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## JUDICIAL OVERREACH VIS-À-VIS MINORITY RIGHTS

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### ABSTRACT

The Indian judiciary, as the guardian of constitutional values, has often been called upon safeguarding the rights and interests of all citizens, including minorities. This research paper critically examines proactive stance has simultaneously protected and, at times, imperiled democratic principles. Through an analysis of constitutional provisions and the evolving doctrine of constitutional morality, the paper seeks to understand the fine balance between judicial activism and judicial overreach. The study engages with landmark Supreme Court judgments including *Kesavananda Bharati v. State of Kerala*,<sup>1</sup> *M Siddiq (D) v. Mahnat Suresh Das and others (The Ramjanma Bhoomi-Babri-Masjid Dispute)*,<sup>2</sup> *S. Azeez Basha v. Union of India*,<sup>3</sup> *Shayara Bano v. Union of India*,<sup>4</sup> *Supriyo v. Union of India*,<sup>5</sup> and *Young Lawyers Association v. State of Kerala (Sabarimala Temple Entry case)*.<sup>6</sup> These cases illustrate the judiciary's complex role in advancing minority rights while grappling with accusations of transgressing its constitutional mandate. Particular attention is paid to recent developments where the Court has been both praised for its progressive outlook and criticized for encroaching upon legislative and societal domains. The paper argues that while judicial intervention has been pivotal in securing fundamental rights for marginalized groups, unchecked judicial overreach risks undermining the delicate separation of powers. It contends that constitutional morality, though transformative, must be tempered with institutional restraint to preserve judicial credibility and democratic legitimacy. Ultimately, this research underscores the necessity of a judiciary that is neither a passive spectator nor an authoritarian legislator but an active yet restrained interpreter of the Constitution — especially when the stakes involve the rights and dignity of minority populations in a pluralistic democracy like India.

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<sup>1</sup> AIR 1973 SC 1461.

<sup>2</sup> 2020 (1) SCC 1

<sup>3</sup> AIR 1968 SC 662, 1968 SCR (1) 833.

<sup>4</sup> AIR 2017 SC 4609

<sup>5</sup> (2023) 14 SCC 242

<sup>6</sup> (2019)11 SCC 1

**Keywords:** Judicial Activism, Judicial Overreach, Judicial Restraint, Minority Rights, Constitutional Morality.

## I. Introduction

In a constitutional democracy like India, the judiciary plays a pivotal role in ensuring that the principles of justice, liberty, equality, and fraternity—enshrined in the Preamble of the Constitution—are not reduced to mere ideals but are actively realized. The courts serve as the protectors of the Constitution and the guardians of fundamental rights. Over time, the Indian judiciary has developed a strong tradition of judicial activism, especially through its expansive interpretation of Article 21 of the Constitution. However, this activism has also invited criticism when courts are seen as stepping beyond their adjudicatory limits into the domain of governance and policy-making. Such situations have often been termed as instances of judicial overreach—a contentious phenomenon in which judicial decisions, although constitutionally reasoned, may distort the balance of power between the judiciary, legislature, and executive.<sup>7</sup>

This tension becomes particularly evident when judicial interventions intersect with minority rights, a subject that lies at the core of India's secular and pluralistic constitutional vision. India's minorities—whether religious, linguistic, or sexual—have been constitutionally guaranteed rights that allow them to preserve their distinct identities. Articles 29 and 30 of the Constitution explicitly protect cultural and educational rights, allowing minorities to conserve their heritage and establish institutions of their choice. Additionally, Articles 14, 15, 25, and 26 guarantee equality before the law and freedom of religion, affirming the idea of substantive equality and religious autonomy.

While these provisions are clear in their intent, the task of interpreting them in a changing socio-political context often falls on the judiciary. This interpretive function becomes especially fraught when the courts have to adjudicate on matters where state policy directly affects minority rights. In such cases, the courts walk a thin line between constitutional guardianship and judicial encroachment. There have been instances when the Supreme Court has actively upheld minority rights through a progressive lens. However, there are also cases where the judiciary has arguably diluted minority protections or deferred excessively to

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<sup>7</sup> Soli J. Sorabjee, “*Judicial Activism and Overreach: Need for Balance*,” 49(5) Journal of the Indian Law Institute 620 (2007).

majoritarian interests.

