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## Tradition, Equality, and the Constitution: A Balanced Perspective on the Sabarimala Temple Case

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*The Sabarimala temple case<sup>1</sup> marked an important milestone in the journey of Indian Constitutional law. It was in confrontation between the religious tradition and the gender-equality plank. Centuries-old traditions had seen that the Sabarimala temple barred women of menstruating age from entry, so on those grounds of discrimination, this was a case legally contested. The Supreme Court, in its judgment of 2018, overruled this restriction with the help of Right to Equality under Article 14<sup>2</sup>, Abolition of untouchability under Article 17<sup>3</sup>, and Freedom of Religion under Article 25<sup>4</sup>, which helped in the assertion of individual rights over institutional religious practices. This article goes into the case from historical, constitutional, and ethical perspectives, balancing both traditions and reform arguments. Further, it explores the “Essential Religious Practices” doctrine, created in the Shirur Mutt case<sup>5</sup>, and its application in reconciling collective religious rights with individual freedoms. This raised ethical dilemmas through judicial intervention in religious affairs and their social implications in terms of polarized reactions among people. Here, much bigger questions are raised as to how much the judiciary can and does push gender justice and still avoid disregarding cultural*

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<sup>1</sup> *Indian Young Lawyers Association v State of Kerala* (2018) SC 243

<sup>2</sup> Constitution of India 1950, art 14

<sup>3</sup> Constitution of India 1950, art 17

<sup>4</sup> Constitution of India 1950, art 25

<sup>5</sup> *The Commissioner, Hindu Religious Endowments, Madras v Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt* (1954) SC 282

*autonomy. It also highlights the tension that has always evolved between tradition and constitutional values in a plural democracy as the Sabarimala case does.*

**Keywords:** *gender equality, right to equality, essential religious practices, cultural autonomy, judicial intervention.*

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## INTRODUCTION

Sabarimala is a south Indian all-male pilgrimage to Ayyappa, a hyper-male deity born from two male gods. He is believed to be a 'naishtika brahmachari' (eternal celibate). The temple has an age-old tradition that only male devotees are allowed inside the Sabarimala temple premises, restricting women aged between 10-50 years. The reason for this is the celibate state of Lord Ayyappa in which he is present there, as the women in the age group are menstruating women, and according to the temple authorities, this violates the religious practices of the devotees and the celibate nature of the deity. Moreover, it is believed that the deity, while pursuing his life as an eternal celibate, took an oath not to come in contact with women. But women, construing this as discrimination, filed a petition in the Supreme Court under Articles 14<sup>6</sup>, 25<sup>7</sup>, and 17<sup>8</sup>, demanding entry into the temple just like other male devotees. The case was fought between the *Indian Young Lawyers Association v State of Kerala*.<sup>9</sup> The case was decided in favour of the women, and they were allowed entry into the temple with a 4:1 judgment, where the only dissenting judge was Ms Indu Malhotra, herself a woman, who voted against the entry. She stated, 'You cannot apply principles of morality into religious practices. What may be religious to you might be superstitious to others'. According to her, what constituted an essential religious practice in a religion should not be decided by the judges based on their viewpoints.

## RESEARCH OBJECTIVES

- Examining the convergence of gender equality and religious freedom within the purview of constitutional morality.

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<sup>6</sup> Constitution of India 1950, art 14

<sup>7</sup> Constitution of India 1950, art 25

<sup>8</sup> Constitution of India 1950, art 17

<sup>9</sup> *Indian Young Lawyers Association v State of Kerala* (2018) SC 243

- Assessing the ethical and cultural dimensions of religious acts and judicial intervention.

## RESEARCH QUESTIONS

1. Does the exclusion of women violates the right to equality and promotes discrimination?
2. Is the exclusion justified on the grounds of constitutional morality?
3. Should courts intervene in Religious Matters?
4. Does the restriction violate women's right to religious freedom?

## ANALYSIS OF THE CASE

The rich and complex history of Sabarimala temple entails many theories about its origin and the occurrence of various events that have shaped it over time. It is one of the most visited sites located in Kerala. It is situated in the middle of the Periyar tiger reserve in the Western Ghat ranges. There are several other temples too on this hill, some are operational and many are just old remains. Lord Ayyappa is the main deity of the Sabarimala temple which is believed to be the combined form of Lord Shiva and Lord Vishnu. According to some beliefs, Lord Ayyappa is a form of Buddha but no evidence is there to prove it. Vaishnavism and Shaivism are symbolised by Lord Ayyappa who helps to propagate the edicts of both the sects. The modern-day idol, which is present in Sabarimala, of Lord Ayyappa was placed in 1910. Ayyappan is one of the most popular deities in Kerala and South India as a whole: every year between 6 and 10 million pilgrims from the southern states of Kerala, Tamil Nadu, Karnataka, and Andhra Pradesh visit Sabarimala.<sup>10</sup> As far as the entry is concerned, in 1991, the Kerala High Court banned women and girls between the ages of 10 and 50 from entering the temple stating the restriction was in line with the tradition. It is believed that the Sabarimala temple was established by Lord Parshuram and also is one of the five Sastha temples, which he had established. Geographical challenges were immense back then and did not allow passage to the temple; yet King Rajasekhra Pandian found the right track towards this temple in the 12<sup>th</sup> century AD.

