

CRITICAL ANALYSIS OF DISSENTING OPINION IN SABARIMALA TEMPLE CASE:

WAS THE DISSENTING OPINION OF JUSTICE MALHOTRA IN CONSONANCE WITH THE CONSTITUTION?

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INTRODUCTION

Every now and then we hear some or the other person talking about stuff like feminism, gender equality and so on but the real question remains intact, are we really worried about gender equality? India has been tackling with a serious disease of patriarchy i.e. male dominating society since long. We live in a society of hypocrites wherein everyone talks about women empowerment and women rights but no one takes a stand for the same.

According to the report published by UNDP India ranked 127 in Gender Inequality Index¹, which shows the deteriorating condition of India with respect to Gender Equality. Although Indian government is trying to change the current scenario and bring back gender equality as it used to prevail in early Vedic period but the initiative does not seem to be successful. Gender equality is not a concept that can be achieved in one day or so it requires rigorous effort from both the side government as well as citizens. To achieve equality we need to change our mentality, we need to understand that women are not meant to be the slave of men they are on par with them.

Sabarimala Case can be recorded as one of the most recent uprising for women rights. It is the fight of women against the age old exploitative religious principles which prohibit them to enter the premises of the holy Sabarimala Temple situated on Sabarimala hilltop (about 3000

¹ United Nations Development Project, Human Development Report, Gender Inequality Index (2017), <http://hdr.undp.org/en/composite/GII>.

feet above sea level) in Pathanamthitta district of Kerala. This temple is in dispute due to its custom of restricting women of age group of 10-50 years from entering the temple. The *raison d'être* is that the women between the age group of 10-50 years are considered to be impure, as they are the women of menstruating age which seems a lame reason to the authors. Moreover, this restriction on women was declared unconstitutional by the Supreme Court in the case of *Young Lawyers Association & Ors. vs. State of Kerala & Ors.*² It is as distressing an irony as any that these rules were made under a legislation, Kerala Hindu Places of Public Worship (Authorisation of Entry) Act 1965, meant to attack discrimination and facilitate temple entry.³

Such uprisings against women rights show that achieving gender equality is still a fancy dream for the Indian society. Sometimes, there is thought striking in our mind, that are we really living in 21st Century which is regarded as the age of technology and development? The dichotomy lies in the current societal behavior which on one hand overtly promotes gender equality and on the other hand it covertly suppresses the women. Still women are considered as the weaker section of the society which need the help of patriarchal power to survive in this society.

The dissent of Justice Malhotra is basically premised on two major grounds which are: one, maintainability of petitions concerning religious practices under Article 32, and two, application of Article 14 in case of such practices. Firstly, the dissent questions the scope of public interest litigations in matters involving religious faith. It makes a distinction between the litigations in public interest and litigations in public interest involving religious sentiments. Justice Malhotra says that allowing such PILs will result in the apex court being flooded with cases involving religious sentiments by interlopers in the name of PILs. She goes on to say that one who does not belong to that particular religion and/or subscribe to the particular faith has no right to approach the court under Article 32 as the person cannot be said to be aggrieved.⁴

² *Young Lawyers Association & Ors. v State of Kerala & Ors.* SC (2018).

³ Satya Prasoorn, *The Sabarimala Case has the Potential to be a constitutional watershed*, *The Wire* (Nov.7, 2016), <https://thewire.in/law/sabarimala-temple-case-constitutional-watershed>.

⁴ Ankitesh Ojha, *#Sabarimala dissent from the dissent of Justice Indu Malhotra: New Boundaries for Article 14?* *The Leaflet* (Oct.22, 2018), <https://theleaflet.in/sabarimala-dissent-from-the-dissent-of-justice-indu-malhotra-new-boundaries-for-article-14/>.

This view of Justice Malhotra is not correct as per constitutional norms. She wants to compromise with the concept of PIL just for the sake that, this might result in surge in number of cases filed against the exploitative religious norms which is not correct as per authors.

HISTORICAL BACKGROUND OF THE SABARIMALA CUSTOM

Sabarimala is a Hindu pilgrimage situated on a hill in Pathanamthitta district of Kerala. This temple is in controversy since long ago due to its custom of discriminating women of reproductive age. This temple restricts the entry of women of 10-50 years from not only entering the temple building but also from arduous trekking which leads to the temple. Even though this pilgrimage witnesses millions of devotees but women are restricted due to their biological and physiological features.

