
**CASE COMMENT: INDIAN YOUNG LAWYERS
ASSOCIATION VS STATE OF KERALA (2018): A CRITICAL
ANALYSIS IN THE LIGHT OF A PENDING REVIEW
PETITION.**

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ABSTRACT

The following Case comment is about one of the most landmark Judgments in India's Constitutional Jurisprudence. The point in question is individual rights like equality and liberty, on the one hand and Group Rights, specifically in the particular case with regard to the rights of religious denominations. The debate is about the 'Essential Practices Doctrine' and larger question of Constitutional Morality. The judgment is under review before a 9-Judge Constitutional Bench in light of petitions that were filed after the 2018 Judgment. Therefore, the Case comment deeply analyzes the significant merits and demerits of the Judgement, keeping in mind the present review petition.

Citation

Indian Young Lawyer Association vs. State of Kerala (2019) 11 SCC 1.

Bench

Majority Opinion: Chief Justice Dipak Misra, Justice R.F. Nariman, Justice A.M. Khanwilkar, Justice D.Y. Chandrachud

Dissenting Opinion: Justice Indu Malhotra

1. Introduction and Brief Facts

The said case pertains to an age-old societal debate concerning the centuries-old tradition. Traditionally Women of reproductive age were not allowed to enter the Sabrimala Temple dedicated to Lord Ayyappa due to reasons such as deity sanctity and temple customs. The temple is one of South India's most famous temples, located within the Periyar Tiger Reserve in the Western Ghats of Kerala. Lord Ayyappa to whom the temple is dedicated to is said to be the son of Lord Shiva and Mohini, the female Avatar of Lord Vishnu.

The Temple is known for its unique religious Practices where devotees undertake a 41-day penance, renouncing worldly pleasures before visiting the temple. Devotees consider Lord Ayyappa to be celibate deity. Therefore, women of menstruating age between (10 to 50) were prohibited to enter the temple on the account of an "Age Old Custom" to protect the celibacy of the God.

The women's exclusion was first challenged in the Kerala High Court in 1991. In *S. Mahendran v. The Secretary, Travancore*,¹ the High Court cited the practice of exclusion as a long-standing Custom, citing that it did not violate the Rights of Female Devotees to Equality (Article 14) or Right to Freedom of Religion (Article 25).

The Indian Young Lawyer's Association filed a petition in Supreme Court in 2006,² challenging the Kerala High Court Judgement. In 2008, the matter was referred to a 3-Judge Bench, which was heard in 2016 later in 2017 it was referred to a Five-Judge Bench.

¹ *S. Mahendran v. The Secretary, Travancore Devaswom Board*, AIR 1993 KER 42.

² *Indian Young Lawyers Association v. State of Kerala*, W.P. (C) No. 373 of 2006 (India).

2. Issues

Issues raised in the following case were as follows:

- Does the Prohibition on Menstruating women's Entry violate the Right to Equality (Article 14) and Right Against Discrimination and the abolition of Untouchability (Art 17) ?
- Are Lord Ayyapa Devotees a separate religious denomination, for managing the administration of their affairs in matters of religion ?
- Is exclusion an essential religious practice under Article 25?
- Do the Public Worship Rules citing the custom go against the parent law, which disallowed discriminatory practices?

3. Rules

Upon the discussion of the issues the major points of discussion for pronouncement of the said Judgement is Article 14(Right to Equality), Article 15(3), Article 17(Right against Untouchability), Article 25(Freedom of Religion), Article 26(Right of religious denomination and their section thereof to manage their religious affairs), Constitutionality Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorization of Entry) Rules, 1965, the ambiguity around Constitutional Morality, The 'Essential Practices Doctrine'.