A foundational case in this regard is *S. Azeez Basha v. Union of India*,<sup>8</sup> where the Supreme Court held that Aligarh Muslim University (AMU) could not claim minority status because it was established by a legislative act and not by the Muslim community. This decision significantly affected the rights of Muslim minority under Article 30(1) and remained binding for decades until 2024, when a seven-judge bench of the Supreme Court in *In Re: The Minority Status of AMU* overruled the earlier verdict and held that AMU was, in fact, a minority institution.<sup>9</sup> This judgment marked a significant shift in judicial interpretation and was celebrated as a long-overdue recognition of historical and educational autonomy for Muslims in India.

In the education sector, the Supreme Court has frequently addressed the scope and limitations of Article 30. In *T.M.A. Pai Foundation v. State of Karnataka*,<sup>10</sup> the Court upheld the right of minorities to establish and administer educational institutions, laying down that such institutions are not entirely free from regulation, but that state control must not destroy the essence of autonomy. This was followed by *P.A. Inamdar v. State of Maharashtra*,<sup>11</sup> where the Court allowed regulation of fees and admissions even in unaided minority institutions—significantly curtailing the autonomy it had earlier expanded. These rulings underscore the judicial struggle to maintain a balance between regulation in the public interest and the constitutional rights of minority institutions.

More recently, in 2024, the Supreme Court overturned a controversial decision of the Allahabad High Court that had declared Islamic madrasas in Uttar Pradesh as unconstitutional on grounds of violating secularism. The apex court strongly upheld the constitutional protections granted to these institutions and emphasized that the state cannot use secularism as a tool to homogenize educational spaces.<sup>12</sup> Similarly, in another 2024 ruling, the Court suspended executive orders requiring restaurants to display the names of their owners, a move widely criticized as targeting Muslim businesses.<sup>13</sup> By intervening in such cases, the Court reaffirmed

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<sup>8</sup> *Supra* note 3.

<sup>9</sup> W.P. (C) No. 1099 of 2023, decided Jan. 11, 2024 (SC).

<sup>10</sup> (2002) 8 SCC 481.

<sup>11</sup> (2005) 6 SCC 537.

<sup>12</sup> *Jamiat Ulama-i-Hind v. State of Uttar Pradesh*, W.P. (C) No. 315 of 2023, decided Nov. 5, 2024 (SC).

<sup>13</sup> *People for Constitutional Values v. Union of India*, SLP (Crl.) No. 18345 of 2024, decided July 22, 2024 (SC).

its role in checking majoritarian impulses and protecting minority interests.

Conversely, the Court has at times chosen judicial restraint in issues where activism may have advanced minority rights. In *Supriyo v. Union of India*,<sup>14</sup> the Court, while recognizing the discrimination faced by LGBTQ+ individuals, declined to legalize same-sex marriage, stating that the matter fell within the domain of the legislature. This judgment sparked debate: while it was lauded for respecting the separation of powers, critics argued that the Court failed to stand up for a vulnerable minority that continues to face systemic exclusion.

This paper seeks to critically examine the evolving role of the judiciary in shaping the discourse on minority rights in India. It interrogates whether judicial interventions have consistently upheld the spirit of the Constitution or whether certain actions amount to overreach, through a close reading of recent and landmark judgments.

As India navigates an increasingly complex socio-political environment, where identity politics and majoritarianism often influence policy-making, the judiciary's role as a counter-majoritarian institution becomes more crucial than ever. By critically evaluating whether the judiciary has overstepped its mandate or safeguarded the rights of minorities in accordance with constitutional principles, this paper contributes to the broader discourse on constitutional morality, institutional boundaries, and social justice.

## II. Constitutional and Legal Framework

India's constitutional architecture is firmly rooted in the values of secularism, pluralism, and equality. These values are especially significant when assessing the rights of minorities, who are accorded specific protections under Part III of the Constitution. The judiciary's role in interpreting and enforcing these provisions is central to the functioning of a constitutional democracy. However, when the judiciary enters the terrain of policy-making under the guise of interpretation, it raises concerns about judicial overreach. Understanding the constitutional and legal framework relating to minority rights is, therefore, foundational to analyzing whether judicial interventions uphold or encroach upon those rights.

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<sup>14</sup> *Supriyo v. Union of India*, (2023) 14 SCC 242.

## 1. Equality and Non-Discrimination

The principle of equality before the law and equal protection of the laws is enshrined in Article 14 of the Constitution. Article 15 further prohibits discrimination by the State on grounds of religion, race, caste, sex, or place of birth. While these provisions apply universally, their interpretation often becomes crucial in cases involving minorities who face institutional or structural exclusion.

Judicial interpretations of Article 14 have evolved from a formal understanding of equality to a more substantive and dynamic concept, particularly in cases involving affirmative action or protection against arbitrary State action. However, the extension of these principles into areas involving religious practices and minority autonomy has led to instances of judicial interference in the name of equality and constitutional morality.