Ancient Folklores and birth of Lord Ayyappa Swami

Sabarimala temple worships Lord Ayyappa who is considered as the god of celibacy. The myths and legend of Lord Ayyappa are not present in any of the major Puranic text but are found in the folksong of Kerala and Coorg. Lord Ayyappa is a son of Lord Siva and Lord Vishnu in his incarnation form of Mohini. According to the ancient folklore Lord Siva and Vishnu combined their powers and created a Sage Datta. Simultaneously their consorts created Lila who married the sage Datta but, the problem was aroused when Sage Datta tried to choose spiritual life and sacrifice all worldly things but, Lila's desire were not satiated and she refused to permit Datta to live a spiritual life. Consequently, sage Datta cursed Lila to be born as demoness Mihisi in his next life which was eventually destroyed by Lord Ayyappa. From that dead Mahisi emerged Lila who wished to marry Lord Ayyappa but he had taken the vow of celibacy which was possible to be broken only when pilgrims would have stopped journeying to his shrine.⁵

This is one of the various folklores famous about the birth of Lord Ayyappa but what is the exact truth no one is aware of till date. Females according to the ancient stories were considered as the sign of eroticism and sexual thoughts which tend to break the celibacy of men therefore, priest along with devotees stopped the entry of women on the lame ground that the vow of

⁵ Radhika Sekar, *The Process of Pilgrimage: The Ayyappa Cultus and Sabarimala Yatra* 12-14 (1988).

celibacy of Lord Ayyappa will be broken if a woman enters the temple. If we consider this ancient folklore as the correct one but the contention which arises is that nowhere in the ancient folklore there is a discussion about not allowing women to enter the temple premises. Stories just lay the stress on the vow of Lord Ayyappa and his purity, no story claims women to be impure or the danger to the celibacy of Lord Ayyappa. Purity is not and cannot be a constitutional ideal, especially since the measures of purity are defined by and sculpted from vicious structures and wellsprings of casteism and patriarchy.⁶

The notion prevailing that menstruating women are impure or tend to arouse sexual thought are the rumors prevailing in the society which is constantly degrading image of the deity. This wrong interpretation of celibacy by the people can be proved by the instance that before 1995 women of all the ages were allowed to enter the temple for the first rice feeding ceremony of their children.

Hindu dharma celebrates divinity in its complex diversity.⁷ Lord Ayyappa is worshipped in India in various forms and in other temple women are allowed to enter. If Lord Ayyappa restricts entry of women to his premises then there should had been ban on entry of women in those temples also. Therefore it is evident that, proves that this discriminating provision was not present from ancient times these provisions were created by ordinary people for fulfilling their whims and fancies.

Interpretation of term 'Naishtika Brahmacharya'

The reason cited by the temple authorities for restricting entry of women in Sabarimala Temple is that Lord Ayyappa is said to have taken the vow of being a 'Naishtika Brahmachari' which means that preserving the semen from falling to the ground or flowing down as this hinders the spiritual growth.

According to Shri Swami Sivananda who defines the true meaning of being a celibate or brahmacharya it literally means Achara or conduct that leads to the realization of Brahman or one's own self. It means the control of semen, the study of the Vedas and contemplation on God. The technical meaning of Brahmacharya is self-restraint, particularly mastery of perfect control over the sexual organ or freedom from lust in thought, word and deed. Strict abstinence

⁶ Supra. At 3.

⁷ Sandhya Jain, Sabarimala justice downsizes divinity, *The Pioneer* (Oct. 16, 2018), <https://www.dailypioneer.com/2018/columnists/sabarimala--justice-downsizes-divinity.html>.

is not merely from sexual intercourse, but also from auto-erotic manifestations, from homosexual acts and from all perverse sexual practices. It must further involve a permanent abstention from indulgence in erotic imagination and voluptuous reverie. A real Brahmachari will not feel any difference in touching a woman, a piece of paper or a block of wood.⁸ Merely watching a woman does not mean that the vow of celibacy will be broken and if it happens then that vow doesn't hold any value in the eyes of authors.

