



## Religious Freedom and Gender justice: Women Entry Issues in Sabarimala Temple

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### ABSTRACT

Key words: Sabarimala, Temple Entry, Gender justice, Travancore Devaswom Board, women entry.

*Gender equality and gender justice are the features of an egalitarian political system. Gender equality is meaningless without gender justice and discrimination on the basis of gender which is a violation of basic human rights. Twenty five year long legal battle on this issue has created concern among the Hindu devotees including women. Infact, the issue has two sides. In a human rights perspective, it is a violation of the basic principles of gender equality, gender justice and natural justice. On the other hand, the entry of womenfolk is not fully restricted in Sabarimala temple. Thousands of women devotees visit the shrine every year. Moreover, entry of women in a particular shrine is not a means of gender equality or a matter of empowerment of women, in the context of gender inequality prevails manifold. This paper views the traditional ban for women of a particular age group at the hill shrine of Sabarimala in two different perspectives-constitutional and religious.*

### Introduction

Sabarimala temple is an epitome of religious harmony and a great centre of pilgrimage that attracts people not only from the southern states of Kerala, Tamil Nadu, Karnataka and Andhra Pradesh but also from other parts of the country and abroad. It is estimated that about 4 to 5 crore devotees offer prayer in the temple every year. It is one of the few historically significant temples in Kerala. We can see that the temple is referred in many foreign accounts like that of Xuanzang, Lt. Ward etc. Xuanzang calls it as *Churulimala*<sup>1</sup> and Lt.Ward in his Memoir of the Survey of Travancore and Cochin States (1891), refers it to *Chourymulla Pagoda*.<sup>2</sup> Scholars regard that Sabarimala was a Buddhist shrine before converting it in to Ayyappa

temple, like many of the Hindu temples in Kerala.<sup>3</sup> According to Amarakosha, the word *Sastha* or *Dharmasasta* is one of the eighteen synonyms of Gautama Buddha<sup>4</sup>. But renowned historian MGS Narayanan in an interview stated that there is no need to associate Sree Buddha with Lord Ayyappa. According to him Buddha had renounced his kingdom and everything else for peace, while Ayyappa was a warrior<sup>5</sup>.

The temple located in Perunad GramaPanchayat, Pathanamthitta District in Kerala is a part of the Periyar Tiger Reserve in the Western Ghats mountain ranges. It is managed by *Travancore Devaswom Board*, an autonomous body constituted under the provisions of Travancore Cochin Hindu Religious Institutions Act XV of 1950. Earlier the temple governing body has a woman member above 50 years of age who shall be nominated by the Hindus among the council of Ministers, later this provision has been omitted from the Act. Sabarimala temple is the major source of income for Travancore Devaswom Board and in the year 2016-17 the income from this temple was Rs.243.69 crore.<sup>6</sup>

Temple administration in Kerala today confronts several grave issues. The issue of temple entry of the marginalized is becoming widely discussed in the socio-political arena of the state. The issues like the appointment of priests in temples on the basis of merit than birth, entry of women of a particular age group at Sabarimala temple, entry of non Hindu believers in selected temples etc are the major issues that have been debated today. Sabarimala is perhaps the only Hindu shrine where a man is not banned from entering on account of caste; creed or religion. However, there is discrimination based on gender.<sup>7</sup> This discrimination in the hill shrine is not between men and women but between women and women. The issue is that of temple custom versus constitutionalism.

### Issue of women entry

Sabarimala temple is located in the erstwhile Travancore which is famous for the historical *Temple Entry Proclamation*. It is unfortunate that such issues like ban on women to enter into a particular temple is happening in the land of the Temple Entry Proclamation. It is the only major Hindu temple, where a man is not prohibited from entering on account of caste; creed or religion. But there are restrictions for women in pilgrimage. As far as women is concerned, it is stipulated that only those who have not attained the age of puberty and the menstrual cycle and those who are past menopause alone should undertake the pilgrimage. The entry of women in the age group of 10 to 50 years is prohibited in the shrine because the presiding deity Lord Ayyappa is considered to be a 'naishtika brahmachari' (perennial celibate). Sabarimala temple has justified the ban on entry of women of a certain age saying that the restriction was enforced under Rule 3 (b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965.

