbate social tensions.
 - **Autonomy and Choice:** Imposing a ban **infringes on personal liberty** and the right of individuals, particularly women, to make choices about their attire.
 - **Impact on Education:** Restricting hijab **may discourage female students** from conservative backgrounds **from attending schools**, adversely affecting their education and empowerment.
 - For example: In 2019-20, **Muslim girls had lower school attendance rates** than Hindu girls in most states.
 - Such bans can also **hinder educational access**, disproportionately affecting girls from conservative backgrounds and **further marginalizing these groups**.

Conclusion

The hijab/burqa debate highlights the **need to balance individual freedoms with societal values and institutional discipline**. While religious rights are protected under the Constitution, they are not absolute and must align with public order and equality. Judicial rulings emphasize inclusivity and gender equality, underscoring the importance of fostering dialogue and crafting policies that respect personal freedoms without hindering access to education or marginalizing communities.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Mains:

Q. How the Indian concept of secularism is different from the western model of secularism? Discuss. (2016)

Q. Are tolerance, assimilation and pluralism the key elements in the making of an Indian form of secularism? Justify your answer. (2022)

Q. How is the Indian concept of secularism different from the western model of secularism? Discuss. (2018)

Q. Distinguish between religiousness/religiosity and communalism giving one example of how the former has transformed into the latter in independent India. (2017)

