

Judicial Intervention in Sabarimala and Beyond: Constitutional Morality with respect to Women's Rights

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ABSTRACT

This Research paper examines the historic Sabarimala decision and its implications to the interpretation of constitutional morality concerning the rights of women in India. The case of Indian Young Lawyers Association v. State of Kerala (2018) turns out to be a breakthrough of the judiciary towards establishing a balance between the equality of gender and the freedom of religion. As the paper reflects on the broader implications of the cases of similar nature all over India, it analyzes how the concept of constitutional morality has evolved as a courtly tool to combat the oppressions against women in religious practices. This thesis employs case law examination and doctrine analysis in arguing that the Sabarimala decision has altered the discussion of the women rights in religious settings greatly and established important precedents in the future, despite the fact that it subsequently referred to a court intervention.

Keywords: Sabarimala temple, Women's right, gender equality, constitutional morality.

INTRODUCTION

The situation with Indian jurisprudence has been a controversial area in terms of the connection between religious beliefs and constitutional rights. The Sabarimala temple case highlighted this clash and tested the old traditions that prohibited all women of the age 10-50 years of age who were not on their menstrual cycle to enter the sacred temple. "The interventions of the Supreme Court in this case the Indian Young Lawyers Association v. State of Kerala¹ case is a simple question on the role of constitutional morality as it applies to the modern day, India in gender equality."

The concept of constitutional morality that has fared better in the Indian constitutional discourse serves as a bridge between what the Constitution says and what it is being construed in the society to mean. Judicial views on constitutional morality as a primary virtue have incorporated the Dr. B.R. Ambedkar opinion on the constitutional morality, which the judicial system has often applied to adjudicate cases where customs have ended up conflicting with the equality, liberty and dignity enshrined in the constitution.²

The Sabarimala case is quite interesting due to its showing the willingness of the judiciary to move beyond age-old religious practices to ensure the basic rights of women. The nature of religious freedom, the limits

¹ Indian Young Lawyers Association and Ors. Vs. The State of Kerala and Ors.

² Wasim, "B.R. Ambedkar View on Constitutional Morality" (Free UPSC IAS Preparation Syllabus and Materials for Aspirants, June 19, 2024) <<https://forumias.com/blog/b-r-ambedkars-view-on-constitutional-morality/>>

of judicial power, and the emerging Indian understanding of gender equality are some of the important questions raised by this intervention. Extensive implications of the case are associated with its impact on future court cases and the spark of national debates concerning the way to find a balance between religious freedom and values of the Constitution.

This paper examines the impact of the Sabarimala decision on the jurisprudence of Indian women and puts it in the broader view of constitutional morality. Besides exploring consequences of such interventions in similar cases of discriminating women against them in religious settings, the paper discusses how the concept of constitutional morality has served as a tool of judicial activism.

THE CONCEPT OF CONSTITUTIONAL MORALITY

Constitutional morality in Indian constitutional interpretation is now a powerful tool, particularly in relation to social change and individual rights. “Cases of the Supreme Court like the Sabarimala case and *Navtej Singh Johar v. Union of India*³, brought the idea back to life. Constitutional morality in Indian law has gone through a number of phases.” The courts were largely preoccupied with literal interpretation of clauses in the Constitution during the early decades immediately after independence, and the idea remained dormant.

The evolution period began with the emergence of judicial activism and public interest litigation in the 1970s and 1980s. Constitutional morality has not been recognized as a distinct constitutional component, however, until recently.⁴ The case of Sabarimala, which had the majority decision, specifically applied constitutional morality in overruling traditional religious practices. Justice Indu Malhotra, in her dissent to the case, argued that constitutional morality and religious traditions should not take precedence without considering their nature and the religious community's beliefs.

THE SABARIMALA JUDGEMENT

In *Indian Young Lawyers Association v. State of Kerala*⁵, 4:1 majority decision of the Supreme Court marked the beginning of a radical change in the views of the religious rituals. The court based its decision on the Articles 14, 15, 19, and 25 of the Constitution of India⁶ which stated that the tradition of locking out women who were of childbearing age to visit the Sabarimala temple was against their fundamental rights.

