

## **GENDER EQUALITY: ACCESS TO WORSHIP PLACES**

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Socially the word 'Gender' refers to the socio-cultural definition of men and women. The concept of Gender Justice is a recent discovery of law. From time immemorial society has been male-dominated, with the women relegated to the background and their rights trampled upon. The right to freedom of religion and practicing, professing and propagating it freely, subject to reasonable restrictions stated under the Article 25 and 26 of the Indian Constitution, forms the backbone of the secular Country. The preamble of Indian Constitution has the word 'secular' and to ensure gender equality is also a

salient feature of our Constitution. Who thought that Right to pray and Worship would be something that would be debated upon, Right to Worship would be an issue for gender equality.

In India, there are a few places of worship that prevents women from entering, but why so? Recent cases involving the Shani Shingnapur Temple in Maharashtra, Shabrimala Temple in Kerala, Haji Ali in Mumbai, where entry and access to the inner shrine is denied to women, brought the issue of Women right to Worship in focus. Justice Misra observes that the constitution rejects discrimination based on gender, religion and caste. Justice Waghela said "that there is no law that prevents entry of women in any place of worship. If you allow men then you should allow women also. If a man can go and worship the deity inside the temple then the women also have equal rights to access and perform holy rites. It is the state government's duty to protect the rights of women." Did the Vedas, mythology, scriptures or Upanishads ever discriminate between men and women?

*"You can tell the condition of a Nation by looking at the status of its Women".*

- Jawaharlal Nehru

In India, temples and mosques both discriminate against men and women in respect of right to pray, but it is only the churches where both men and women enjoy equal rights to pray. In a democratic country like India, these early traditions and customs not only disrespect the women but also show that we still have an patriarchal outlook towards the society.<sup>1</sup>

The following places of worship discriminate between the men and women and prohibit entry of women.

#### **SHANI SHINGNAPUR TEMPLE:**

The debate over equal access to women in places of worship increased due to an incident when last year a woman tried to enter the Shani Shingnapur temple, breaching the old practice of restricting women's entry. This made the temple authorities suspend seven security men and conduct purification rituals of the temple. The Bhumata brigade led by Trupti Desai vowed to breach the ban and fight for gender justice.<sup>2</sup>

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<sup>1</sup> <https://www.sirg.co/local/women-equal-rights-worship-temple-men-observes-bombay-high-court/>

<sup>2</sup> <http://www.dnaindia.com/india/report-why-should-men-have-lone-access-to-place-of-worship-2196076>

Why is a woman between the ages 10-55 not allowed inside the temples? Why are they considered impure? Why was a purification ritual done in Shani Shingnapur temple when a woman entered the temple? Why was it considered a Sin? Worshipping can't be a sin then why was it considered as a sin when she entered.

The court was hearing public interest litigation (PIL) by Senior Advocate Nilima Vartak and activist Vidya Bal challenging the prohibition of entry of women in the Shani Shingnapur temple in the Ahmednagar district of Maharashtra.<sup>3</sup> The petition of the Public Interest Litigation (PIL) seeks entry of women not just in the temple but also inside its sanctum sanctorum. The petition also states that the prohibition is arbitrary, illegal and in violation of fundamental rights of the citizens of India. In observation, it is stated that if a man can enter, so can a woman. It is the duty of the state government to protect the rights of the women as said by the division bench of high court. The division bench also directed the government to make publicity of the Maharashtra Hindu Place of Worship (Entry Authorisation) Act, 1956 so as to make people aware of the act and its provisions. If any temple or

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<sup>3</sup> <http://www.dnaindia.com/india/report-why-should-men-have-lone-access-to-place-of-worship-2196076> (accessed on 27th May 2016)

person prohibits any person from entering the temple then he or she faces a six month imprisonment<sup>4</sup>. On 30<sup>th</sup> march 2016, the Bombay high court presented the view that there is no law that can restrict a women access to places of worship. The verdict decided by the Bombay High Court on 8 april 2016 that the government will ensure that women are allowed to enter the temple as well as sanctum sanctorum and also worship the deity is proved to be a significant victory towards gender equality for the people fighting for its cause. It will be after a long time that women would be allowed to enter the inside sanctum of the temple after the old tradition that banned women from entering the temple and later conditionally restricted men too. Why has there been a tradition of prohibition on women when there is fundamental right of equality present in our Constitution?

The fight for gender equality in respect of access to places of worship in India has opened up a topic for a wider debate, the debate on women`s right in India. It has also tended in the twitter with the hashtag #RighttoPray. Celebrities and other people have put forward their views and arguments to this discussion.

Faith is what brings us to a temple. All

these rules are manmade. God doesn't discriminate between his devotees.

Temples should respect a devotee's faith.

—Suruchi Adarkar

Women who feel like going inside the temple and offering prayers should be allowed and those who feel otherwise shouldn't go in. That's it. It is all about one's faith in god.