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<sup>10</sup> Filippo Osella and Caroline Osella, "Ayyappan Saranam': masculinity and the Sabarimala pilgrimage in Kerala' (2003) 9(4) *Journal of the Royal Anthropological Institute*  
<<https://raonline.wiley.com/doi/abs/10.1111/j.1467-9655.2003.00171.x>> accessed 22 November 2024

The contended point was the entry of the women into the temple. According to the temple authorities, the deity is an eternal celibate and it should not come into contact with any woman or girl of menstruating age. Whereas, women sued the temple authorities for violating their certain rights; which are the right to equality under Article 14<sup>11</sup>, abolition of Untouchability under Article 17<sup>12</sup>, and freedom of religion under Article 25<sup>13</sup>. The petition was filed in 2006, challenging the entry ban as discriminatory. The present state of affairs of the Sabarimala temple is based on the 2018 judgment of the Supreme Court of India, which allowed the entry of women into the temple premises, stating that the practice of excluding women from the temple violated the fundamental rights of women to equality, liberty, and freedom of religion. The court also struck down Rule 3(b) of the Kerala Hindu Places of Worship Act,<sup>14</sup> which allowed Hindu denominations to exclude women from public places of worship based on custom.

## TRADITIONAL VIEW

The cultural and spiritual significance of the restrictions on women can be substantiated as Ayyappa had taken a vow of celibacy to dedicate his life to spiritual pursuits and to bless his devotees. It has become an integral part of the mythology of the temple, with this vow that cannot be mentioned enough as being the very reason why it excludes entry to women when they are menstruating age ranges from 10 to 50 years. Moreover, according to the mythological tradition of the temple, it was only when no new devotees approached him that Lord Ayyappa agreed to marry Malikappurathamma, a goddess associated with the temple. Hence, this mythological account supports the argument that women's presence violated the celibate character of the deity. The popularity of Sabarimala has much to do with the rigour of the forty-one-day penance that the worshipper must keep, even though an increasing number of pilgrims, busy urban executives for example, today are permitted to cut short this period to one week and sometimes even less. During this time the individual wears black, lets his hair and beard grow,

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<sup>11</sup> Constitution of India 1950, art 14

<sup>12</sup> Constitution of India 1950, art 17

<sup>13</sup> Constitution of India 1950, art 25

<sup>14</sup> Kerala Hindu Places of Worship (Authorisation of Entry) Act 1965, r 3(b)

walks barefoot, bathes twice a day, attends a daily puja, and abstains from alcohol, non-vegetarian food and sex. Such persons are addressed as Ayyappans.<sup>15</sup>

## ETHICAL DILEMMAS

**On the other hand, some ethical perspectives should also be incorporated for a deeper understanding of the socio-legal context:**

**Cultural Relativism:** Should religious practices be exempted from universal ethical principles like gender inequality? It suggests whether the temple authorities of Sabarimala be permitted to impose such restrictions regardless of the gender equality norms enshrined in the constitution.

**Utilitarianism:** What brings the greatest happiness and the least harm to the society-preserving tradition or ensuring equal rights? It involves ascertaining the demographics. The number of people that are either happy in preserving the tradition or ensuring equal rights.

**Rights-based Approach:** Do women have the right to practice their religion without discriminatory barriers?

**Constitutional Morality:** It reflects a commitment to its principles- equality, liberty, and dignity. The petitioners argued that constitutional morality should prevail in cases of violation of fundamental rights by religious customs. The court's holding in the matter was that this was the mainstream argument that had identified the fact that constitutional morality could not allow the practice of offending persons' dignity and equality.

The answer to these lies in the hands of the ordinary.