## 2. Cultural and Educational Rights of Minorities

**Articles 29 and 30** constitute the cornerstone of minority rights in India.

- **Article 29(1)** guarantees any section of the citizens having a distinct language, script or culture the right to conserve the same.
- **Article 30(1)** provides all minorities, whether based on religion or language, the right to establish and administer educational institutions of their choice.<sup>4</sup>
- **Article 30(2)** prohibits the State from discriminating against minority institutions in granting aid.

The interpretation of Article 30 has undergone significant transformation. Initially construed as an absolute right, later judgments imposed regulatory limits in the public interest, thereby creating a delicate balance between State regulation and institutional autonomy.

In *T.M.A. Pai Foundation v. State of Karnataka*,<sup>15</sup> the Supreme Court clarified that while minority institutions are subject to reasonable regulation, their core autonomy must remain intact. In *P.A. Inamdar v. State of Maharashtra*,<sup>16</sup> the Court further held that unaided minority

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<sup>15</sup> *Supra* note 9

<sup>16</sup> *Supra* note 10

institutions cannot be compelled to implement State-mandated reservation policies. However, recent attempts by various State governments to regulate admissions, fees, and curricula in minority institutions have led to fresh judicial interventions, renewing the debate on overreach.

### 3. Freedom of Religion

**Articles 25 and 26** protect the right to freely profess, practice, and propagate religion and to manage religious affairs.

- Article 25 ensures freedom of conscience and religion, subject to public order, morality, and health.
- Article 26 grants every religious denomination the right to manage its own affairs in matters of religion.

These rights are particularly crucial for religious minorities, but their scope has been contested in courts, especially when religious practices clash with notions of constitutional morality or gender equality. In *Shayara Bano v. Union of India*,<sup>17</sup> the Court struck down the practice of triple talaq as unconstitutional, asserting that essential religious practices cannot violate fundamental rights.

Although hailed as a progressive judgment, critics argue that the judiciary ventured into theological interpretation—traditionally beyond its domain—thereby setting a precedent for judicial overreach in religious matters.

### 4. Directive Principles and Secularism

While the Directive Principles of State Policy are not enforceable by courts, they guide the interpretation of fundamental rights. For instance, Article 44, which calls for a Uniform Civil Code (UCC), has been invoked in judicial debates on personal law reforms. The judiciary's references to Article 44 in cases like *John Vallamattom v. Union of India*<sup>18</sup> and *Shabnam Hashmi v. Union of India*<sup>19</sup> reflect the increasing trend of courts pushing for legislative change

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<sup>17</sup> *Supra* note 3

<sup>18</sup> (2003) 6 SCC 611.

<sup>19</sup> (2014) 4 SCC 1.

under the rubric of constitutional directives.

These judicial endorsements of the UCC have been seen by minority communities, especially Muslims and Christians, as threats to their religious autonomy. Such rulings raise pertinent questions about whether judicial pronouncements—though not binding legislation—can become instruments of majoritarian conformity.

## 5. Judicial Review and Constitutional Morality

The power of judicial review under Article 13 allows courts to strike down laws that contravene fundamental rights. Additionally, the doctrine of constitutional morality—though not explicitly defined in the Constitution—has increasingly been invoked to scrutinize both laws and practices.

While constitutional morality has served to protect the rights of vulnerable groups in cases like *Navtej Singh Johar v. Union of India*,<sup>20</sup> it also places a significant amount of subjective discretion in the hands of judges. This creates space for judicial overreach, particularly when courts enforce abstract notions of morality over culturally embedded practices or community-specific laws.

## III. Analysis of Selected Case Laws

### 1. *M Siddiq (D) v. Mahnat Suresh Das and others (The Ramjanma Bhoomi-Babri-Masjid Dispute)*<sup>21</sup>

The case was filed initially in the Supreme Court of India in 2010 as Civil Appeal bearing numbers 10866/2010. The case was heard by a five-judge bench consisting Chief Justice Ranjan Gogoi and Justices S A Bobde, DY Chandrachud, Ashok Bhushan and S A Nazeer. During the the long-standing dispute four civil suits were filed in the civil courts which were transferred by the Allahabad High Court to itself for trial. The subject of challenge before the apex court was the ruling of the Full bench of the Allahabad High Court delivered on September 30, 2010.

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<sup>20</sup> (2014) 4 SCC 1.