— Deepali Pansare

"It is great that we ask these questions now. Men and women should get equal opportunity at work, social life and everywhere. We are saying how unfair it is... I think we will see the changes in our lifetime"

—Vidya Balan

"The entry of women into the famous Shingnapur shrine, which is devoted to Lord Shani, will drive more rapes."

—Dwarka-Sharda

Peeth Shankaracharya Swaroopanand  
Saraswati

"We will meet Prime Minister Narendra Modi and urge him to enact a law to put an end to such restrictions on worshipping

— Trupti Desai Bhumata Ranragini  
Brigade chief

<sup>4</sup> Under the Maharashtra Hindu Place of Worship (Entry Authorization) Act, 1956

"The solution is based on the Tirupati Balaji model of darshan where no one, be it a man or woman, is allowed in the inner sanctum. Thus, there will be no gender discrimination" — Sri Sri Ravi Shankar  
Founder of Art of Living

### **SABRIMALA TEMPLE:**

“Why can you not let a woman enter? What is the basis on which the entry of women is prohibited? What is your logic? Women have to choose whether to go or not to go to worship at Shabrimala, but that is her personal choice,” Justice Dipak Misra, who headed a three-judge Special Bench, pulled up the Travancore Devaswom Board, which manages the shrine.<sup>5</sup> “Any god or goddess can be worshipped anywhere by anyone. The power is all around us, omniscient. But you have structured god into an idol. Women want to come to your temple and worship him there ... Why you don’t allow them,”<sup>6</sup>

The Shabrimala temple denies entry to females between the age group of 10-50 years stating that menstruating women are

impure. The Shabrimala temple authorities say that the ban on women’s entry has been practiced since centuries and it has become a tradition which is necessary for the rituals related to the temple’s celibate deity, Ayappan<sup>7</sup>. The temple authorities even went to the extent of that women between the age group of 10-50 years shall only be allowed if there is a machine to check if any female entering the temple is menstruating or not.<sup>8</sup> The Travancore Devaswom Board (TDB) which administers the temple is responsible for enforcing this custom.<sup>9</sup>

The judgement cited in the case of S.Mahendran vs The Secretary, Travancore (1991)<sup>10 11</sup> is upholding the ban for entry of women at the Shabrimala Shrine. Smt. S. Chandrika<sup>12</sup> said that entry of young girls in the temple was not against the custom and practices of the temple. But during that time High court gave the final order that restriction of women of certain age was in respect of the

<sup>5</sup> [http://www.thehindu.com/news/national/do-you-have-a-constitutional-right-to-prevent-women-entry-at-sabarimala-sc-to-devaswom/article8092924.ece?utm\\_source=InternalRef&utm\\_medium=relatedNews&utm\\_campaign=RelatedNews](http://www.thehindu.com/news/national/do-you-have-a-constitutional-right-to-prevent-women-entry-at-sabarimala-sc-to-devaswom/article8092924.ece?utm_source=InternalRef&utm_medium=relatedNews&utm_campaign=RelatedNews)

<sup>6</sup> Justice Dipak Misra asked.

<sup>7</sup> <http://www.thehindu.com/news/national/sabarimala-entry-ban-gender-equality-is-a-constitutional-message-says-sc/article8490310.ece>

<sup>8</sup> Said by Prayer Gopalkrishnan, president of the board that manages the temple.

<sup>9</sup> <https://indiankanoon.org/doc/1915943/>

<sup>10</sup> AIR 1993 Ker 42

<sup>11</sup> <https://indiankanoon.org/doc/1915943/>

<sup>12</sup> Former Travancore Devaswom Board Commissioner

customs and traditions and do not violate article 15, 25, 26 of our constitution.<sup>13</sup>

The ban is considered to be “grave” as it endangers gender justice said justice Dipak Misra. “There is this tradition, we understand, of not allowing women of a certain age. But what we will decide is whether this tradition, this source of the ban, overrides constitutional provisions... What right do you (temple authorities) have to forbid women from entering any part of the temple? This is a class grievance from women denied their right to worship,” Justice Misra said. At one point, Justice Misra asked senior advocate K. Parasaran, who is assisting the court, what the “protocol” of greeting would be if “your mother, father, Kul guru and Kul purohit” are sitting in the same room. “The protocol is to greet the mother first,” Justice Misra himself responded.<sup>14</sup> Challenging the prohibition of females of certain age from entering the temple, it was said that there are women bramacharis too in this world, by Senior advocate Indira Jaising.

