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FROM CUSTOM TO CONSTITUTION : ANALYSING THE SUPREME COURT'S SABARIMALA VERDICT

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INTRODUCTION

Sabarimala temple verdict that shows the tussle between constitutional morality and religious customs. In the young Indian lawyer's association vs state of Kerala(2018) the supreme court was appealed to decide whether an ages old religious practice of stopping women of reproductive age from entering the Sabarimala temple withstands the constitutional scrutiny.¹ The case not only answered this very question but also raised fundamental questions of gender equality, religious freedom and constitutional morality. The verdict represents a landmark moment in the evolution of India's transformative constitutionalism.²

BACKGROUND AND FACTS ABOUT THE CASE

The Sabarimala temple is dedicated to lord ayappa who is believed to be an eternal celibate or naishtika brahmachari. Thus for protecting the deity's celibacy women of the age 10-50 (menstruating years) are prohibited from entering the temple. This exclusion was supported by rule 3(b) of the Kerala Hindu places of public worship (authorisation of entry) rules, 1965, which permitted restrictions on the basis of custom.³

In 2006 six female members of the young Indian lawyer's association' filed a petition in supreme court asking to remove the ban on women of reproductive age. The petitioners argues that this promotes perpetuator and discriminatory practices against women's menstruation and hinders women's fundamental rights of entering a public place and is a kind of untouchability

¹ **Indian Young Lawyers Ass'n v. State of Kerala**, (2019) 11 S.C.C. 1 (India)

² Gautam Bhatia, *The Transformative Constitution: A Radical Biography in Nine Acts* 1–5 (HarperCollins India 2019).

³ Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, r. 3(b), G.O. (P) No. 207/65/Home (India).

prohibited under the constitution of India⁴. Thus, this dispute transformed into a question on the constitutionality of discriminatory religious custom.

ISSUES BEFORE THE SUPREME COURT

There were several interrelated constitutional issues that the supreme court addressed-

1. Whether the prohibition on women violated article 14,15 and 21 of the constitution⁵
2. whether this prohibition was an essential religious practice under article 25 and article 26.
3. whether the Sabarimala temple constituted a different religious denomination
4. Whether customary religious practice could override constitutional morality.

The issue was a very sensitive one which involved religious sentiments of both sides the women who were prohibited as well as the religious community who believed in this practice as an age old religious custom.

ARGUMENTS OF THE PARTIES

PETITIONERS AND PEOPLE IN FAVOUR

Petitioner contented that the exclusion of women promoted gender discrimination and violated the principle of equality under article 14.they argued that stopping menstruating women of the age 10-50 undermined their dignity infringing article 21.

The supporter of women entering the temple emphasized on the point that menstruation is not impure and women deserve equal rights. They challenged the classification the practice as an essential religious practice and making it not immune to judicial review. Thus, they put forth the view that religious practice are not above fundamental rights.⁶

RESPONDENTS

The temple administration is overseen by Travancore Devaswom Board .The respondents argued that Sabarimala temple constituted a separate religious denomination and that prohibition of women was an essential religious practice linked to celibacy of the deity ayyapa.they argued for religious autonomy and the protection of pluralistic ethos⁷ .the rule 3(b) of the Kerala Hindu places of worship rule 1965 protected the Sabarimala custom. They also listed some biological factors. A 41 day

⁴ Indian Young Lawyers Ass'n, (2019) 11 S.C.C. 1

⁵ INDIA CONST. arts. 14, 15, 21.

⁶ Indian Young Lawyers Ass'n, (2019) 11 S.C.C. 1.

⁷ Indian Young Lawyers Ass'n, (2019) 11 S.C.C. 1.

penance is required before embarking on a pilgrimage to Sabarimala which is difficult for menstruation women to complete.

COURTS JUDGEMENT

The 5 member bench struck down the exclusionary practice by a 4:1 majority and declared rule 3(b) unconstitutional. The court held that article 14,15 and 21⁸ are violated by following this practice and that women equal rights to worship and enter a public place of worship.it rejected the claim that Sabarimala temple constituted a separate religious denomination and the religious freedom under article 25 and 26 are subject to limitation by the constitution.

THE RATIONALE OF THE DECISION

the judgement lies on the principle that religious customs and practices inconsistent with the fundamentals rights cannot sustain. The court clarified that discrimination cannot be legitimised under the essential religious principal doctrine.it held the view that constitutional morality must prevail over religious morality , stating the constitution as the supreme law of the country⁹

CONSTITUTIONAL MORALITY VS RELIGIOUS CUSTOMS

The judgement cleared the fact that no law custom or discrimination is above the supreme law of the country the Indian institution's defining feature of this judgement is its emphasis on constitutional morality a concept envisioned by dr B.R. Ambedkar.¹⁰The decision reaffirmed the transformative character of the constitution. The judgement marked a shift from deference towards a right based constitutional framework where religion is subject to reform in the better interest of individual dignity and upholding fundamental rights.

DISSENTING OPINION

In a dissenting opinion justice Indu Malhotra stated, "it is not for the courts to determine which of these religious practices are to be struck down except if they are pernicious, oppressive or social evils like sati."¹¹

She warned that allowing PILs in religious matters could lead to excessive judicial intervention in religious custom hampering the pluralistic ethos of the country.

CRITICAL ANALYSIS

⁸ INDIA CONST. arts. 14, 15, 21.

⁹ Indian Young Lawyers Ass'n, (2019) 11 S.C.C. 1.

¹⁰ B.R. Ambedkar, Constituent Assembly Debates, Vol. VII (Nov. 25, 1949).

¹¹ Indian Young Lawyers Ass'n, (2019) 11 S.C.C. 1, ¶¶ 8–18 (Malhotra, J., dissenting).

The Sabarimala judgement is celebrated as a landmark judgement in advancing gender justice and substantive equality rejecting biological differences as a basis for discrimination. It also presents constitution as a transformative document which is capable of striking down social discrimination and unjust hierarchies

No issue is without its critique, the critiques argue the and state the problem in courts heavy reliance on the essential religious practice doctrine. Rajeev Bhargav's notion of 'principal distance' that while state may intervene to ensure equality and justice but such intervention should avoid excessive intrusion into religious matters.¹²

IMPACT AND SIGNIFICANCE

The Sabarimala verdict had significant implications on constitutional transformation in India. It has emphasized on the concept of constitutional morality and had influence subsequent judgement on gender justice and even LGBTQ+ rights.¹³ At the same time at the same time many review Petitions were filed and public resistance shows difference between constitutional morality and on ground social reality.

CONCLUSION

The Sabarimala judgment dictates that no religious custom can legitimise discrimination and showed the transformative promise of the constitution. The case reaffirms constitutional morality and underscores the foundational principle of constitutional democracy that tradition must yield to equality and dignity. Thus, this case is a landmark one in a time where the country is trying to balance between faith and fundamental rights.

¹² Rajeev Bhargava, *Secularism and Its Critics* 486–92 (Oxford Univ. Press 1998).

¹³ *Navtej Singh Johar v. Union of India*, (2018) 10 S.C.C. 1 (India)