<sup>21</sup> *Supra* note 2

The timeline of the case, insofar as the origin of the dispute, is ancient. The Court noted:

*“This Court is tasked with the resolution of a dispute whose origins are as old as the idea of India itself. The events associated with the dispute have spanned the Mughal Empire, colonial rule and the present constitutional regime.”<sup>22</sup>*

On 9th November, 2019, the Supreme Court delivered the judgment in the decades long Ayodhya land dispute. The Ayodhya dispute was essentially, the claim of ownership, by the Hindu and Muslim community over a piece of land admeasuring 1500 square yards in the town of Ayodhya. The Supreme Court unanimously held that the entire disputed land of 2.77 acres in Ayodhya must be handed over for the construction of Ram Mandir. The Court further decided to allot an alternate plot of 5 acres to the Sunni Waqf Board for construction of mosque in order to “provide restitution to the Muslim community for the unlawful destruction of their place of worship. Quintessentially the judgment was decided against the Muslims and balanced in favor of the majority.

*The Supreme Court judgment in Ayodhya dispute is very important and quite controversial, as many of its biased averments bode ill for the secular fabric of the country and even for rational thinking. The judgment provoked former Supreme Court judge Justice R.F Nariman to conclude that:*

*“....In my humble opinion, it was a great travesty of justice that secularism was not given its due at all by these judgments.”<sup>23</sup>*

The former SC Judge also disagreed with the reasoning behind the court’s decision to grant the disputed land to Hindus, despite ruling that the demolition of the mosque was illegal, a serious violation of rule of law. Highlighting concerns over recurring disputes Justice Nariman added:

*"Today we find hydra heads popping all over the country. We find suits after suits not only against mosques but also against dargahs. All this, according to me, could lead to communal disharmony.”<sup>24</sup>*

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<sup>22</sup> Para 2 of the judgement.

<sup>23</sup> Speaking at the first Justice AM Ahmadi memorial lecture on 'Secularism and the Indian Constitution, Available at <https://www.thehindu.com/news/national/travesty-of-justice-that-secularism-not-given-its-due-in-ayodhya-verdict-former-sc-judge-nariman/article68958146.ece> Last Accessed Feb 20, 2025

<sup>24</sup> Ibid.

*The Supreme Court ruling has enabled the triumph of a majoritarian claim—backed by a long, venomous communal campaign—over minority rights.*<sup>25</sup> Moreover, the Hindus were granted title over the disputed site because of their ‘continued assertion of rights’.<sup>26</sup> In doing so, the Supreme Court was very irrational. Thus the Supreme Court’s verdict of 2019 is a potential instance of judicial overreach going beyond the scope of strictly legal issues. The role of judiciary is to apply legal principles, not to settle any dispute on faith and belief.

## **2. *S. Azeez Basha v. Union of India***<sup>27</sup>

Aligarh Muslim University (AMU), originally founded as the Mohammedan Anglo-Oriental College in 1875 by Sir Syed Ahmad Khan, was elevated to the status of a university through the Aligarh Muslim University Act, 1920. Post-independence, certain amendments to the AMU Act by the Indian Parliament in 1951 and later in 1965 significantly altered the governance and character of the university.

Petitioner S. Azeez Basha, a former Member of Parliament and a prominent Muslim leader, challenged these amendments. He argued that AMU was a minority institution established by Muslims, and the amendments which gave the Union Government increased control over its administration violated Article 30(1) of the Constitution, which protects the rights of minorities to establish and administer educational institutions of their choice.

The Supreme Court in this case did not accept any contention of the petitioners and ruled *inter alia*:

- The Aligarh Muslim University was not a minority institution established by the Muslim community under Article 30(1), as it was created by a central legislation (the AMU Act of 1920) and therefore, in the Court’s view, “established by the Government.” Hence, the constitutional validity of the 1951 and 1965 Amendments to the Aligarh Muslim University Act cannot be challenged.<sup>28</sup>

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<sup>25</sup> Shylendra H S, “*God as a Litigant: Examining the Contradictions and Biases of the Ayodhya Verdict*” Economic and Political Weekly, Vol 59 No. 42, 19<sup>th</sup> October 2024 Available at <https://www.epw.in/engage/article/ayodhya-verdict-does-projecting-god-litigant-bring>. Last Accessed 15th Feb, 2025.

<sup>26</sup> Para 788 (VIII) of the judgement.

<sup>27</sup> *Supra* note 3

<sup>28</sup> *S. Azeez Basha v. Union of India*, Judgments on Minority Rights, op. cit., p. 159.

