

# What is the Principle of 'reasonable accommodation'?

March 22, 2022

**In news**– Recently, High Court of Karnataka in its verdict on wearing Hijab has rejected an argument in support of permitting Muslim girls wearing head-scarves that was based on the principle of 'reasonable accommodation'.

## **About reasonable accommodation-**

- It is a **principle that promotes equality, enables the grant of positive rights and prevents discrimination based on disability, health condition or personal belief.**
- **Its use is primarily in the disability rights sector.**
- The general principle is that reasonable accommodation should be provided, unless some undue hardship is caused by such accommodation.
- **Article 2 of the UN Convention on the Rights of People with Disabilities (UNCRPD) defines reasonable accommodation as** "necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms".
- **The International Labour Organization (ILO), in its recommendation on HIV/AIDS and the world of work, defines it as** "*any modification or adjustment to a job or to the workplace that is reasonably practicable and enables a person living with HIV or AIDS to have access to, or participate or advance in, employment*".
- In 2016, the ILO came out with a practical guide on promoting diversity and inclusion through workplace adjustments and four categories of workers were chosen

for the guide:

- Workers with disabilities.
  - Workers living with HIV and AIDS.
  - Pregnant workers and those with family responsibilities, and
  - Workers who hold a particular religion or belief.
- A modified working environment, shortened or staggered working hours, additional support from supervisory staff and reduced work commitments are ways in which accommodation can be made.
  - Suitable changes in recruitment processes, allowing scribes during written tests or sign language interpreters during interviews will also be a form of accommodation.
  - **In India, the Rights of People with Disabilities Act, 2016, defines 'reasonable accommodation' as *"necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others"*.**
- **The definition of 'discrimination' in Section 2(h) includes 'denial of reasonable accommodation'.**
  - **In Jeeja Ghosh and Another v. Union of India and Others (2016), the Supreme Court**, while awarding a compensation of Rs.10 lakh to a passenger with cerebral palsy who was evicted from a flight after boarding, said: *"Equality not only implies preventing discrimination ..., but goes beyond in remedying discrimination against groups suffering systematic discrimination in society."*
  - The Supreme Court elaborated on the concept in **Vikash Kumar v. UPSC (2021)**. This was a case in which the **court allowed the use of a scribe in the Union Public Service Commission examination for a candidate with dysgraphia,**

**or writer's cramp.**

- The court ruled that benchmark disability, that is a specified disability to the extent of 40%, is related only to special reservation for the disabled in employment, but it need not be a restriction for other kinds of accommodation. **It also said failure to provide reasonable accommodation amounts to discrimination.**
- In the recent Karnataka verdict on wearing the hijab, the High Court did not accept the argument based on a South African decision that reasonable accommodation can be made for allowing minor variations to the uniform to accommodate personal religious belief.

**Further**

**reading:**

**<https://journalsofindia.com/un-convention-right-of-person-with-disabilityuncrpd/>,**

**[Hijab row: – JournalsOfIndia](#)**