4. Judgement

The Supreme Court by a 4:1 Majority permitted the entry of women of all age groups to the Sabarimala Temple holding that 'devotion cannot be subjected to Gender Discrimination.' The eight-day-long marathon hearing was essentially based on the debate around the 'essential religious practices' doctrine and the principle of Constitutional Morality. Justice D.Y. Chandrachud observed that abstinence is a state of mind and to restrain women from pursuing in their right to worship on physiological grounds would be unconstitutional, countering historic religious beliefs and customs, he asserted that after coming into force of the Constitution, all actions have to be tested on the touchstones of equality and liberty.³ Justice

³ "Sabarimala: Devotion Cannot Be Subjected to Gender Discrimination; SC Allows Women Entry by 4:1

Chandrachud further regarded the ‘essential principle’ doctrine originating in the 1954 five-judge bench decision in *Shirur Mutt*, as a “problem with our jurisprudence”.⁴ He criticized it for compelling Judges to be guided by theological aspect meaning where a practice is deemed essential in terms of the tenets of the religion rather than whether it is conducive to the Constitution. He opined that regardless of the essentiality of a practice to the religion, discrimination cannot be allowed in violation of the basic structure of the Constitution. Justice Chandrachud along with three other Judges declared a majority judgement with concurring statements, while there was the lone woman in the Bench who dissented. The opinions of bench in the Judgement is as follows-

- “Women is not lesser or inferior to man. Patriarchy of religion cannot be permitted to trump over faith. Biological or physiological reasons cannot be accepted in Freedom for faith. Religion is basically a way of life; however, certain practices and incongruities.” Justice Dipak Misra, Justice A M Khanwilkar.⁵
- The judgement of the CJI also held that Ayyappa devotees will not constitute a separate religious denomination. Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorization of entry) Rules 1965,⁶ which prohibited entry of women in Sabarimala, was also struck down as unconstitutional.
- The separate but concurring opinion of Justice Nariman held: “Anything destructive of individuality is anachronistic of Constitutionality; to treat women differently blinks at the Constitution itself.”⁷
- Justice Chandrachud in his separate but concurring opinion held that idea behind ban was that presence of women will disturb celibacy, and that was placing burden of men’s celibacy on women. This stigmatizes and stereotypes women.⁸

Majority, Lone Woman in the Bench Dissents.” (Last Visited June 3, 2026). <https://www.livelaw.in/sabarimala-devotion-cannot-be-subjected-to-gender-discrimination-sc-allows-women-entry-by-41-majority-lone-woman-in-the-bench-dissents>.

⁴ Id.

⁵ Supra Note.3.

⁶ Kerala Hindu Places of Public Worship (Authorization of Entry) Rules, 1965, r. 3(b) (India).

⁷ Supra Note.3.

⁸ Supra Note. 3.

While the said Judgement was announced by four out of five Judge Bench, Justice Indu Malhotra, the lone woman in the bench, dissented from it. She held that “Issues of deep religious sentiments should not be ordinarily be interfered by the Court. Court should not interfere unless if there is any aggrieved person from the section or religion. Notion of rationality should not be seen in matters of religion.”⁹ She further held that shrine and the deity is protected by Article 25 of the Constitution of India.

5. Aftermath of The Judgement

5.1. The current Review Petition and the way forward

The Supreme Court on April 7, began hearing the Sabrimala Temple Reference, after number of review petitions which has raised larger question of law, basically over religious denomination and essential religious practices. The issues which were brought before the nine-judge bench are-

- 1) What is scope and ambit of Right to Freedom of Religion under Article 25 of the Constitution of India?
- 2) What is the inter-play between the rights of a person under Article 25 of the Constitution and Right of Religious denomination under Article 26 of the Constitution of India?
- 3) Whether the right to Constitutional Morality under Article 25 and 26 of the Constitution of India and whether it is meant to include Constitutional Morality?
- 4) What is the scope and extent of Judicial Review with regard to a religious practice as referred to in Article 25 of the Constitution of India?
- 5) What is the meaning of expression “Sections of Hindus” occurring in Article 25(2)(b) of the Constitution of India?
- 6) Whether a person not belonging to a religious denomination or religious group can question a practice of that religious denomination or religious group by filing a PIL?

⁹ Supra Note 3.

- 7) Whether the Rights of religious denomination under Article 26 of the Constitution of India are subjected to other provisions of Part III of the Constitution of India apart from public order, morality and health?

The Chief Justice of India indicated that Senior Advocate Indira Jaising's understanding that the court is not examining the review petition, was correct and observed that the fate of the review petitions may ultimately depend on the answers rendered in the reference. Therefore, implying that Supreme Court is rather only answering the Constitutional questions, instead of reviewing the Judgement. On the arguments opened by Solicitor-General Tushar Mehta arguing that 2018 was wrongly decided, The bench made it clear that the question is only about interpretation of Article 25 and 26 and merits of the judgement would not be examined.