## CONSTITUTIONAL VIEW

Public temples in Kerala today are run by three different but partly overlapping systems. The strongest of these boards is the Travancore Devaswom Board (TBD), which controls over a thousand temples. The temple authorities are thus answerable to the boards. So, the Indian

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<sup>15</sup> Parvathi Menon, 'Sabarimala and Women's Identity in Kerala' (2020) 48(3-6) Social Scientist <<https://www.jstor.org/stable/26979095?seq=2>> accessed 22 November 2024

government unquestionably wields a great influence on the religious lives of its Hindu citizenry. But the Indian Constitution also ensures more traditional liberal protections like ‘freedom of conscience and [the] free profession, practice and propagation of religion.’ So, there is a dissonance.<sup>16</sup> Certain rights supporting the entry of women to the temple:

1. The first basic human right is gender equality. The prohibition from excluding women of childbearing age from the temple contravened Articles 14, Right to Equality and Article 15, Prohibition of discrimination on the grounds of religion, race, caste, or sex of the Indian Constitution, according to advocates. This exclusion is considered a form of discrimination based on long-held patriarchal attitudes toward menstruation and notions of purity. In the case of *Shayara Bano v Union of India*<sup>17</sup> (2017), the court ruled that religious practices cannot override fundamental rights such as equality under Articles 14<sup>18</sup> and 15.<sup>19</sup>

**2. Judicial and Constitutional Principles:** Advocates claim that the Supreme Court judgment in 2018, which declared the restriction unconstitutional, strengthened the principles of secularism and dignity of the individual enshrined in the Indian Constitution. This judgment was considered progressive, ensuring that the rules governing temple entry were in line with contemporary constitutional morality.

**3. Women’s Autonomy and Religious Freedom:** Different writings have established the fact that women need to have the autonomy to choose religious practices free from the yoke of society or religion. The protagonists argue that the exclusion of women based on physiological features reduces the dignity of worship that should be inclusive.

4. Scholars and activists argue that the concept of ‘essential religious practices’, established in the *Shirur Mutt case*<sup>20</sup>, used to enforce the ban would imply that practices have to change to

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<sup>16</sup> Deepa Das Acevedo, ‘Temples, Courts, and Dynamic Equilibrium in the Indian Constitution’ (2016) 64(3) American Journal of Comparative Law  
<[https://scholarship.law.ua.edu/cgi/viewcontent.cgi?article=1079&context=fac\\_articles](https://scholarship.law.ua.edu/cgi/viewcontent.cgi?article=1079&context=fac_articles)> accessed 22 November 2024

<sup>17</sup> *Shayara Bano v Union of India and Ors* (2017) SC 4609

<sup>18</sup> Constitution of India 1950, art 14

<sup>19</sup> Constitution of India 1950, art 15

<sup>20</sup> *The Commissioner, Hindu Religious Endowments, Madras v Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt* (1954) SC 282

reflect the ideals of modern equality and justice. Instead, it is the socially regressive constructs that form the basis for the denial of entry to women to the temple.

**5. Gender Equality and Religious Freedom:** The case exemplifies controversy surrounding individual rights and community-based religious practices. The predominant opinion supported gender equality rather than the autonomy of religious organizations, signifying a forward-thinking advancement in the eradication of gender discrimination.

6. Women followers claimed that the exemption infringed upon their right to freedom of conscience under Article 25(1).<sup>21</sup> The limitation in the temple deprived women of their inherent right to access and worship in a public house of God. The court was very adamant in stating that Article 25 protects<sup>22</sup> individual rights and cannot be overridden by institutional practices restricting access based on gender. The right to religious practice is a universal right that cuts across different genders and age groups. In a similar case of *Bijoe Emmanuel v State of Kerala*<sup>23</sup> (1986), the court highlights the balance between individual religious freedom and social norms, which presents a key issue in the Sabarimala temple case.

Moreover, the case raised broader questions as to whether courts can intervene in matters of religious practices. Justice Indu Malhotra warned against excessive judicial intervention in religious matters, emphasizing that matters of faith should be left to the discretion of the religious denominations unless they are oppressive and harmful.

## COURT'S VIEW

In *Indian Young Lawyers Association v State of Kerala*<sup>24</sup> (2018), the Supreme Court gave a landmark judgment by 4:1, which held that the restriction placed on women between the ages of 10 and 50 from entering the Sabarimala Temple was against the constitutional rights of the women. The

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<sup>21</sup> Constitution of India 1950, art 25(1)

<sup>22</sup> Constitution of India 1950, art 25

<sup>23</sup> *Bijoe Emmanuel and Ors v State of Kerala and Ors* (1986) 3 SCC 615

<sup>24</sup> *Indian Young Lawyers Association v State of Kerala* (2018) SC 243

court declared Rule 3(b) of the Kerala Hindu Places of Public Worship Rules, 1965,<sup>25</sup> unconstitutional and further mentioned that it continued to perpetuate gender discrimination.