Hindu organizations and bodies like the *Akhila Bharatiya Ayyappa Seva Sanghom* have come out in public against the move to give the womenfolk entry at Sabarimla shrine. In 1982, the volunteers of Ayyappa Seva Sangam blocked the entry of two girls on the ground that they had attained the age limit and would be violating the traditional restriction by entering the temple. Again in 1986 the entry of women hit the headlines when an actress entered into the *sannidhanam*( temple premise) for the purpose of a Tamil movie. The controversy was taken to the court in 1992 and the court fined the actress.<sup>8</sup> The entry of women at the forest shrine becomes again an issue in 1990 in connection with the visit of a lady officer of the Devaswom Board to the temple with members of her family including women, for the naming ceremony of her grandson. This incident was then brought to the attention of the High Court and the court issued an order prohibiting the entry of women in 10-50 age groups. Following this, lady doctors, women police and devaswom guards were posted at vantage points to prevent the entry of women. In 1990, S. Mahendran, a devotee, filed a petition in the Kerala High Court protesting against the entry of young women to the shrine (which was contrary to the temple's customs). He cited the example of S. Chandrika, the Board's former commissioner. She had conducted the first rice-feeding ceremony at *sannidhanam* for her granddaughter in the presence of several women. The Court accepted the contention of the petitioner that the restriction imposed on women of a particular age group from entering the temple is a matter of religion and a matter of religious faith under Article 26 (b) of the Indian Constitution. It was observed that a religious denomination or organization enjoyed complete autonomy in the matter of deciding as to what rites and ceremonies were essential according to the tenets of the religion and no outside authority had any jurisdiction to interfere with the decision of such religious denomination. In 1991, the court issued a direction to the Travancore Devaswom Board not to permit women above the age of 10 and below the age of 50 to trek the holy hills of Sabarimala in connection with the pilgrimage to the Sabarimala temple and from offering worship at Sabarimala Shrine during any period of the year.<sup>9</sup> A direction was also issued to the Government of Kerala to render all necessary assistance, inclusive of police and to ensure that the direction issued to the Devaswom Board was implemented and complied with.<sup>10</sup> In 1994, the then Pathanamthitta District Collector B.Valsalakumri, visited the temple by obtaining a court verdict in order to see the civic amenities there, sparked off another controversy.<sup>11</sup>

The next phase took place in 2006. A team led by a noted astrologer conducted a four-day "devaprasnam" (astrological observation) at the Sabarimala temple. It was pointed out that there happened the presence of a woman at the sanctum of the temple. Subsequently, one famous film actress from the State of Karnataka, Jayamala, made a public disclosure that she had entered the temple and she was pushed into the sanctum sanctorum by the surging crowd. Later, it was alleged that the whole episode was part of a conspiracy to earn fame for the astrologer. A criminal case was then filed against him, his assistant and the actress for

hatching a conspiracy and hurting religious sentiments of the people of the state.<sup>12</sup> With the incident leading to a storm, the Kerala government had then ordered a crime branch probe but the case was subsequently dropped.<sup>13</sup> However, in July 2012, the Kerala High Court quashed the charges against the accused actress on the ground of insufficient evidences. However, the temple tantris (chief priest) performed a purification ceremony at the temple.

In 2006, the Indian Young Lawyers Association challenged the constitutional validity of Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, which bars women from entering the temple and sought removal of the ban in the Supreme Court. This Public Interest Litigation was filed on the ground that such rules and notifications violate the right to religion of women (Article 25), and the right to equality (Articles 14 and 15) challenging the constitutional validity of Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965, and the notifications issued by the Travancore Devaswom Board. However, the Travancore Devaswom Board argued that the restriction did not discriminate women against men but women against women on the basis of age. This view has been taken as regressive by gender-equality activists who raised the argument that menstruation did not make a woman impure. Critics say the restriction violates women's fundamental right of protective discrimination.

In November 2007, the LDF government had then filed an affidavit stating that "it is not fair to deny a section of women entry into Sabarimala." That affidavit had questioned the rituals, customs and observances followed in the temple. With this, Kerala has signalled its return to the side of women fighting for equal right to worship with man at the temple.<sup>14</sup> There happened a shift in the policy of the government when UDF came to power, favouring the ban on the entry of women on the ground that the restriction had been in place from "time immemorial" and was a part of the temple's "unique idol concept." It reasoned that since the presiding deity, Lord Ayyappa, was a celibate or 'Naisthik Brahmachari,' even the "slightest deviation" caused by the presence of young women on the temple premises was undesirable. After that, the LDF Government which came to power favoured the entry of women of all ages at Sabarimala temple in the Supreme Court. In the affidavit, the Government had stated that "it is not fair to deny a section of women to enter in Sabarimala" and questioned the rituals, customs and observances pursued in the temple. By doing so, the government has taken a U-turn, since early in the year it opposed the entry of women of the 10-50 age groups into the temple citing the temple's tradition since time immemorial.<sup>15</sup>