Some of the major point of discussions are as follows-

a) Does Article 25 include Gender Equality?

Solicitor general Tushar Mehta on behalf of Union argued that religion in India is enormous in terms of the fact that there are sub-denominations within it, reflecting internal plurality. He also pointed out that Sabarimala has wrongly interpreted the words 'equally entitled' used in Article 25 to include gender equality. He stated that gender equality has been taken care of in Articles 14 and 15, and in Article 25, these words were added in the backdrop of the prevailing realities of that time partition, riots and violence. The said arguments were put forth in light of Constitutional Assembly debates around Article 25.

b) Applicability of Article 17 to the present case

He further made strong reservations against Article 17 being extended to say that discriminating against menstruating women amounts to untouchability. He argued that Article 17 was added to the Constitution to address caste-based discrimination prevailing in society. "Sabarimala says all sections of Hindus were introduced so that it is gender-specific.¹⁰ It is not gender-specific. I am sorry, one opinion in Sabarimala says Article 17 applies to women. You are treating women as untouchables. That is one opinion-something I have very strong exception to it. All section had the background of caste and not gender. India is not that

¹⁰ "Not Reviewing Sabarimala Verdict in Reference; Only Considering Constitutional Questions, Says Supreme Court." (Last visited June 3, 2026). <https://www.livelaw.in/top-stories/not-reviewing-sabarimala-verdict-in-reference-only-considering-constitutional-questions-says-supreme-court-529411>.

patriarchal or gender-stereotyped society as the West understand. Justice B.V. Nagarathna, on the issue of application of Article 17, remarked that a “woman cannot be treated as “untouchable” for three days in a month and then cease to be considered untouchable on the fourth day.”¹¹

c) Interpretation of Article 26

He further argued that Article 26 not only uses the words 'denomination' but also 'sections thereof'. He stated that the 2018 Sabarimala judgment failed to consider the aspect of 'sections thereof'.¹² He took an example of Nizamuddin Auliya Dargah or the Shirdi temple and submitted that people from all religions go to these places, and questioned whether they will also cease to be denominational places just because all sections were welcomed.

d) What Extent Can the Court Interfere in Religious faith matters

Mehta referred to the Dargah Committee judgment¹³ and stated it introduced the problematic essential religious practice (ERP) doctrine. The major issue before the Bench concerned the extent to which constitutional values such as equality, dignity, non-discrimination, and constitutional morality may justify judicial intervention in exclusionary religious practices. He stated that Courts can't go into such questions, The arguments were heard relating not only to Sabarimala, but also to issues such as exclusion of Parsi women from agiaries after interfaith marriage, Dawoodi Bohra excommunication practices, and entry restrictions in other religious institutions

To this, Justice Bagchi took an example of the Evidence Act and pointed out that Courts are empowered to examine the testimony of expert witnesses even though they are not experts in science. Justice Bagchi further on the argument of Solicitor General Mehta's argument on the Court's limited power of judicial review on matters of faith, said the Court is not questioning whether faith exists or not, but how that faith is being perceived.

¹¹ “There Can't Be 3-Day Untouchability Against Women Every Month: Justice Nagarathna In Sabarimala Reference Hearing”(last visited: June 3, 2026). <https://www.livelaw.in/top-stories/there-cant-be-3-day-untouchability-against-women-every-month-justice-nagarathna-in-sabarimala-reference-hearing-52930>.

¹² Supra Note. 10.

¹³ The Durgah Committee, Ajmer and Ors. v. Syed Hussain Ali, AIR 1961 SC 1402.

e) Individual Right over Religious Denomination

During the hearing, at one time, Justice Bagchi asked if Mehta was arguing that Article 26(b) prevails over Article 25. To this, SG submitted that Article 26 can't be considered as a separate Island, isolated from other provisions of Part III. He said that it can't be "pitched" that high, but it can't be given an expansive meaning to even include gender equality. Justice Bagchi made a point that while Article 25(1) uses the words "subject to public order, morality and health and to the other provisions of this Part," Article 26 only says "subject to public order, health and morality". This means that while Article 25 can be subjected to other provisions, Article 26 may not be. He added that the Court is fully aware that it has to be "compatible" with other provisions.

