

Worship right and gender parity: Analyzing the Sabarimala issue in India

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Abstract

This research paper critically examines the complex interplay between the right to worship and gender parity, with a specific focus on the Sabarimala issue in India. The study investigates the dual aspects of Sabarimala, considering it both as a sacred tradition and a locus of constitutional rights. Through an analysis of the historical and cultural foundations of the Sabarimala pilgrimage, the research explores the tension between religious customs and the constitutional imperative of gender equality. The judicial pronouncement, particularly the Supreme Court's verdict allowing the entry of women of all ages, is scrutinized to understand its implications on the broader discourse of religious rights and gender justice. Additionally, the paper investigates the post-judgment scenario in Kerala, examining how the legal transformation has affected societal attitudes, religious practices, and the overall dynamics at the pilgrimage site. By navigating the intricate web of tradition, constitutional principles, and post-judgment realities, this research contributes nuanced insights to the ongoing global dialogue on worship rights and gender parity.

Hypothesis: The entrance of women of all age's into Sabarimala temple by the supreme court sparked a very complicated tug-of-war fight against the constitutional doctrine's clash with old customs on worship and equal gender rights.

Literature Review

The controversy surrounding the Sabarimala temple illuminates a basic problem for women in India--between respecting people's right to worship and gender equality. Thanks to government intervention, the temple at Sabarimala in southern Kerala which a holy place of worship for Lord Ayyappa is allowed only women between 10 and up through age 50. Once people considered this one of the anomalies with gods, but such things are often self-generated. Lord Shiva had four wives (not enough for him?). The judgment that came about under scrutiny in 2018 when India's highest court took the step of removing an age old ban on polygamy. Its age restrictions landed women in differing sets of dire straits from those faced by men. Thus the Supreme Court of India through this decision affirmed a second time that women have constitutional rights to equality.

Introduction

In the intricate tapestry of societal norms and religious traditions, the intersection of worship rights and gender equality emerges as a poignant and complex terrain. The Sabarimala temple in Kerala, India, stands as a focal point in this discourse, encapsulating the challenges posed by age-old customs that seemingly impede the

principles of gender parity. This research paper seeks to unravel the layers surrounding the Sabarimala issue, delving into the historical, cultural, and legal aspects that converge in shaping the narrative of worship rights and gender equality.

The Sabarimala temple, dedicated to Lord Ayyappa, has long been revered as a sacred pilgrimage site. Yet, the prohibition on the entry of women of menstruating age has ignited a spirited debate, ultimately culminating in a landmark Supreme Court verdict in 2018 that challenged this age-old tradition. The ensuing legal and societal ramifications have brought to the fore a profound clash between religious orthodoxy and the pursuit of gender parity, prompting a critical examination of the broader implications for worship rights in India.

Research Question

Is the prohibition on women of certain age entering the sabarimala temple is a matter of right or custom?
Can the State or Court decide whether Religious Claims are Valid?

History of Sabarimala temple

The Sabarimala temple, nestled in the Western Ghats of the Indian state of Kerala, holds a rich historical and religious significance dating back several centuries. Dedicated to Lord Ayyappa, a revered deity believed to be the synthesis of Lord Sastha and Lord Dharma sastha, the temple attracts millions of pilgrims annually. The historical background of the Sabarimala temple is intertwined with legends, myths, and a tapestry of cultural traditions. The origins of the Sabarimala temple are steeped in Hindu mythology. Lord Ayappa is said to be the combined form of Shiva, Vishnu and Shakti. Raised by the king of Pandalam, Ayyappa later became the presiding god of Sabarimala. The sacred location is said to be the place where Ayyappa meditated after vanquishing the demoness Mahishi.

Sabarimala temple as a matter of right and custom

The Sabarimala Temple controversy revolves around the clash between tradition, customs, and the rights of women. Situated in the Kerala state, the Ayyappa Temple in Sabarimala has traditionally prohibited women between the ages of 10 to 50, considered to be of childbearing age and deemed impure during menstruation, from entering the sacred temple.