Twenty five year long legal battle on this issue has created concern among the Hindu devotees. The Supreme Court in its observation stated that no temple or governing body can bar a woman from entering the shrine where lakhs of devotees throng annually to worship. The court questioned how a temple managed by a statutory board and financed out of the Consolidated Fund "can indulge in practices violating

constitutional principles". K. Parasaran and. K.K. Venugopal, senior counsels appearing for Devaswom Board submit that the religious questions posed in this Writ Petition can be determined finally only by the "Thanthri" concerned. The Supreme Court in its observation stated that no temple or governing body can bar a woman from entering the shrine where lakhs of devotees throng annually to worship. The court questioned how a temple managed by a statutory board and financed out of the Consolidated Fund "can indulge in practices violating constitutional principles". K. K. Venugopal justified the ban on women's entry in Sabarimala temple in tune with the tradition of the shrine. He argued that allowing women of a certain age in the shrine would require reinterpretation of Article 25 and more importantly Article 26 of the Constitution. Article 25 guarantees freedom of conscience and free profession, practice and propagation of religion. Article 26 deals with the rights of a religious denomination.. The counsel referred to the peculiar custom in the temple, associated with the 41 days of penance to be undertaken by the devotees, during which they are under voluntary restraint from indulging in worldly pleasures. He then referred to the Muslim shrine within the temple complex, and the history associated with it, making it a unique characteristic of the temple. Justice Dipak Misra said that they have to rise above the spiritual considerations, and address the Constitutional issues involving in it and not any spiritualism associated with the temple. Justice Misra also observed that the temple can't restrict the right of entry except on the basis of religion, and whether the temple can claim constitutional protection on the ground of being a separate religious denomination.<sup>16</sup> The Supreme Court appointed senior lawyers Raju Ramachandran and K Ramamurthy as *amicus curiae* in connection with the plea to allow entry of women to the Sabarimala Ayyappa temple. . Finally the Supreme Court referred to this case to a five-judge Constitution Bench. The Supreme Court referred to this case to a five-judge Constitution Bench<sup>17</sup>.

Ramamurthy, in his submission has put forth the view that the restriction imposed by the Devaswom Board is not violative of Articles 15, 25 and 26 of the Constitution, Articles 25 and 26 contains a guarantee for rituals and observations, ceremonies and modes of worship which are integral parts of religion. Religious practice based on religious faith adhered to and followed by millions of Hindus for over a millennium in consonance with natural rights of men and women is not violative of Fundamental Rights<sup>18</sup>

Raju Ramachandran argued that entry to a public temple is a legal right but not a permissible right and, therefore, the temple authorities have no authority to curtail the said right. The ban was affected women during their most active years and thus had the impact of discriminating against women as a class. And the ban just because of their biology was detrimental to their dignity. This was merely an "interpretation created by those who have run the temple.

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This issue has created a storm in state politics creating divided opinions on “Right to pray Vs Ready to wait” positioning. While activists seeking women’s entry have come out with social media campaigns like ‘Right to Bleed’ and ‘Right to Pray’, other Hindu women organisations have entered the battle through a ‘Ready to Wait’ campaign.<sup>20</sup> The women’s group, led by Pune-based gender rights activist Trupti Desai, has called for a march to allow the entry of women of all age groups to Sabarimala on January 14, 2017.

Travancore Devaswom Board chief Prayar Gopalakrishnan stated that “We will not allow Sabarimala to become Thailand. Even if the court opens its doors, I don’t think self-respecting women will dare to go up to the hill shrine.” This comment was criticized by Minister for Devaswoms in his Face book post that the TDB chief considered women who go to Sabarimala as shameless and so he has to apologise for this remark. The issue made the relations between the Devaswom President and the government at loggerhead and through the Devaswom Amendment Ordinance, he has been overthrown before the commencement of 2017-18 Sabarimala pilgrim season.

## Conclusion

There is no consensus among various Hindu organizations and Devaswom Board regarding the entry of women in to the forest shrine. In an unprecedented move RSS general secretary Bhaiyyaji Joshi in his address to the national council has said that unfair traditions have caused ban of women in many temples. Such unfair traditions should be disposed with. But state leaders do not share this view. Temple entry movements by marginalised sections have historically been used as a symbol of protest against exclusion and as a challenge to the established power hierarchies in society. Banning entry to temples is especially discriminatory since it subverts the idea of everyone being equal to God and thus movements to enter the house of God assume a larger meaning.<sup>xxi</sup>

