



# drishti

## The Big Picture – Gender Equality versus Religious Practices

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Going against the century old practices at Sabarimala Temple in Kerala, which banned the entry of women between the age group 10 to 50, the Constitutional Bench of the Supreme Court headed by CJI Dipak Misra has observed that the right to pray is a constitutional right and does not depend on laws. Further, it said that there is no concept of a private temple in a public place and therefore there could not be any discrimination on the basis of **gender and physiology**. This decision comes as a big boost to the feminist movement of the country.

### Arguments for the Entry of Women

- **Gender equality or the equality of all citizens**, irrespective to which sex he/she belongs, has been clearly stated in the **Article 14** of the constitution of India. The ancient practice is against the constitutional mandate.
- The entry prohibition takes away woman's right against discrimination guaranteed under **Article 15(1)** of the Constitution. It curtails her **religious freedom to practice**, assured by **Article 25(1)**.
- Prohibition of women's entry to the shrine **solely on the basis of womanhood and biological features** associated with womanhood is derogatory to women, which **Article 51A(e)** aims to renounce.
- The managerial rights of religious authorities under **Article 26(b)** of the Constitution cannot override individual women's religious freedom guaranteed under **Article 25(1)**. Hence the argument of autonomy of religious authorities falls flat.
- **Article 25(2)(b)** enables the state "(to provide) **for social welfare and reform** or the throwing open of Hindu religious institutions of a public character to all classes and sections of the Hindus." In such case the state ought to have brought an appropriate legislation to facilitate the constitutional direction.
- The ban on the entry of women of certain age groups was violative of various fundamental **rights including Article 17** which deals with untouchability.
- Besides the **gender inequality argument**, the **idea of individual liberty** is also at stake here. **Monopolisation of religious rights by a few**, under the guise of management of religious institutions, corrupts the idea of individual liberty.
- **From the societal point** of view such regressive practices in any sphere would inevitably constrict the natural development of human potential.

## Arguments Against the Entry of Women

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- **Religion and social practices are interlinked.** So the prohibition of entry of women should not be seen as a gender inequality issue, but as a **religious practice which has been followed by the people since ages**. Such religious rituals should not be tampered with.
- Certain religious practices and myths are passed from one generation to the other so that a **particular deity or a god is remembered in its original avatar**. Hence, effort should be made to maintain the authenticity of such belief system.
- There are certain practices and beliefs that should be left to **the better judgment of the religious bodies and they should be given the full liberty in how they want to look at it**.
- **Article 26** of the constitution states that every religious denomination has the fundamental right to manage religious affairs. Consequently, the religious bodies are within their rights to pass such directions.
- It is a **region specific religious issue** and should not be blown out of proportion by dragging it into a larger debate.

- Sabarimala temple ought to be seen as an institution where only males are allowed. Just like there are boy's schools and girl's school.
- Another important point is **that there is no "god" inside the Sabarimala temple**. What is present inside the temple is a "deity". A deity is a **socio-cultural energy centre** and on the other hand "god" is universal. Hence, a **deity is a legal entity**, and being so its rights are protected by constitution privileges.

## Way Forward

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- First and foremost, the temple entry issue is a debate between the **subscription of the age old myths and beliefs** and **eradication of such practices that does not synchronise harmoniously with the developing time**. Since the Supreme Court is the final arbiter in the issue it has to handle the issue delicately.
- Discrimination of women on the basis of **gender and physiology is abhorrent** and does not have any place in an egalitarian society.

## Drishti Inputs

- In the issue regarding the entry of women inside the Sabarimala temple, a claim made on behalf of the religious authorities is that no woman has approached the court wishing to enter the Sabarimala temple. It is also said that even if the court rules in favour of women entry, Indian women will continue to respect the religious customs and restrict themselves from Sabarimala. This argument is misconceived. Historically, **legal reforms usually precede socio-political change. Legal abolition of several antiquated practices such as Sati or untouchability did not witness a social transformation overnight**. It took time for practices like Sati to vanish. Law very often stimulates a subsequent **socio-cultural evolution**.
- Discriminating against women on the basis of **menstruation is not only unscientific but characteristically derogatory**. The social stigma associated with this natural process is **embedded and consolidated** by the religious authorities on the pretext of spiritual sanctions. 21st century does not permit such regressive trend.
- On a larger spectrum, religious discrimination is practiced across various socio-political groups too. In many temples dalits are not allowed to enter. In the famous Jagannath Temple foreigners are not allowed nor people belonging to another faith. Such discrimination is pervasive and practised openly without the fear of law. A favourable judgment in Sabarimala temple case **would set a precedent for judicial consideration of other similar issues**.