<sup>13</sup> <http://www.youthkiawaaz.com/2016/01/temple-entry-of-women-in-sabarimala-facts-by-elsa-oommen/>

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[http://www.thehindu.com/news/national/shabarimala-entry-ban-how-can-tradition-impede-womans-right-to-worship-asks-supreme-court/article8462982.ece?utm\\_source=InternalRef&utm\\_medium=relatedNews&utm\\_campaign=RelatedNews](http://www.thehindu.com/news/national/shabarimala-entry-ban-how-can-tradition-impede-womans-right-to-worship-asks-supreme-court/article8462982.ece?utm_source=InternalRef&utm_medium=relatedNews&utm_campaign=RelatedNews)

The SC is hearing a 10 year old petition filed by Indian Young Lawyers’ Association (IYLA) Ravi Prakash gupta, member of the Indian young lawyers association who launched the petition against the Shabrimala temple said that in our Hindu religion, banning on the basis of age is not considered. He also said that they used to receive death threats over the petition.<sup>15</sup> Gautam Bhatia, a Delhi based lawyer has offered interesting insights into the case. A senior Counsel<sup>16</sup> said in the court that one should not just look from the worshippers point of view but one should also view from the angle of god that is to be worshipped, i.e. A celibate<sup>17</sup>. The supreme court of India on 11<sup>th</sup> January, 2016 asked the government of Kerala as to why women cannot be given entry into the Shabrimala Shrine. The SC declared that the Hindu temple ban on some women is unacceptable.

One incident that occurred at the temple is that when once an IAS officer, who happened to be women had to visit the temple to check the arrangements for the pilgrimage in her official capacity, was also denied entry on the pretext of being women.

<sup>15</sup> <http://www.reuters.com/article/us-india-women-religion-idUSKCN0X91Q1>

<sup>16</sup> K.K. Venugopa

<sup>17</sup> Lord Ayappan of Shabrimala temple.

The comment made by prayer gopalkrishnan regarding entry of women in the Shabrimala temple would only be allowed if a machine is invented to check the purity of the female worshippers. This comment created a huge protest by the young women in India and they shouted that menstruation is not unclean, polluting, impure or shameful.

They even launched an online campaign on face book called 'Happy to Bleed'. Aditi Gupta<sup>18</sup> posted that "Mr. Prayer Gopalkrishnan and all others who think that women are impure during their periods, don't forget that it's the same impurity that you survived on for nine months inside your mother's womb.

The women's groups have cited clauses from the Indian Constitution where one has equality before the law and it cannot be discriminated on the basis of gender.

### **1991 JUDGMENT:**

The 1991<sup>19</sup> Kerala High court judgment was held that the restriction was in accordance with the usage from the time immemorial and not discriminatory under the constitution. Upholding the restrictions, the High Court, in its judgment, said:

<sup>18</sup> Creator of website 'Menstrupedia' to educate young women and portray menstruation positively.

<sup>19</sup> <https://indiankanoon.org/doc/1915943/>

"According to him [The Shabrimala Thanthri], these customs and usages had to be followed for the welfare of the temple. He said only persons who had observed penance and followed the customs are eligible to enter the temple and it is not proper for young women to do so."<sup>20</sup> Twenty-five years after the 1991 judgment, the Supreme Court has questioned the "logic" behind the restriction.

### **INSTANCES:**

In 2006, an astrologer<sup>21</sup> conducted a ritual and found out that there were signs of women having entered the inside of the sanctum. Soon after this incident, a Kannada actor jayamala said that she in 1987 had entered and even touch the idol, while shooting for a movie. The last incident took place when 35 year old women managed to get inside on December 2011.

<sup>20</sup> [http://www.thehindu.com/news/national/will-sabarimala-temple-open-its-doors-to-women/article8489693.ece?utm\\_source=InternalRef&utm\\_medium=relatedNews&utm\\_campaign=RelatedNews](http://www.thehindu.com/news/national/will-sabarimala-temple-open-its-doors-to-women/article8489693.ece?utm_source=InternalRef&utm_medium=relatedNews&utm_campaign=RelatedNews)

<sup>21</sup> P. Unnikrishna Panicker

**HAJI ALI, MUMBAI:**

Noorjehan Niaz, the co-founder of Bharatiya Muslim Mahila Andolan (BMMA), she refused to accept the ban on women from visiting the grave. As a child she remembers visiting the famous Muslim Dargah, Haji Ali in Mumbai and offering her prayers at the grave. But when in 2011, when she visited the shrine she was refused to let enter into the grave whereas she was allowed to enter other areas. Later, she discovered from the trustees that females are banned to protect them from sexual attention and subsequently discovered that another reason for the ban was that it was a 'sin' for the menstruating women to go near the grave. The BMMA in their petition demanded the ban to be lifted and pointed out that even the saints were born from wombs.

There are no explicit directions provided in the Quran against the women visiting the burial places of holy saints. Where women are banned from visiting the grave of the holy saint in the shrine of Haji Ali at Mumbai, there are few shrines like the Ajmer Dargah where women have equal rights as that of men to visit the grave of the holy saint. Such restrictions have also been practiced in the Nizamuddin Dargah in New Delhi, here women are allowed

close to the door but not inside the chamber where the saint is buried.