“In a case where the state and the religious institutions must secure that the practices may not discriminate against individuals based on biological features”, said Chief Justice Dipak Misra on behalf of himself and Justice A.M. Khanwilkar, that constitutional morality.⁷ According to the court, constitutional morality would be of greater order since it would be founded on constitutional principles. In his dissenting opinion, Justice Rohinton Nariman focused on the discriminatory nature of the practice and argued that keeping women out due to their physiological characteristics was tantamount to untouchability, which was prohibited by Article 17. The decision of Justice D.Y. Chandrachud provided an in-depth study of how

³ MANU/SC/0947/2018 *Navtej Singh Johar and Ors. Vs. Union of India (UOI) and Ors.* (06.09.2018 - SC) : MANU/SC/0947/2018

⁴ “Constitutional Morality” (Drishti IAS) <<https://www.drishtiiias.com/daily-updates/daily-news-analysis/constitutional-morality1>>

⁵ *ibid*

⁶ Constitution of India, art 14, 15, 19 and 25

⁷ Supreme Court Observer, “Sabarimala Temple Entry - Supreme Court Observer” (Supreme Court Observer, June 24, 2022) <<https://www.scobserver.in/cases/indian-young-lawyers-association-v-state-of-kerala-sabarimala-temple-entry-background/>>

women have historically been deprived of equal role in religious life because of the patriarchal interpretations of religious texts.

The minority opinion of Justice Indu Malhotra raised some important questions concerning limits of judicial interference in religious matters. She argued that even the religious community ought to decide on the issues of deeply religious significance and that the courts were not supposed to impose their own view of constitutional morality on the religious behaviours that the religion considers vital.

THE CONSTITUTIONAL MORALITY AS TOOL FOR WOMEN'S RIGHTS

In cases where practices are at variance with constitutional values, the Sabarimala case is an indicator of how constitutional morality can be applied to promote women rights. The concept allows the courts to appreciate the transformational nature of the constitutional provisions as far as achieving substantive equality is concerned, going beyond the literal meaning of the words to the transformation they may produce.⁸

The use of constitutional morality through the Sabarimala case is in line with the past historic cases. “The Supreme Court applied constitutional morality in decriminalising homosexuality in Navtej Singh Johar v. Union of India,⁹ in stating that the prejudices of society should give way to ideals of the Constitution.” On the same note, the constitutional morality was applied to protect the rights of women under the personal law on Shayara Bano v. Union of India (Triple Talaq).¹⁰

CONTINUING DEBATES AND AFTERMATH OF THE JUDGEMENT

Mass protests and political movements were the result of the Sabarimala decision, which highlights the delicate balance between social acceptability and constitutional principles. The argument over the relevance of constitutional morality to religious practices was evidenced in 2019 when a constitution five judge bench referred the case to a larger bench.

Even cases in which the first ruling was not overturned, the 2019 bench raised serious issues about the scope of court scrutiny of the cases in which the religious practice was at issue. To determine whether to intervene in religious practices or not, the bench emphasized the need to design an extensive framework to guide the decision of when courts should interfere with religious practices, and when they should uphold religious autonomy.

CASE ANALYSIS

It is possible to note that the moral constitutional principles applying to the religious activities can be applied to them fully in the majority decision in this case. The majority judges gave a single and free explanation as to why the exclusion of women was unconstitutional. The ruling of the Chief Justice Misra accessed the limelight the transformational aspect of the Constitution and the necessity to align religious practices with the postulates of the Constitution. He added that although the freedom of religion is upheld, it could not be used to encourage discrimination that goes against the fundamental rights. In his ruling, Justice Nariman emphasized the concept of anti-discrimination and stated that locking out women on the

⁸ Sathiyamoorthy SS, “Constitutional Morality: The Origins and Nuances of the Concept” (The Hindu, February 18, 2025) <<https://www.thehindu.com/specials/text-and-context/constitutional-morality-the-origins-and-nuances-of-the-concept/article69229696.ece>>

⁹ *ibid*

¹⁰ *Shayara Bano v. Union of India* [*Shayara Bano v. Union of India*, MANU/SC/1031/2017 : (2017) 9 SCC 1

basis of their biological make up was tantamount to untouchability, which was outlawed in Article 17.¹¹ His work offered an enlightenment on how the form of discrimination can be viewed through constitutional systems in a new perspective. None of the cases provided a better analysis on gender discrimination in places of worship, than the case of Justice Chandrachud. He also promoted a broader concept of how religion should be practised with the inclusion of women equality and how the religious books have been read throughout history in a patriarchal way, to marginalise women.