If we think on the above lines we get that the Naishtika Brahmacharya is all about keeping away from sexual thoughts and gestures. It does not create any compulsion for a person to be male or female it just restricts sexual thoughts completely. Moreover as per authors view, if one gets sexually aroused merely with the sight of women then such vow of celibacy is of no use.

Another argument put forth is that it is the 'Will of God' which is known by the ritual called Devaprashnam. In this, astrologers interpret the will of God and as per the various 'Devaprashnams', Swami Ayyappa doesn't will the entry of the women of reproductive age to his abode. Another argument is the journey to the hill shrine in Periyar National Park is perilous and the tradition was started to protect the women from the difficulty.⁹ This argument would be valid if it was 19-20th Century but now in 21st century with women empowerment and increase in safety measures it is possible for women to do such arduous trek. Hence, restricting the women from entry in Sabarimala Temple is not justified even as per historical facts.

RELIGIOUS STANCE OF SABARIMALA TEMPLE

India is a developing country and its development is not possible if the system has rigid structure. Indian Constitution is known as world's largest living constitution and it confers its citizens Right to equality. India is a secular country and respecting each and every culture and

⁸ Shri Swami Sivananda, *The Meaning of Brahmacharya, Practice of Brahmacharya* (1997), http://www.dlshq.org/download/brahmacharya.htm#_Toc441556960.

⁹ Anand Neelakantan, *Lifting Sabarimala Ban is common sense*, *The New Indian Express* (Aug. 5, 2018, 5:00 AM), <http://www.newindianexpress.com/magazine/voices/2018/aug/05/lifting-sabarimala-ban-is-common-sense-1852336.html>.

religion is recognized as the part of the basic structure of the constitution but, still complete secularism is not achieved.

Whenever, the courts have tried to interfere with old customs and have nullified them, there has always been hue and cry.¹⁰ But this hue and cry should not overpower judiciary while deciding the case. It is the duty of judiciary to deliver justice irrespective of people who are against the decision. The decision of the Supreme Court is highly appreciated as in this case the justice was not only done it seemed to be done with the women.

It is a universal truth that faith and religion do not countenance discrimination.¹¹ The main problem here lies in the premise of fundamentalism. Even though there exists secularism in India but it has been suppressed by fundamentalism which means to consider one's own religion superior to that of others.

In Sabarimala case, the worshippers of Lord Ayyappa i.e. Ayyappans consider themselves of a different religious sect from Hinduism and consider their religion as the supreme one which led to clashes between the Ayyappans and other Hindus.

Ayyappa is also known as a chief God of the Shudras. The temple bhakts are mostly Shudras, but the rules are written by Brahmins. No Shudra temple in India has written rules that discriminate between men and women. In fact, the Shudra faith is mostly intertwined around female Goddesses.¹² Even though Ayyappans worship a god who does not discriminate among its devotees but still this discrimination exist in Sabarimala due to assumption that menstruating women are impure.

One of the greatest examples of fundamentalist mentality of Ayyappans is the recent case of vandalism reported at the residence of Rehana Fathima, who managed to reach within 500 meters of the Sabarimala temple in Kerala on day three of the reopening of the temple after the Supreme Court order. Fathima, who started the trek to the temple with journalist Kavitha

¹⁰ Supra. At 4.

¹¹ Deepa Das Acevedo, Pause of Thought: Supreme Court's verdict on Sabarimala, *Economic and Political Weekly* (Oct. 27, 2018), <https://www.epw.in/journal/2018/43/commentary/pause-thought.html>.

¹²Kancha Ilaiah Shepherd, Sabarimala: Why BJP wants to 'empower' Muslim women but is against equal rights for its Hindu daughters, *Dailyo* (Oct. 18, 2018), <https://www.dailyo.in/politics/sabarimala-why-bjp-wants-to-empower-muslim-women-triple-talaq-but-is-against-equal-rights-for-their-own-hindu-daughters/story/1/27284.html>.

Jakkala, was stopped by protestors at the entry point into the sanctum sanctorum despite 100 policemen protecting her. While she was on her way to the temple, two unidentified men on bikes attacked her house in Kochi.¹³ The contradiction lies in the fact that all this was done on the day of one of the most sacred religious festival in India 'Navratri' where women are worshipped for 9 days.