- The Supreme Court took into consideration the history of establishment of Muhammadan Anglo-Oriental (MAO) College by Sir Syed Ahmad Khan and its subsequent culmination into Aligarh Muslim University in 1920 by an Act of Government of India. The Court appears to agree that Sir Syed founded M.A.O College for a liberal education that combines Islamic studies with literature and science. However after the college became Aligarh Muslim University under a 1920 Act, it ceased to be an educational institution established by the Muslims.<sup>29</sup>
- The Court interpreted the phrase "establish and administer" in Article 30(1) strictly and stated that unless an institution is "brought into existence by the minority," it cannot claim protection under Article 30.
- Since AMU was established by an Act of Parliament, the Court ruled that it was not technically established by the Muslim community, even though the initiative, funding, and original functioning had deep community roots.
- Therefore, the State's power to amend the AMU Act and alter the university's administrative structure did not amount to a violation of the rights guaranteed under Article 30.

This decision had a far-reaching impact on minority educational rights. It created a precedent where institutions with deep community origins could be denied constitutional protections simply because they were formalized or recognized by legislation. The verdict was widely criticized by academics, jurists, and minority leaders as it was seen as a narrow and literal interpretation that ignored the historical and communal efforts involved in AMU's establishment. The judgment provoked a noted Constitutional expert to conclude that:

*"this is the first case in which the Supreme Court has departed from the broad spirit in which it had decided cases on cultural and educational rights of minorities...."*<sup>30</sup>

He Further opined that:

*"As regards the history of the foundation of the university, it is submitted that the whole*

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<sup>29</sup> *Ibid* p. 150

<sup>30</sup> H.M. Seervai, "Constitutional Law of India", Vol.2, Universal Law Publishing Company, Delhi, 1993. p-1324.

*relevant history is not to be found in the judgment. Nor is the effect of so much of the history as has been set out properly appreciated.*"<sup>31</sup>

Though this case is often cited as an example of judicial conservatism rather than overreach, it is deeply relevant because:

- It represents a judicial narrowing of the scope of Article 30(1), effectively enabling executive overreach.
- It illustrates how judicial interpretation, even when framed as deference to legislative supremacy, can diminish constitutional protections for minorities.
- The verdict was a departure from the spirit of Article 30, which was intended to protect minority control over their educational and cultural institutions.

This ruling effectively denied Muslims any constitutional claim over the administration of AMU for over five decades, until the decision was finally overruled in 2024 by a larger bench in *In Re: The Minority Status of AMU*.<sup>32</sup>

### ***3. T.M.A. Pai Foundation v. State of Karnataka***<sup>33</sup>

The case arose from a challenge to the Karnataka Educational Institutions (Reservation in Admissions) Act, 2001, which mandated reservations for students from socially and economically backward classes in educational institutions, including private minority institutions. The T.M.A. Pai Foundation (the petitioner) owned several private educational institutions and challenged the state law, asserting that it infringed upon their right under Article 30(1) of the Indian Constitution to administer their institutions.

The petitioner argued that Article 30 guarantees minority rights to manage and administer institutions without interference from the state, and thus, the Karnataka Act imposing reservations on private institutions, including those founded by minorities, violated this fundamental right. The case primarily involved the following issues:

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<sup>31</sup> *Ibid.*, p.1320.

<sup>32</sup> *Op.cit.*

<sup>33</sup> *Supra note 9.*

- a) Whether private educational institutions founded and administered by minorities could be subjected to state-imposed regulations like reservations.
- b) Whether minority educational institutions have the right to autonomy in the admission process under Article 30(1) of the Constitution.
- c) Whether the State can impose regulations such as reservation policies on minority educational institutions.
- d) The extent to which reasonable restrictions can be imposed on the right of minorities to establish and administer educational institutions.

The Supreme Court ruled in favor of the T.M.A. Pai Foundation, upholding the autonomy of minority institutions in certain respects but also allowing for reasonable regulations by the state. The Court held that:

- 1. Minority educational institutions have the right to establish and administer their institutions under Article 30(1), but this right is not absolute. The state can regulate the administration of such institutions to ensure standards of education and to protect public interest, especially when the institution receives state aid.
- 2. The Court recognized the need for affordable education for all, and thus, while minority institutions have autonomy, they are still subject to reasonable state regulations.
- 3. The Court further clarified that the reservation policy cannot be imposed on unaided private institutions, but aided minority institutions can be subjected to such policies.

The right of minorities to establish and administer institutions cannot be curtailed, but there must be a balance with the state's interest in maintaining educational standards and ensuring social justice through affirmative action, such as reservations. The Court found that the State has the right to regulate admissions in private educational institutions, but this power should not extend to forcing minority institutions to admit students beyond reasonable capacity or in a manner inconsistent with their mission and purpose.