Twenty five year long legal battle on this issue has created concern among the Hindu devotees. Infact, the issue has two sides. In a human rights perspective, it is a violation of the basic principles of gender equality, gender justice and natural justice. On the other hand, the entry of womenfolk is not fully restricted in Sabarimala temple. Thousands of women devotees visit the shrine every year. Moreover, entry of women in a particular shrine is not a means of gender equality or a matter of empowerment of women, in the context of gender inequality prevails manifold. An urgent solution is necessary to solve this issue. A consensus among Hindu religious organizations, heads of various *muts*, temple *tanthri* and others regarding the revision of temple customs in a time bound manner. While taking the case of entry of women of a particular age group in Sabarimala temple the concern here is modernity regardless of traditional practices. An urgent solution is necessary to solve this issue. A consensus among Hindu religious organizations, heads of various *muts*, temple *tanthri* and others regarding the revision of temple customs in a time bound manner. While taking the case of entry of women of a particular age group in Sabarimala temple the concern here is modernity regardless of traditional practices. The controversy continues to rage on with the tussle between religious tradition and beliefs on one side and rationalism, gender justice and constitutional rights on the other. The stake holders are many... devotees, temple authorities, politicians, priests, lawyers, women's rights activists and of course the women in the "banned" age group. *It is a fact that forced* temple entry can never result in a proper solution.

## Notes and References

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<sup>1</sup><http://missiongreensabarimala.com/>

<sup>2</sup> Ward, B.S. (1891). Memoir of the survey of Travancore and cochin states. P.70  
, <http://statelibrary.kerala.gov.in/rarebooks/index.php>

<sup>3</sup> Historian A Sreedhara Menon draw the attention to the belief that vadakkumnathan temple Thrissur, Madavurpara siva temple, kazhakkuttam were budhist shrines .

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<sup>4</sup> <http://missiongreensabarimala.com/>

<sup>5</sup> Sabarimala sree dharma sastha temple Ascent to awakening ,published by the Hindu 2016,p.44

<sup>6</sup> The total revenue collection of the Lord Ayyappa temple at Sabarimala for the 2016-17 festival season stood at Rs 243.69 crore, Devaswom minister Kadakampally Surendran said in the Kerala assembly that Hundi collection alone comes to around Rs.89.70 crore and sale of *appam* was Rs.17.29 crore, Hindustan times, May 18, 2017, <http://www.hindustantimes.com/india-news/sabarimala-s-ayyappa-shrine-gets-rs-243-69-cr-as-revenue-during-festival-season/story-mfwnTAvDPwSneWSbatLOSM.html>

<sup>7</sup> KR Vaidyanathan, (1996), *Pilgrimage to sabari*, Bharatiya Vidya Bhavan Mumbai. p.175

<sup>8</sup> Ibid p177

<sup>9</sup> S. Mahendran vs The Secretary, Travancore Devaswom Board, on 5 April, 1991, <https://indiankanoon.org/doc/1915943/>

<sup>10</sup> Shashikala Gurpur et al.,Tradition-Modernity Polarities and Human Rights of Women: Tracking Judicial Responses in India, American International Journal of Research in Humanities, Arts and Social Sciences,September-November,2014,pp.1-9, <http://iasir.net/ajrhasspapers/ajrhass14-601.pdf>

<sup>11</sup> Indian Express , 21<sup>st</sup> April 1995

<sup>12</sup> <http://www.hindustantimes.com/india/sabarimala-case-hc-lets-off-actor-jaimala/story-ApeEkCLKJKU4cQZq9ODhYK.html>

<sup>13</sup> <http://www.hindustantimes.com/india-news/ban-on-entry-of-women-facts-controversies-about-kerala-s-sabarimala-temple/story-K4Xi6GKMacPDmQO2jAmjNO.html>

<sup>14</sup> The Hindu, 7<sup>th</sup> . November, 2016.

<sup>15</sup>The New Indian Express,8<sup>th</sup> November 2016,<http://www.newindianexpress.com>

<sup>16</sup> <http://www.livelaw.in/supreme-court-set-to-hear-the-challenge-to-sabarimala-temple-restrictions-on-entry-of-women>



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<sup>17</sup> Indian Young Lawyers Association Vs The State Of Kerala ,on 13 October, 2017,  
<https://indiankanoon.org/doc/22558009/>

<sup>18</sup> Indian Young Lawyers Association Vs The State Of Kerala ,on 13 October, 2017,  
<https://indiankanoon.org/doc/22558009/>

<sup>19</sup> Ibid

<sup>20</sup> <https://www.pressreader.com/india/business-standard/20161226/281998967117220>

<sup>xxi</sup> Swati Saxena, *Shani Shingnapur temple protests: Can't worship women as goddesses and also deny them right to pray*,  
<http://indianexpress.com/article/blogs/shani-shingnapur-sabarimala-temple-entry-protest-rights/>