The incidence with Fathima can be taken as an example which proves that for Indians religion holds more value even than the life of a person which is not the correct approach to look after a problem for any nation. There are ton of incidences witnessed every day where a person of one religion offends the feelings of person belonging to other religion but, this does not mean that whole religious sect should come on road and start protesting. Being intolerant on topic of religion is disastrous and a menace for religion as well as individual. Religion is the issue which should be dealt with serenity instead of rage and intolerance.

The main issue raised by the Ayyappans regarding entry of women in Sabarimala will destroy the celibacy of god and the devotees are totally incorrect. But the solution of this premise lies in the explanation of the term 'Brahmacharya' itself. Brahmacharya refers to complete abstinence of an individual from all sought of sexual activities and sexual behavior. The point here to be noticed is that nowhere in any of the historical tales or ancient text it is being mentioned that women cannot observe Naishtika Brahmacharya. Women can also observe 41 days penance, menstruating doesn't means that there exists some sexual thoughts or presence of sexual activity; in fact menstruation can be referred as the sole source of procreation.

LEGALITY OF SABARIMALA TEMPLE

India is a democratic country where every voice is heard with due respect. Our country renders us with six fundamental rights which cannot be taken away without any reasonable justifications but in Sabarimala Temple the customs in guise of religion have turned into discriminatory.

¹³ By Online Desk, House of activist Rehana Fathima who tried to enter Sabarimala vandalised, The New Indian Express (Oct. 19, 2018, 02:47PM), <http://www.newindianexpress.com/states/kerala/2018/oct/19/house-of-activist-rehana-fathima-who-tried-to-enter-sabarimala-vandalised-1887285.html>.

The dissenting opinion given by Justice Malhotra raises a question relating to filing of PIL in religious matters. But this argument is itself flawed, as PIL is something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity, or as the interests of the particular localities, which may be affected by the matters in question. Interest shared by citizens generally in affairs of local, state or national government.¹⁴ In Sabarimala, the question was not only about religious matters it was more about Fundamental Rights of women. Therefore, entertainment of PIL by the court was a correct decision.

Fundamental Rights denied to women

Sabarimala is more an issue of gender equality than of religious freedom. Those who oppose the entry of women there do not even have the backing of custom as the ban on women of a particular age in the temple only goes back to the High Court judgment of 1992, and even after that there is enough proof to show that young women have entered the temple with the full knowledge of the Thantri, the chief priest. The custom, if at all it exists, militates against the gender equality guaranteed by the Constitution and hence needs to be discontinued.¹⁵ From time immemorial, women of child-bearing age never ventured into the thick Sabari forest to disturb the meditation of Sastha due to the prevailing belief and as a mark of respect for what Sastha was purportedly doing. It was not an easy journey then, and not very easy now even with two well-lit concrete paths. However, devotees were accompanied by girls before they attained puberty and elderly women in the family on their annual pilgrimage to the shrine.¹⁶ Women at that time didn't access the temple because of their choice but now that choice of women has been converted to a restriction for them.

If we talk in legal context every citizen in India has the Right to equality as Fundamental Right conferred under Part III of the Indian Constitution which is being denied to women in Sabarimala Temple. Although this right can be restricted on basis of intelligible differentia but, this criterion was not met in Sabarimala. Restricting entry of women solely on their

¹⁴ State Of Uttaranchal vs Balwant Singh Chauhal & Ors, AIR 2010 SC 2550.

¹⁵ K Satchidanandan, Sabarimala is more an issue of gender equality than of religious freedom, News Click, (Nov.2, 2018) <https://www.newsclick.in/sabarimala-more-issue-gender-equality-religious-freedom>.

¹⁶ George Augustine, Sabarimala: A debate between modernity and age-old practices, Hindu Human Right, (Jan.28, 2016) <http://www.hinduhumanrights.info/sabarimala-the-debate-between-modernity-and-age-old-practices/>.

physiological and biological features is discriminatory. If the classification was not based on sex, it should not have excluded women only. But the obvious fact is that classifying on the basis of menstruation will end up being a default classification on the basis of sex.¹⁷ It is necessary to understand that the age old notion that menstruating women are impure and untouchable needs to be scrapped off in this era of technology.

Moreover, restriction imposed on women is violative of Right to privacy also as it compels women to disclose about their menstruating status in front of all.