The prevailing ¹belief and customary practice in the state dictate that women between the ages of 11 to 49 should refrain from entering the temple. This is rooted in the perception that Lord Ayyappan is venerated as a 'Naishtika Bramhachari,' a celibate for life. In accordance with a notification from the temple's managing body, the Devaswom Board, women within the menstruating age group are not allowed to enter. Devotees are also expected to observe a 41-day period of austerity known as Vratam before embarking on the pilgrimage, which poses a biological challenge for women. This restriction is deeply embedded in their beliefs, traditions, and customs.

Can the State or Court decide whether Religious Claims are Valid?

The issue between the religious ²and the reformist trend of the constitution has been a prominent issue

¹ https://en.wikipedia.org/wiki/Entry_of_women_to_Sabarimala

² <https://www.federalregister.gov/documents/2017/10/26/2017-23269/federal-law-protections-for-religious-liberty>

throughout the times. For decades, courts of India have intervened or inferred in the religious affairs of the society by virtue of Article 25(2). To decide a various kind of cases the court have put in place a list which is known as the essential practice test. Court determine the eligibility of every religious practice on the basis of the test, whether religious practice is constitutionally defensible or not? However the extent of independence that a religious denomination can enjoy is not so great judged. The Supreme Court of India develop this test in 50s and 60s. It has been critiqued but for the reason that it will allow all the courts to determine whether or not all religious claims are valid.

Gender Parity

Sabarimala case is an apt example of the complex connections between worship's rights and a woman's equality. The exclusion³ of women of menstrual age from Sabarimala temple had its origin in customary practices that portrayed the story of discrimination on gender basis. This was a ban that stemmed from a belief that Lord Ayyappan was a non-reproducer. In the context of the taboo, women were considered unclean throughout pregnancy and childbirth, as they were believed to be bearers of life and therefore impure. Nevertheless, the famous ruling issued by the highest court that sought to end this millennia custom constituted a vital step towards elimination of worship based sex discrimination. This judgment emphasized the constitutional demand for equality showing that there is no reason why women should be excluded from religious practice. The reform challenged not only the legitimacy of prejudiced practices, but also triggered a broader discussion in society concerning how religious tenets should be weighed against gender equity. Hence, the issue surrounding Sabarimala becomes like this larger debate with regards to whether or not the modern ideas that are concerned with gender equity during religious ceremonies should alter centuries old conventions under the authority of the Constitution.

Constitutional Aspects

The reasoning behind the Sabarimala⁴ verdict has far-reaching ramifications for constitutional construction with respect to preserving basic liberties and rights. In this particular case, the supreme court affirmed the constitutionally guaranteed equality under article 14 of the constitution. This right consists in women's equal rights to get access to the places of worship, such as pray or attend services. The Court stated that the act of excluding women from visiting temples on ground that they were in their menstrual periods was not fair, and amounts to discrimination on ground of sex or gender.

Articles 25 and 26 of Indian Constitution deal with the freedom of religion and minority rights of its religious denominations/institutions. These articles were very important in terms of the Sabarimala case during its legal debates and outcome. In the Sabarimala case, the apex court asserted that religious practices in India should also be subject to constitutional laws, which include the clause on right to equality (Article 14), along with the clause on religious liberty (Articles 25 and 26) The Court made it clear that religious exercises must never contravene the primordial rule of equal treatment stipulated in the constitution.

³ <https://blog.ipleaders.in/case-comment-sabarimala-case/>

⁴ Recalling the Sabarimala Decision: Balancing Customs and Legal Conflict
<https://blog.ipleaders.in/remembers-sabarimala-verdict-conflict-customs-law-prevail/>

Judicial Pronouncement

The ban on women entering temples was earlier challenged before the Kerala High Court in the case of S. Mahendra vs. The Secretary in 1991. The court held that it was an immemorial custom, so the ban was justified and held constitutional.

The Kerala High Court addressed to the Public Interest Litigation (PIL) filed by the petitioners who alleged the biased treatment and violation of right. The court emphasized the importance of traditional customs and upheld the ban of women aged 10 to 50 from entering the temple consider it valid due to custom and its historical religious significance.