The prevailing opinion, delivered by Chief Justice Dipak Misra, emphasized that the tradition violated Article 14, Article 15, and Article 25. The judicial committee found that the restriction did not form an essential element of religious practice and supported the doctrine of constitutional morality, upholding gender justice over regressive customs. Justice D.Y. Chandrachud opined that banning women from participating only helped perpetuate patriarchal stereotypes and went against their dignity.

Justice Indu Malhotra, in dissent, argued that the temple and its practice fell under Article 26, i.e., religious denomination rights<sup>26</sup> and also cautioned against judicial interference in religious matters, bringing out India's pluralistic ethos.

The judgment, although hailed as a victory for gender equality, has created widespread debate over judicial activism, religious freedoms, and social change.

## THE ROLE OF STATE AND RELIGIOUS INSTITUTIONS

Article 25(2)(a) of the Indian Constitution<sup>27</sup> is frequently invoked to support the State Government's management of Hindu Religious Endowments. In the case of *The Commissioner, Hindu Religious Endowments, Madras v Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*<sup>28</sup> (the Shirur Mutt case), the Hon'ble Supreme Court of India first considered the matter of State administration of Hindu Religious Endowments. The Tamil Nadu Hindu Religious and Charitable Endowments Act, of 1959<sup>29</sup> repealed the Madras Hindu Religious and Charitable Endowments Act, of 1951,<sup>30</sup> and this case contested the law's constitutionality. The Honourable

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<sup>25</sup> Kerala Hindu Places of Worship (Authorisation of Entry) Act 1965, r 3(b)

<sup>26</sup> Constitution of India 1950, art 26

<sup>27</sup> Constitution of India 1950, art 25(2)(a)

<sup>28</sup> *The Commissioner, Hindu Religious Endowments, Madras v Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt* (1954) SC 282

<sup>29</sup> Tamil Nadu Hindu Religious and Charitable Endowments Act 1959

<sup>30</sup> Madras Hindu Religious and Charitable Endowments Act 1951



Supreme Court maintained the legality of the challenged legislation while ruling that certain Act provisions were unconstitutional.<sup>31</sup>

This established the legal standard for sustaining comparable laws pertaining to the management of Hindu Religious Endowments. Since ‘charities and charitable institutions, charitable and religious endowments and religious institutions’ are included in the concurrent list, India has both central and state laws pertaining to Hindu religious endowments. Enactments pertaining to the entire State as well as Acts passed to manage a single Temple are included in the State’s laws on Hindu Religious Endowments.<sup>32</sup> As was previously mentioned, the Constitution’s Article 25(2)(a)<sup>33</sup> allows the state to regulate secular activities, even those that are connected to religious rituals. The way this clause has been interpreted has led to a plethora of hotly debated cases in the Indian judiciary. The Court developed a theory to distinguish between religious and secular elements connected to religious practices to settle these disagreements. This was the tenet of fundamental religious rituals. Thus, ironically, in a state that bills itself as ‘secular,’ Article 25(2)(a)<sup>34</sup> has led to numerous conflicts between the state and religion. The current Chief Justice of India has acknowledged the judicial overreach in its attempt to interpret this article. The Supreme Court, which is unable to distinguish between what is considered a religious and what is considered a secular practice, issued a split decision in the Karnataka hijab case as recently as October 2022.<sup>35</sup>

## CONCLUSION

The Sabarimala Temple case was a watershed in the continuous dialogue on tradition, constitutional values, and gender equality in India. The 2018 judgment of the Supreme Court directly confronted entrenched patriarchal norms by deciding that constitutional morality triumphs over discriminatory religious customs. In the case at hand, the exclusion of women

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<sup>31</sup> Dr Sanjay Jadhav and Smt Ambika Venugopal K, ‘Law and Religion in India: Involvement of the Secular State in the Administration of Hindu Religious Endowments’ (2024) 3(2) Indian Journal of Integrated Research in Law

<sup>32</sup> *Ibid*

<sup>33</sup> Constitution of India 1950, art 25(2)(a)

<sup>34</sup> *Ibid*

<sup>35</sup> Jadhav (n 31)

was held to be unconstitutional by the court, upholding the ideals of equality, dignity, and individual freedoms.

However, it also raised complex ethical issues regarding the tension between judicial intervention and cultural autonomy. Even while the majority judgment went along with gender justice, a dissenting opinion spoke in favour of safeguarding various traditions and respecting the right of religious communities to self-determination. The controversy still stands as a testament to a delicate balance between social change and cultural preservation.

In the end, the Sabarimala ruling acts as a spark for more extensive discussions about how the court can redefine social norms and further progressive ideals in a pluralistic democracy. To ensure justice and equality while honouring India's rich cultural legacy, it advocates for positive discourse and inclusive solutions that balance tradition with constitutional principles.