Another point which is raised by the authors is that Justice Malhotra wants the cases which involve “*oppression in the name of religious practices*” and are “*social evils*” to be entertained. Here, there was a need on her part to clarify as to what shall be considered as a *social evil* and how banning the entry of women of menstruating age by imposing harsh conditions is *not* a social evil. She gave an example of the long banned practice of *Sati explained what is oppressive but ended up setting* a very high threshold for entertainment of petitions under Article 32 in the matters of religious faith. One cannot make distinction when it comes oppressiveness and the courts ought to treat all of the cases of discrimination with due seriousness **menstruation is** a biological phenomenon and discrimination on this ground is in our opinion oppression of rights and freedom of women.¹⁸

Right to Religion cannot overpower equality

Secularism is the basic feature of the constitution. The state treats equally all religions and religious denominations. Secular activities can be regulated by the state by enacting a law.¹⁹ Secularism represents faith born out of rational faculties and it enables to see the imperative requirements for human progress in all aspect.²⁰

Issues of deep religious sentiments should not be ordinarily be interfered by the court. The Sabarimala shrine and the deity is protected by Article 25 of the Constitution of India and the religious practices cannot be solely tested on the basis of Article 14. Religious practices can't solely be tested on the basis of the right to equality. It's up to the worshippers, not the court to decide what religion's essential practice is.

¹⁷ Supra at 3.

¹⁸ Supra. At 4.

¹⁹ Dr. J. N. Pandey, Constitutional Law of India, 371 (54th edn. 2017).

²⁰ Santosh Kumar v. Secy. Ministry of Human Resources Development, AIR 1995 SC 293.

Indian Young Lawyers Association & Ors. v State of Kerala & Ors., SC (2018). This was said by Justice Indu Malhotra while dissenting with the majority opinion that right to religion cannot overpower right to equality. The constitutional principles come above all. The preamble clearly says “*We the people of India solemnly resolves to constitute India a sovereign, socialist, secular & democratic republic*”, which means that people accept the rule of constitution and it should be ensured that India remains a secular nation and where citizen’s right comes above all, no segment of population should be discriminated. In author’s opinion if religion discriminates on any basis then that discriminating provision should be scrapped off rather than the right to equality.

Notions of rationality cannot be invoked in matters of religion, said Justice Malhotra, adding: What constitutes essential religious practice is for the religious community to decide, not for the court. India is a diverse country. Constitutional morality would allow all to practise their beliefs. The court should not interfere unless if there is any aggrieved person from that section or religion.

Indian Young Lawyers Association & Ors. v State of Kerala & Ors., SC (2018). The court was not in consonance with the religion being the sole party to decide what is and what not. The argument raised that court can’t interfere in such matters is baseless as there are many instances in past where the court came up as the well-wisher of general public and saved them from exploitative and unreasonable norms of the religion.

If we look in past, court has intervened in the religious matter of Shani Shringapur and Haji Ali Dargah where women were denied entry after the voice raised by Bhumata brigade. In these cases the court intervened because it was not an essential practise of religion similar to that of Ayyappans. For devotees of Ayyappa the sole essential practise is being a celibate which does not has any relation with restriction on women entry in Sabarimala instead, this provision is against constitutional morality as it restricts half of the India population from accessing a public place.

If we look into constitution, religion is defined as the collection of individuals classed together under the same name or a religious sect or body having a common faith and organization and designated by a distinctive name.²¹ Followers of Ayyappa do not form any religious

²¹ S.P. Mittal Etc. v. Union of India And Others, 1983 SCR (1) 729.

denomination as they didn't hold any common faith or a distinct name.²² Ayyappans are the part of Hinduism as Lord Ayyappa is the son of Hindu god Vishnu & Siva.

If the Hindu religion is to be their religion, then it must become a religion of Social Equality.²³ So while the “non-entry” of women can be a religious tenet, in this case, it cannot be readily presumed that its regulation will fundamentally and irreversibly challenge the existence of the sect and its core belief system.²⁴

Sabarimala: A public place

Temple is a public place run by public money. Public Place is defined as the place where every person has the right to access. Although, Sabarimala is managed by Travancore Devaswom Board, it is an autonomous body formed as per the Travancore Cochin Hindu Religious Institutions Act of 1950.