This case was significant because it clarified the scope of minority rights in the context of

education, establishing that minority institutions are not immune to state regulation, but such regulation must not infringe on the core autonomy of the institution. The Court struck a balance between individual autonomy and social justice, allowing for reasonable restrictions, particularly when state funding is involved. However, the judgment also acknowledged that minority rights cannot be reduced to mere formalities and must be interpreted expansively to preserve the distinctiveness of the community. It was a landmark decision in which the Court endorsed the view that minority institutions should be able to operate freely, but at the same time, public interest and societal obligations such as affirmative action must be accommodated.

This judgment is often considered an example of judicial activism, as the Court expanded the scope of reasonable regulations to include aspects like admissions and management. However, at the same time, the judgment prompted debate on judicial overreach, particularly regarding the extent of the Court's role in deciding matters of policy related to minority rights and state control over education.

#### **4. *Shayara Bano v. Union of India*<sup>34</sup>**

Shayara Bano, a Muslim woman, filed a petition in the Supreme Court challenging the practice of Triple Talaq (Talaq-e-Bid'ah), a form of instant divorce wherein a husband could divorce his wife by pronouncing "talaq" three times in one sitting. Shayara Bano's husband had divorced her using this method, and she argued that the practice was un-Islamic, arbitrary, and violative of her fundamental rights under the Indian Constitution, particularly Articles 14,<sup>35</sup> 15,<sup>36</sup> and 21.<sup>37</sup>

The petition was a part of a larger legal battle that questioned the constitutionality of the practice of Triple Talaq in India, particularly as it pertained to the rights of Muslim women. The case brought attention to the gender disparity inherent in Islamic practices of divorce, particularly when viewed through the lens of equality and fundamental rights guaranteed by the Constitution. The case primarily involved the following issues.

- a) Whether the practice of Triple Talaq (Talaq-e-Bid'ah) is unconstitutional and violative of fundamental rights under Articles 14, 15, and 21 of the Indian

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<sup>34</sup> *Supra note 3*

<sup>35</sup> Right To Equality.

<sup>36</sup> Right Against Discrimination.

<sup>37</sup> Right To Life And Personal Liberty.

Constitution.

- b) Whether the Muslim Personal Law that permits Triple Talaq should be reformed or abolished in the interest of gender justice.
- c) Whether the State has the power to intervene in religious practices to ensure compliance with fundamental rights and constitutional morality.

The Supreme Court by a narrow majority 3:2 struck down the practice of Triple Talaq as unconstitutional. The Court held that:

- a) The practice violated Article 14 and Article 21, both of which ensure the right to dignity, equality, and freedom from arbitrary actions.
- b) Triple Talaq was a non-essential practice under Islamic law and could not be justified as a part of religious practices protected by the Constitution.
- c) Justice Nariman, in his judgment, observed that Triple Talaq was arbitrary and unilateral, which was incompatible with the principles of gender justice.

The Court relied heavily on constitutional morality to assert that individual rights and gender equality cannot be overridden by practices justified purely on the basis of religious custom. The majority judgment viewed Triple Talaq as violating the principles of gender justice and equality, and as a practice that undermined the dignity of Muslim women. The Court did not question the broader framework of Muslim Personal Law but confined its ruling to the specific practice of Triple Talaq, deeming it to be arbitrary and unfair. The majority also emphasized the importance of reforming practices that violate fundamental rights, even if such practices are part of personal or religious laws. Justice Kurian Joseph, who agreed with the majority, wrote a separate concurring opinion, emphasizing that personal laws must align with the Constitution, and any practice that violates fundamental rights must be reformed.

While the judgment was celebrated for upholding gender justice, it was also criticized by some scholars and Muslim organizations for judicial overreach, as it involved the interpretation of Islamic personal law and its adaptation to constitutional principles. Critics argued that the Court should have deferred to the legislature and religious scholars on matters of personal law, rather than taking an active role in reforming religious practices.

The ruling raised the broader question of whether the judiciary should have the power to interfere in matters traditionally governed by personal laws, particularly when they relate to religious beliefs and practices.

### **5. *Supriyo v. Union of India*<sup>38</sup>**

In this case, a group of same-sex couples and LGBTQ+ activists, led by Supriyo Chakraborty, petitioned the Supreme Court seeking legal recognition of same-sex marriages under various Indian laws, such as the Special Marriage Act, 1954, the Hindu Marriage Act, 1955, and others.