At the conclusion of the sixteen-day proceedings, the nine-judge Constitution Bench reserved judgment. Although no final verdict has yet been delivered, the reference is expected to significantly shape future constitutional jurisprudence on religious freedom, essential religious practices, and the balance between individual rights and denominational autonomy in India.

6. Analysis

The 2018 Judgement in *Indian Young Lawyer Association vs. State of Kerala* marked one of the most significant changes in the Constitutional Jurisprudence of India, with a 4:1 majority the court held that not allowing entry of women aged between 10-50 years inside the temple deprive them of their Fundamental Rights under Article 14,15,17 and 25. The court viewed the practice as discriminatory and held that biological factors like menstruation cannot be a ground for exclusion from public religious practices. The judgement however, became reasons for debates around the Individual Rights and the Collective religious autonomy (denominational Rights), a reason which caused the matter to reach larger bench of 9-judge to answer the constitutional questions.

One of the greatest merit to the judgement lies in the affirmation of Gender Equality and Dignity. The majority treated the exclusionary practice as a manifestation of patriarchy disguised as religion. The court expanded the meaning of Constitutional morality by asserting that fundamental rights should prevail over customs that undermine human dignity. In doing so, the judgment reinforced the transformative character of the Constitution and recognized

women devotees as equal participants in religious life. The Court's reasoning therefore strengthened first-generation rights such as equality, liberty and freedom of religion.

Similarly, the judgement can be criticised over collective religious freedom. The dissenting opinion of Justice Indu Malhotra mentioned that matters of deep religious faith should remain outside judicial scrutiny unless they involve social evil like Sati. According to this view, the devotees of Lord Ayyappa constitute a distinct religious denomination entitled to protection under Article 26.

Senior Advocate J. Sai Deepak arguing in the same case from the side of 'People for Dharma', highlighted the right of deities and devout under the Constitution, and the serious complication arising as a result of the application of non-Indic ontology, epistemology, theology and jurisprudence to Indic way of life, faiths practices and institutions.¹⁴

This criticism becomes particularly significant when examined through the framework of third-generation or group rights. Waldron explains that third-generation rights have to do with communities or whole peoples, rather than individual persons. They include minority language rights, national rights to self-determination and the right to such diffuse goods as peace, environmental integrity and economic development.¹⁵ The Sabarimala Temple entry controversy reflects this tension directly, while women devotees asserted individual rights to worship, the temple community claimed a collective right to preserve its religious customs, by arguing that it constitute a separate religious denomination. The ongoing proceedings before the nine-judge bench are therefore not merely about temple entry but about the broader constitutional question of whether courts should determine the "essential practices" of religion and how competing rights should be balanced.

Another demerit of the Judgement which can be seen is the ambiguity around Constitutional Morality. The principle although enables courts to challenge discriminatory traditions, it may lead to excessive judicial reliance or may permit courts to override religious autonomy too easily. This concern is strengthened by the social backlash and implementation difficulties witnessed after the verdict, including protests and political polarization in Kerala. The present

¹⁴ J. Sai Deepak 'India that is Bharat' 6 (2021).

¹⁵ Jeremy Waldron, *Rights in A Companion to Contemporary Political Philosophy* 748 (Robert E. Goodin & Phillip Pettit eds, Blackwell Publishers, 1993).

9-Judge Reference indicate that the constitutional issues involved are far from settled.

Nevertheless, the Sabarimala judgment remains a landmark in the evolution of constitutional rights in India. It highlights the difficult balance between individual dignity and community identity in a pluralistic democracy like India.

7. Conclusion

The Sabarimala Judgement remains one of the significant constitutional decisions in Contemporary India because it reinforces the relationship between faith equality and Constitutional Morality. Although, majority opinion advanced gender justice and individual dignity, the present review proceedings reflect that concerns regarding collective religious autonomy and denominational rights cannot completely be neglected. The case ultimately reflects the continuing constitutional challenge of balancing individual rights with group rights in a pluralistic democracy. Its final resolution will shape not only religious freedom jurisprudence but also the future understanding of equality, liberty, and constitutional morality under the Indian Constitution.