The question of intention to dedicate the place for the use of the public or of the user by the public being as of right is necessarily a matter for inference from the nature of the institution and the nature of the user and the way the institution has been administered. Once a long course of user by the public for the purpose of worship is established, and the fact of a separate endowment in trust for the deity is also proved, it is fair to infer that the institution must have been dedicated for user by the public (unless the contrary is established) - particularly when the character of the temple, its construction, the arrangement of the various parts of the temple and the nature of the deities installed there are similar to what obtains in admittedly public temples.²⁵

If we analyse the structure of the Temple we will see that the temple starts from an arduous trek on Sabarimala hilltop further there exists 18 holy steps leading to sacrosanct of the temple where the deity is placed. The existing structure is similar to common public temples around the world which proves that the structure was made for public access.

²² Prakhar Singh & Pragya Roy, Questioning the dissent voice in Sabarimala Verdict, Economic & Political Weekly (Nov. 3, 2018), <https://www.epw.in/engage/article/questioning-dissenting-voice-sabarimala>.

²³ Sowmya Sivakumar, Sabarimala: 'Deity's Will' Cannot Trump the Constitution on Right to Equality, The Wire (Jul.30, 2018, 7:30 AM) <https://thewire.in/law/sabarimala-is-temple-entry-a-destination>.

²⁴ Supra. At 3.

²⁵ Narayan Bhagwantrao Gosavi v Gopal Vinayak Gosavi And Ors., AIR 1960 SC 100.

Moreover, Government releases an annual payment to certain Devaswom Funds a sum of forty six lakhs and fifty thousand rupees shall be charged on, and paid out of, the Consolidated Fund of the State of Kerala every year to the Travancore Devaswom Fund; and a sum of thirteen lakhs and fifty thousand rupees shall be charged on, and paid out of the Consolidated Fund of the State of Tamil Nadu every year to the Devaswom Fund established in that State for the maintenance of Hindu temples and shrines in the territories transferred to that State on the 1st day of November, 1956 , from the State of Travancore Cochin.²⁶

Sabarimala gets most of its funds from Government and money donated by the public. In other words, Sabarimala runs on public money but, it still denies a major section of the public.

THE “SIN” COMMITTED

On January 2, 2019 the so called sin was committed when Bindu Ammini and Kanaka Durga defied an ancient ban by entering Sabarimala Temple. This was followed by various protest and even threats to these women. To restore the sanctity the priest of Sabarimala temple arranged a purification ceremony. Few days later, again a women from Sri Lanka named Sasikala followed the same path and entered the sanctum sanctorum of this temple. The point to dwell upon here is that these women were not able to access temple premises freely, all this happened undercover and extreme protection. This comes as a covert defiance to the judgment of the apex court.

Moreover, under DPSP's it is the duty of state to promote scientific temperament among people and state only by taking covert actions is not fulfilling its duty.

CONCLUSION

Sabarimala is currently the most hotly debated topic, even after the Supreme Court's verdict the issue doesn't seem to be resolved. The decision of allowing women to enter temple has agitated the devotees leading to protest nowadays but, the time has come to solve the issue with

²⁶ Ind. Const. art. 290 § A.

diligence and come up with a solution which is in the middle path. Now, it is the time for the people to rise above petty feeling of fundamentalism and work together. Authors are not in consonance with the dissenting opinion of Justice Indu Malhotra. We respect the dissent of her but in current case of Sabarimala it is not just about right to profess religion it is about the women who were discriminated without any reasonable cause and were considered impure due to their biological menstruating feature.

Authors strongly believe that the decision of Supreme Court to allow women to enter Sabarimala was in favour of constitution and beneficial for public at large. But, one major problem which still remains unsolved is that SC although allowed the women but there are no guidelines or rules to ensure that they can enter the temple premise safely. Women's entry in Sabarimala still remains dream for them, till now they have been allowed to enter the temple on a paper only which defeats the very purpose of the verdict.

According to us it is the matter in which strict government intervention and we condemn politicalizing of this issue in any sense. It is the established fact that executive have to implement the verdict of the Supreme Court and hence we fail to understand how this case is an exception because here the police and administration has completely faltered in providing access to the sanctum sanctorum of the temple for women at large.

Women should not be looked as inferior part of the society. Currently, India is trapped in the swarm of patriarchy which should be abolished. Authors are not in the favour of female dominance also, instead we need a society where exists a balance between both the gender and this balance can only be created by changing the discriminatory mentality of people in our society.