The petitioners argued that the right to marry a person of one's choice was a fundamental right protected under Articles 14, 15, 19, and 21 of the Constitution. They contended that the non-recognition of same-sex marriage amounted to discrimination based on sexual orientation, violating the guarantees of equality, freedom, and dignity.

The Union Government opposed the petitions, arguing that marriage was traditionally understood as a union between a man and a woman and that it was for Parliament — not the judiciary — to change the legal definition of marriage. The following issues were raised in the Court:

- a) Whether the right to marry extends to same-sex couples under the Indian Constitution.
- b) Whether the non-recognition of same-sex marriages violates fundamental rights under Articles 14, 15, 19, and 21.
- c) Whether the judiciary has the power to reinterpret statutes (like the Special Marriage Act) to include same-sex couples.

The Supreme Court unanimously refused to legalize same-sex marriages but recognized important rights of LGBTQ+ persons. The majority opinion (by Justices Bhat, Narasimha, and Kohli) held that there is no fundamental right to marry under the Constitution. Therefore, the Court could not legislate or read into statutes to create a right that was absent in the text. Chief Justice Chandrachud and Justice Kaul, in separate minority opinions, held that while marriage itself is not explicitly a fundamental right, denial of marriage rights to LGBTQ+ persons

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<sup>38</sup> *Supra* note 4

amounts to discrimination and violates the principles of dignity and equality. However, even the minority accepted that it would be better for Parliament to enact any reforms in this regard, rather than the Court reinterpreting existing laws. Chief Justice Chandrachud observed that queer relationships deserve recognition and dignity, and suggested that the State should create a civil union framework for same-sex couples. However, this observation was not binding. The Court recognized that LGBTQ+ persons have the right to cohabit, form relationships, and have familial ties — but it stopped short of giving marriage rights. The judgment highlighted the importance of non-discrimination, autonomy, and equal citizenship for LGBTQ+ persons. The Court noted that social acceptance and legal change must evolve together, and hasty judicial intervention might not be appropriate without widespread legislative backing.

The main question relating to this judgement is whether it involves Judicial Restraint or Judicial Abdication? Some critics are of the opinion that the Court, particularly the majority, was too deferential to Parliament and failed to meaningfully protect minority rights, especially when constitutional violations were clear. While the others praised the judgment for avoiding judicial overreach and respecting separation of powers — recognizing that deep social changes like the redefinition of marriage should come through democratic debate, not judicial fiat. Thus, this case is an illustration of the tension between minority rights and judicial restraint.

#### **6. *Indian Young Lawyers Association v. State of Kerala*<sup>39</sup>**

The petition was filed by the Indian Young Lawyers Association challenging the prohibition on entry of women of menstruating age (10-50 years) into the Sabarimala Temple in Kerala, where the deity, Lord Ayyappa, is worshipped as a perpetual celibate (*Naishtika Brahmachari*).

The petitioners argued that the practice violated Articles 14 (Right to Equality), 15 (Prohibition of Discrimination), 17 (Abolition of Untouchability), and 25 (Freedom of Religion) of the Constitution.

The Travancore Devaswom Board and temple authorities defended the restriction as an essential religious practice protected under Article 26(b) (right to manage religious affairs). The main issues involved were:

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<sup>39</sup> *Supra* note 5

- a) Whether the practice of excluding women constitutes a violation of fundamental rights under the Constitution.
- b) Whether the Sabarimala temple qualifies as a denominational religious institution entitled to protection under Article 26.
- c) Whether the exclusion of women is an essential religious practice under Article 25.
- d) Whether religious customs can override the fundamental right to equality and non-discrimination.

In a 4:1 majority, the Supreme Court struck down the ban and ruled that the exclusion of women from Sabarimala temple was unconstitutional. The majority held that the practice violated Article 14 (equality) and Article 25 (freedom of religion) because it imposed a restriction on women solely based on their biological characteristics. The Court ruled that the practice was not an essential religious practice and hence not protected under Article 26(b). Justice Indu Malhotra, however, gave a strong dissent, arguing that courts should not interfere in religious matters unless there is a clear constitutional violation and that essential religious practices must be determined by the community itself.

The different judges make the following observations:

- C.J. Dipak Misra emphasized that patriarchy in religion cannot be allowed to trump constitutional rights.
- Justice Nariman stated that constitutional morality must guide judicial interpretation, not traditional or religious morality.
- Justice Chandrachud powerfully observed that social exclusion based on menstrual status was a form of untouchability and thus prohibited under Article 17.
- The Court reinforced that religious freedom under Article 25 is subject to public order, morality, and health, and morality must be understood as constitutional morality, not religious morality.