Later History: 2019 Citation In 2019, the example of the recurring conflict of constitutional morality and religious rituals was mentioned again when the Sabarimala case was referred to a bigger bench. Although the panel of five judges did not upset the original ruling, they cast grave doubts on whether the judiciary should interfere with religious issues according to their scope and limits. The bench in 2019 underscored the need to have a softer touch that would protect the fundamental rights without giving importance to the specifics of any given faith system.¹² The bench recommended that the courts must make more specifications on when to interfere, and when not to interfere taking into consideration the religious autonomy.¹³

CASE LAWS

“Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Shirur Mutt (1954)¹⁴”

- When the Madras state government tried to recover one of a series of eight ancient monasteries that were established in the 13th -century by the scholar, Madhvacharya, under the Hindu Religious and Charitable Endowments Act, 1951, the case of Shirur Mutt arose.¹⁵ The chief priest or mathadhipati disputed this government act by claiming that it had infringed his right in the constitution in Articles 25 and 26.¹⁶ It was a seminal case, which led to the jurisprudence of religious freedom, which was to resonate in the Indian constitutional law in the next decades, initiated by B.K. Mukherjee.
- The Court used the definitions offered by the Oxford Dictionary in stating that a religious denomination is a sect of people who are collectively bound by a common name: a religious sect or body of people of the same faith as well as common organisation and is known by a unique name. More importantly, the ruling brought on board the long-awaited theory on religious practices, a theory that stipulates that only the practices that are inherent to the major beliefs in a religion and not just the collateral practices only are those practices protected by the constitution.
- The Court made the distinction between religious and non-religious issues and ruled that the state had the power to restrict the financial and administrative activities of the religious organisations, although a religious service was to be subsidised. There were other instances where the three-part test (shared faith, organisation, and unique name) was used, and therefore the case was the one followed as the prototype in determining the denomination status and fundamental practices. This case law came into

¹¹ Constitution of India, art 17

¹² “Constitutional Morality and Amendment Acts: A Critical Study of Judicial Responses to Constitutional Changes in India” (2025) <<https://www.lawjournals.org/assets/archives/2025/vol11issue9/11199.pdf>>

¹³ Sinha A, “INTERVENTION OF JUDICIARY IN RELIGIOUS MATTERS; THE SABARIMALA JUDGEMENT” (2019) 6 Journal of Emerging Technologies and Innovative Research 27 <<https://www.jetir.org/papers/JETIR1906Q05.pdf>>

¹⁴ (The Commissioner Hindu Religious Endowments, Madras v. Shri Lakshmindra Thirtha Swaminar of Sri Shirur Mutt MANU/SC/0136/1954 : [1954] SCR 1005)

¹⁵ The Hindu Religious and Charitable Endowments Act, 1951

¹⁶ Constitution of India, art 25 and 26

play in Sabarimala, as a majority applied the test of Shirur Mutt to determine that Ayyappa worshippers did not qualify as a religious denomination and their practice of exclusion was open to examination under Article 25¹⁷ on individual rights.

“Sri Venkataramana Devaru v. State of Mysore (1958)¹⁸”

- The Gowda Saraswath Brahmans who controlled the old temple of Sri Venkataramana and the Madras Temple Entry Authorisation Act, 1947 that aimed at allowing all castes to enter Hindu temples went against each other in this dispute. Gowda Saraswaths was a recognised religious community that argued that their stand of not letting other individuals participate in certain rituals fell under their right of Articles 26(b) to practise religious activities.¹⁹ The individual access rights in a given temple as stipulated by Article 25(2)(b) was in tension with denominational rights as stipulated by Article 26(b) and it posed an evident constitutional conflict.
- The momentous theory of harmonious construction was constructed through the aid of the ruling of the Constitution Bench of Justice Venkatarama Aiyar, which said these rights would go against each other in case of conflicts between them. The Court did so on a practical basis, namely, that Article 25(2) (b) would become entirely nugatory in its application to denominational temples, in case Article 26(b) superseded entirely Article 25(2) (b). The ruling has offered a balancing criterion: the individual religious rights should be sacrificed in case the denominational privileges deprive them of much. The Court did however come to a compromise between an absolute prohibition (which is illegal) and some form of limitation during specific religious practices (which is not illegal) and permitted some of the restrictions, which do not entirely prohibit contact with the public. This tricky scheme established a hierarchy where individual access received frontline consideration as well as the collective rights and individual rights were put into consideration.
- The Sabarimala majority argument was based upon the Devaru precedent, which discovered the theological ground on which providing the woman with the religious freedom should take precedence over any so-called denominational administration rights. The Court actually employed the theory advanced by Devaru as to how in the event of a significant conflict the constitutional morality must prevail over the religious freedom.