REFERENCES**Cases**

- Narayan Bhagwantrao Gosavi v Gopal Vinayak Gosavi And Ors., AIR 1960 SC 100. 15
- S.P. Mittal Etc. v. Union of India And Others., 1983 SCR (1) 729..... 15
- Santosh Kumar v. Secy. Ministry of Human Resources Development., AIR 1995 SC 293. ... 13
- State Of Uttaranchal vs Balwant Singh Chaufal & Ors., AIR 2010 SC 2550. 12
- Young Lawyers Association & Ors. v State of Kerala & Ors. SC (2018)..... 5

Statutes

- Ind. Const. art. 290 § A..... 16

Books

- Dr. J. N. Pandey, Constitutional Law of India, 371 (54th edn. 2017). 13
- Radhika Sekar, The Process of Pilgrimage: The Ayyappa Cultus and Sabarimala Yatra 12-14 (1988). 7

Online Material

- Anand Neelakantan, Lifting Sabarimala Ban is common sense, The New Indian Express (Aug. 5, 2018, 5:00 AM), <http://www.newindianexpress.com/magazine/voices/2018/aug/05/lifting-sabarimala-ban-is-common-sense-1852336.html>. 9
- Ankitesh Ojha, #Sabarimala dissent from the dissent of Justice Indu Malhotra: New Boundaries for Article 14? The Leaflet (Oct.22, 2018), <https://theleaflet.in/sabarimala-dissent-from-the-dissent-of-justice-indu-malhotra-new-boundaries-for-article-14/>..... 6
- By Online Desk, House of activist Rehana Fathima who tried to enter Sabarimala vandalised, The New Indian Express (Oct. 19, 2018, 02:47PM), <http://www.newindianexpress.com/states/kerala/2018/oct/19/house-of-activist-rehana-fathima-who-tried-to-enter-sabarimala-vandalised-1887285.html>. 11
- Deepa Das Acevedo, Pause of Thought: Supreme Court's verdict on Sabarimala, Economic and Political Weekly (Oct. 27, 2018), <https://www.epw.in/journal/2018/43/commentary/pause-thought.html>. 10

- George Augustine, Sabarimala: A debate between modernity and age-old practices, Hindu Human Right, (Jan.28, 2016) <http://www.hinduhumanrights.info/sabarimala-the-debate-between-modernity-and-age-old-practices/>..... 12
- K Satchidanandan, Sabarimala is more an issue of gender equality than of religious freedom, News Click, (Nov.2, 2018) <https://www.newsclick.in/sabarimala-more-issue-gender-equality-religious-freedom>..... 12
- Kancha Ilaiah Shepherd, Sabarimala: Why BJP wants to 'empower' Muslim women but is against equal rights for its Hindu daughters, Dailyo (Oct. 18, 2018), <https://www.dailyo.in/politics/sabarimala-why-bjp-wants-to-empower-muslim-women-triple-talaq-but-is-against-equal-rights-for-their-own-hindu-daughters/story/1/27284.html>..... 10
- Prakhar Singh & Pragya Roy, Questioning the dissent voice in Sabarimala Verdict, Economic & Political Weekly (Nov. 3, 2018), <https://www.epw.in/engage/article/questioning-dissenting-voice-sabarimala>..... 15
- Sandhya Jain, Sabarimala justice downsizes divinity, The Pioneer (Oct. 16, 2018), <https://www.dailypioneer.com/2018/columnists/sabarimala--justice-downsizes-divinity.html>..... 8
- Satya Prasoona, The Sabarimala Case has the Potential to be a constitutional watershed, The Wire (Nov.7, 2016), <https://thewire.in/law/sabarimala-temple-case-constitutional-watershed>..... 5
- Shri Swami Sivananda, The Meaning of Brahmacharya, Practice of Brahmacharya (1997), http://www.dlshq.org/download/brahmacharya.htm#_Toc441556960..... 9
- Sowmya Sivakumar, Sabarimala: 'Diet's Will' Cannot Trump the Constitution on Right to Equality, The Wire (Jul.30, 2018, 7:30 AM) <https://thewire.in/law/sabarimala-is-temple-entry-a-destination>..... 15
- United Nations Development Project, Human Development Report, Gender Inequality Index (2017), <http://hdr.undp.org/en/composite/GII>..... 5