**RANAKPUR TEMPLE, RAJASTHAN:**

The temple does not restrict women's entry but specifies when and how a woman can visit the temple. Women on their periods are not allowed to enter the temple and also rules are mentioned regarding wearing western dresses and accessories. Temple requires the women to cover their legs till below their knees.

**CONSTITUTIONAL VALIDITY AND ARGUMENTS:**

The ban on women's entry in the place of worship is violative of article 14 (equality before law), 25 and 26 (freedom of religion) of our Indian Constitution. Our constitution needs to be amended so that provisions clearly state about equality between Men and Women in respect of access to place of worship so that women aren't banned. It is said that the ban in Shabrimala temple is neither historical nor entirely religious but based on the decisions of the male established.

When women can be accepted as god, why can't she worship? When women are not allowed in temples of male god then to create equality even men should not be allowed in the temple of female goddess.

Supreme Court said that when god does not discriminate between men and women then why is there discrimination in the premises of the place of worship.

"What right does the temple have to forbid women from entering any part of the temple? Can you deny a woman her right to climb Mount Everest? The reasons for banning anything must be common for all."<sup>22</sup>

A big question has been raised on whether gender justice can be attained in places of worship. Why is a menstruating women considered impure when we India worship Kamakhya Devi (the bleeding goddess<sup>23</sup>). If bleeding is the reason that prohibits the women from worshipping, then why does u worship a bleeding goddess? Stop worshipping her also.

If this be so, then IYLA can argue that it is the duty of the state to guarantee a woman's right to worship. The women devotees may ask the court to direct the state to take all necessary steps to guarantee their access and safety to the shrine. Interestingly, judgement in this case will open up issues pertaining to other religions also. There is a case pending in

Bombay High Court, filed by Muslim women asking for the recognition of their right to enter the inner sanctum for worship at the Haji Ali shrine in Mumbai. The question of gender justice in religious institutions is the charter of state which is responsible to enforce the constitution. Being a secular state, the governments have not interfered in the matters of individual religions which are administered by their respective religious bodies. The ramification of judgement in this case will be then to find a solution which will advance the constitutional guarantee of equality, non-discrimination and freedom of religion.<sup>24</sup>

### **SUGGESTIONS:**

1. Those who want to see the Gender Justice as a reality need to campaign for the vigorous enforcement of the Directive Principles including the Uniform Civil Code both by the central and state governments.
2. In the absence of a Uniform Civil Code<sup>25</sup> and in the continued use of religion based customary law by different communities, the struggle for gender justice looks a long

<sup>22</sup> Justice Dipak Misra, head of a three-judge bench  
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<http://www.scoopwhoop.com/inothernews/menstruating-goddess-kamakhya-devi/>

<sup>24</sup> <http://logos.nationalinterest.in/2016/01/the-question-of-gender-justice-in-religious-institutions/>

<sup>25</sup> The Constitution of India, Article 44

drawn one made difficult by partisan interpretations of religious freedom, minority rights and vote bank policies<sup>26</sup>.

3. to ensure gender justice -

- a) Enactment of new laws pulsating with concern for gender justice
- b) Effective and honest implementation of the enacted laws
- c) Professionalization and sensitization of police, prosecutors and judges.
- d) There are some corrupt elements in the system. They should be dealt with stringently and weeded out. If such changes are brought about, there is no doubt that the system will deliver gender justice in abundant measure to all without exception.

### **CONCLUSIONS:**

When god itself did not discriminate between men and women then what rights do the priests or the authorities of the place of worship have to discriminate between the male and female. It should be that both men and women should be allowed to access place of worship so that there is gender equality. India needs to reactive gender inequality and allowing women in places of worship is towards attaining gender equality.

There needs to be gender equality in relation to access to worship places to strengthen the concept of justice for all. There is no constitutional validity that prohibits or bans women from worshipping or entering any place. It is the fundamental right of women and also men, i.e. it is the Fundamental right of all to have conscience and to profess, propagate and practice any religion. It is within the constitutional framework of the nation, which allows both men and women to have equal access to places of worship. When female goddess can be worshipped then why do we stop females from worshipping? Is all this not sex discriminatory? Why is this injustice in the country of equals restricted to female?

Gender justice is in fact ingrained in the sublime concept-equality. It implies that men and women should be treated alike before law and they should get equal protection of the laws. There is no lack of legislation, but lack of implementation of the same, gives rise to gender inequality. We need strong and sustained societal action, supported by proper public education. We are in 21st century; despite progress in direction of gender equality much is still required to be done. Will there be complete gender justice' for future to answer?

<sup>26</sup> Prof. (Dr.) G. Rajasekharan Nair, Gender Justice under Indian Criminal Justice System