The judgment attracted criticism for judicial overreach. Critics argued that the Court, in

determining what is or isn't an essential religious practice, entered into theology — a field beyond judicial expertise. The dissenting opinion by Justice Indu Malhotra reflected this concern, warning that the Court's intervention could set a precedent for excessive interference in religious autonomy. The majority's aggressive use of constitutional morality was celebrated by progressives but criticized by traditionalists as disregarding religious sentiments and faith-based autonomy.

Thus, this case presents a classic example where minority rights (women) were upheld over religious customs, but not without raising complex questions about judicial overreach and faith versus law.

#### IV. Critical Analysis: Judicial Overreach and its Impact on Minority Rights

The judiciary in India, envisioned as the guardian of the Constitution, has often walked the fine line between judicial activism and judicial overreach. In the context of minority rights, this role becomes even more sensitive, requiring a balance between upholding constitutional values and respecting legislative competence.

The intervention of courts to protect minority rights has frequently been justified as necessary to uphold constitutional morality over social morality. For instance, in *Indian Young Lawyers Association v. State of Kerala*, the Supreme Court struck down centuries-old religious practices excluding women, demonstrating the Court's commitment to constitutional principles of equality and non-discrimination.<sup>40</sup> However, critics argue that by determining what constitutes an essential religious practice, the Court ventured into theological domains traditionally beyond judicial competence, thereby raising concerns of overreach.

Similarly, in *Shayara Bano v. Union of India*,<sup>41</sup> the Court invalidated the practice of instant triple talaq, an act seen as a progressive defense of Muslim women's rights. Yet, even here, questions arose whether the judiciary was setting a precedent of substituting legislative action with judicial pronouncements in matters of religious reform.

In contrast, the *Supriyo v. Union of India* case highlighted a restrained judiciary, where despite recognizing the plight of LGBTQ+ minorities, the Court refrained from reading into the law to

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<sup>40</sup> *op. cit*

<sup>41</sup> *op. cit*

create rights not expressly granted by Parliament.<sup>42</sup> This approach reflects an evolution in judicial thinking — a realization that judicial zeal, even in favor of minority rights, must not undermine the separation of powers principle.

Judicial overreach in minority rights cases often stems from the noble intent to protect vulnerable groups. However, excessive intervention without democratic legitimacy risks backlash and institutional erosion. It also risks portraying the judiciary as an unelected, unaccountable body dictating social change, thereby undermining its own legitimacy.

It is crucial to differentiate between judicial activism — where the courts legitimately expand constitutional rights — and judicial overreach — where courts effectively legislate from the bench.<sup>43</sup> While activism is celebrated for empowering minorities (as in *Kesavananda Bharati v. State of Kerala* by laying down the basic structure doctrine<sup>44</sup>), overreach invites criticism for disturbing democratic balances.

A further complication arises from constitutional ambiguity. The Indian Constitution, while rich in rights and protections, often leaves interpretational gaps. This ambiguity sometimes forces the judiciary to fill legislative voids, but the boundary between permissible interpretation and impermissible legislation remains blurred.

Moreover, the invocation of constitutional morality as a judicial standard, though transformative, remains subjective. Different benches, and even different judges within a bench, have interpreted "morality" differently, leading to concerns about inconsistency and unpredictability.

Lastly, recent developments such as the reference of the Sabarimala judgment to a larger bench and the delays in legislative action following progressive rulings (e.g., on same-sex marriage) indicate that societal acceptance of judicially mandated reforms remains uneven. Judicial pronouncements, however progressive, cannot substitute for societal dialogue and legislative consensus.

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<sup>42</sup> *op. cit*

<sup>43</sup> Madhav Khosla, *The Indian Constitution*, Oxford University Press (2012).

<sup>44</sup> *op. cit*

## **V. Conclusion**

The judiciary's role in safeguarding minority rights is pivotal to maintaining the constitutional promise of equality, dignity, and freedom. However, judicial intervention must be exercised with careful restraint to avoid trespassing into the domain of the legislature and upsetting the balance of powers. While landmark rulings have advanced the cause of minorities, unchecked judicial overreach can erode democratic processes and institutional legitimacy. Protecting vulnerable communities is a constitutional imperative, but it must be achieved within the framework of reasoned adjudication, not judicial legislation. The judiciary must continue to champion rights with sensitivity, humility, and fidelity to constitutional boundaries. In a diverse democracy like India, where pluralism is a foundational value, the path forward lies not in judicial dominance, but in a principled and collaborative protection of minority rights.