“S.P. Mittal v. Union of India²⁰”

- When the government took over the Auroville municipality under emergency law, the S.P. Mittal case concentrated on whether followers of the spiritual philosophy of Sri Aurobindo was a religious sect. Sri Aurobindo Society alleged the protections under Articles 25 and 26 to the fact that its rights to a religious society were violated. One of the faults of the very constitution of the Society, however, was the fact that anyone in the world was admitted as a member, regardless of the difference in nationality, religion, caste, creed or sex.
- In the majority decision, Justice Ranganath Misra reduced the test of Shirur Mutt to three main conditions: (1) there must be a group of individuals with a common religious view, (2) there must be a common organisation and (3) the group must have a distinctive name. More importantly, it was

¹⁷ ibid

¹⁸ Sri Venkataramana Devaru v. State of Mysore and Ors. MANU/SC/0026/1957 : (1958) SCR 895 : 1958 AIR55

¹⁹ Constitution of India, art 26(b)

²⁰ S.P. Mittal v. Union of India and Ors. MANU/SC/0532/1982 : (1983) 1 SCC 51

decided in the Court that members did not change their religion but instead retained their old religious identities, and that the thoughts of Aurobindo were philosophy and not religion.

- As true religious denominations require a distinct religious identity and shared beliefs that distinguish the different religious traditions with more general religious traditions, the ruling indicated that universal accessibility worked against denominational assertions in fact. According to the Court the individual who was demanding access to the institution would lose his former religion in case the Society was of a religious denomination, which was by no means the case. This ruling demonstrated inclusion and universal access in fact weakened religious assertions instead of strengthening them by demonstrating that they were of an unmistakably religious nature. The majority of individuals in Sabarimala also tended to follow the reasoning of S.P. Mittal, citing that, just like in Auroville, the temple was open to everyone who did not convert to their own religion of "Ayyappans." The Court states that being deprived of a religious identity, the collective cannot boast of being treated as a religious denomination. This was not applied to the denial of denominational status but was appealed to in favour of it.

CONCLUSION

The Sabarimala case might be considered as a significant breakthrough in the history of constitutional morality as the means of safeguarding the rights of women in India. The readiness of Supreme Court to interfere and change the centuries-old religious traditions proves how the Constitutional interpretation may be the revolutionary one should it be based on the principles of equality and dignity and non-discrimination. The application of the constitutional morality notion in the Sabarimala decision provides a blueprint on how to resolve the gender equality and freedom of religion conundrum. The case created huge precedents in how similar cases can be handled in other religious contexts because of its demonstration of the significance of the constitutional ideals to take precedence over the discriminatory practices. Nevertheless, this conflict, as well as additional appeal of the case to the court of higher instance, shows how difficult it is to apply constitutional morality to religious activity. The social outcry that came after the judgment portrays that the social change will never be achieved by the simple legal reform.

Though the step that the court is taking is understandable, it should be supported by a more significant social discussion and slow yet steady cultural transformation. Besides the given case, the Sabarimala case has the spillover effect in the bigger debates concerning women and their rights in religion. Thereafter, other cases touching on the right of women to places of worship, the Haji Ali Dargah and other temples have been founded on the argument and principles set in Sabarimala.

The case has also contributed to the discussion of gender equality and religious freedom in the world, moving the discussion on the aspect of how the constitutional principles can be utilized in the fight against prejudice in the religious context a notch higher. The Sabarimala case has provided chances and future challenges to take court action in enhancing the rights of women. The case shows why subtle strategies should be developed to support religious diversity and ensure the basic rights are not violated though, it shows that constitutional morality can be an effective instrument in situations that involve discriminating behaviour.

The fact that the case of Sabarimala that was referred to a larger bench in 2019 continues to evolve and that the case caused a social debate implies that the immediate consequences of the decision are yet to be addressed. As a result of the decision, the issue of women rights in the religious context was transformed significantly, and the constitutional morality was turned to be one of the main principles of the Indian

constitutional law. The primary lesson of the Sabarimala case is that constitutional morality is a basis of subsequent constitutional evolution, where the text can stay despite its original values, and can be easily relevant in the face of new social conditions. With the Indian society grappling with gender equality, religious liberty, and social progress, the values created in Sabarimala will remain one of the pillars in future judicial rulings and transforming the society.

To conclude, it can be seen in the case that the Constitution is not a document of laws because it is a dynamic document of societal change. The courts can be crucial in enhancing equality and fairness in the context of constitutional morality and also, in defending the nuances of the Indian multicultural and multi religious environment. Despite the fact that it is constantly developing and being controversial, the Sabarimala case is an important step towards equality and dignity of every human being, irrespective of their sex or religion.

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