This ruling emphasized the recognition of court to intervene in religious matters to navigate the balance between tradition, individual rights and equality. The High Court of Kerala validate the bank of entry of women of certain age in the temple based on historical and religious ground.

In 2006 a PIL was filed by six women members of Indian young lawyer association challenging the ban against the women from entering into the Sabarimala temple⁵. With the 4:1 majority the exclusion of women at Sabarimala temple the constitutional bench delivered it's Judgment on 28th Sep 2018, that the ban against the women from entering into the temple is a violation of fundamental right . Furthermore, Rule 3b of the Public Worship (Authorization of entry) rules act 1965 was deemed unconstitutional.

The court held that every individual is entitled to exercise their fundamental rights & to practice, profess that religion of one's choice. The devotee of Lord Ayappa was not consider a separate religious denomination, as a result, could not assert the protection of Article 26 or Rule 3 of Kerala Hindu places of Public Worship Act 1965.

This landmark Judgment make a departure from the social prejudice of the past , which undermines the dignity of individual . The dignity of women is an emanation of Article 15 and a rumination of Article 21 and equal participation of women is a vision of a just social norms.

The court highlights the aspect of time, stating that practice of barring women of certain age from entering the temple did not qualify as an essentials religious practice. The notion of public order, morality, health cannot be used to curtail the morality must be balance with constitutional morality. Exclusion of protection were deemed contrary to constitution morality, and it was asserted that such issue should be resolved proactively. The division of gender is a human conduct , not a decree for well-being & therefore such suppression should be impermissible.

Therefore, the Supreme ⁶Court of India through its judgment rejected the existence of fundamental rights vested in an idol. Rule 3(b) of 1965 Public Worship (Authorization of Entry) Act 1965⁷ which discriminates women on the basis of their sex was deemed unconstitutional, & violation of Article 25(1) and Article 15(1) of Indian Constitution.

⁵ <https://bnwjournals.com/2020/08/02/sabarimala-the-holy-place-or-battle-ground/>

<https://bnwjournals.com/2020/08/02/sabarimala-the-holy-place-or-battle-ground/> the battleground or the holy place

⁶ <https://www.trtworld.com/asia/women-enter-flashpoint-indian-temple-defying-centuries-old-ban-23014>

⁷ <https://www.graygroupintl.com/blog/freedom-of-religion>

Scenario after the judgment

In Kerala, a large civil campaign happened after the issuance of the verdict. As a result, groups of worshippers, among them female worshippers, began protesting for their inalienable right to choose what to believe and practice according to their beliefs.⁸ This demonstration of Nama Japa Yatra. The devotee's opposed the court ruling, saying that the judgment could destroy all temple devotees' rightful entitlements and duties. There were widespread agitation, protests as well as riots in different states. The protesters asked for a thorough checking of every vehicle in existence for any female occupant there in it. The protest which had become major in nature continued till date forcing 49 review petitions that sought to overturn the 44th judgment of the Supreme Court issued on 28th September which had allowed women of any age into the temple at Sabarimala.

Conclusion

Finally, the scrutiny of the Sabarimala matter in India shows us an intricate blend of religious practices, constitutional rights, and women's rights. The verdict by the Supreme Court to remove restriction of female devotees in the Sabarimalai temple highlights crucial values such as protection of basic liberties and disruption of prejudice ridden traditions which can promote discrimination based on sex. The resolution, though moving towards gender equity in places of worship, poses issues concerning balancing cultural respect and full equality of all persons' rights. Discussions on the Sabarimala issue continue to reveal the shifting contours of societal norms that requires careful considerations against an evolving backdrop of religion, tradition and equal treatment of women within the complex milieu of Indian society. In future, promoting open communication as well as engagement with various views about worship rights in India is necessary to create a better appreciation of worship rights in India.

⁸ <https://www.drishtiias.com/daily-updates/daily-news-analysis/sc-allows-women-entry-into-sabarimala-temple>