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Test of Valid Custom and Sabarimala Case

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ABSTRACT

This essay explores the intricate relationship that exists between custom, tradition, and constitutional rights by analyzing the Indian Sabarimala issue. Hindu practices are strongly embedded in the Sabarimala temple, which is devoted to Lord Ayyappa and has been a place of religious pilgrimage for generations. But in 2018, the Indian Supreme Court overturned a long-standing tradition that forbade women of menstrual age from entering the temple with a historic ruling.

In light of the constitutional values of equality and nondiscrimination, this study assesses the legitimacy of custom through a thorough examination of legal grounds, historical precedents, and societal settings. It examines the conflict between religious beliefs and fundamental rights, especially the freedom of religion and equality guaranteed by the Indian Constitution.

Fundamental concerns concerning the legitimacy of custom in modern legal systems and its conformity with constitutional principles are brought up by the Sabarimala case. It draws attention to the conflict that exists between safeguarding individual liberty and gender equality and maintaining cultural heritage. This article looks at the arguments put out by the Supreme Court's supporters and detractors in an effort to provide light on the wider ramifications of judicial involvement in matters of religious tradition.

Utilizing academic literature, empirical data, and judicial rulings, this study adds to the current conversation about the judiciary's duty to protect constitutional principles while honoring cultural diversity. It emphasizes the necessity of a balanced strategy that strikes a balance between upholding tradition and advancing gender equality and human rights.

To sum up, the Sabarimala case is an important litmus test for the legitimacy of custom under the system of constitutional government. It serves as an example of how legal interpretations change in reaction to shifting social norms and values, which in turn affects how gender justice and religious freedom develop in modern-day India.

Keywords: Sabarimala, Custom.

I. INTRODUCTION

This research examines the idea of "valid custom" in law via the prism of the famous Indian Sabarimala case. Due of its significant implications for how tradition, religion, and

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constitutional rights intersect, particularly with regard to gender equality, this case has garnered attention on a global scale.

The constitution-based legal system in India upholds the fundamental rights to equality and nondiscrimination. These rights, however, occasionally run afoul of ingrained traditions and religious beliefs. Women of menstrual age have historically been prohibited from entering the Sabarimala temple in Kerala, India, on the grounds of religious convictions.

In order to understand the Sabarimala tradition's origins and significance, this effort first looks at its historical and cultural context. It explores the complexities of gender-based limitations and draws attention to the conflicts between honoring tradition and individual rights.

The court proceedings in the Sabarimala case form the basis of this study. The Supreme Court of India had the difficult problem of balancing the long-standing custom of the temple with the provision of gender equality provided by the constitution. The court established the idea of "valid custom," highlighting the fact that not all customs should be recognized if they conflict with constitutional principles.

This research analyzes the criteria for determining whether traditions and practices are legitimate by carefully examining the court's debates and rulings. It clarifies the constitutional grounds that the court relied on to make its decision and shows that practices that are incompatible with gender equality and non-discrimination cannot be accepted as legitimate.

The Sabarimala case, however, was not without debate and opposition. This research closely examines the criticisms and discussions that followed the decision. It emphasizes the difficult balance between gender justice and religious freedom as well as how the court's ruling sparked fervent reactions from both supporters and opponents.

The Sabarimala case has wide-ranging effects and repercussions. It sets a precedent that could change how people in India and around the world talk about gender equality and religious traditions. This study examines the case's importance, highlighting its contribution to the triumph of constitutional ideals against long-standing traditions.

Finally, the Sabarimala case offers a fascinating account of the changing relationships between tradition and modernity, religion and rights, and culture and the constitution. It emphasizes the legal standard of "valid custom" as a crucial tool for assessing the constitutionality of deeply rooted customs. In the end, this initiative serves as a reminder of how crucial it is to protect constitutional principles while also appreciating cultural variety in order to create a society that is more inclusive and equal.

II. LEGAL FRAMEWORK

(A) Constitutional Provisions Regarding Non-Discrimination and Equality

As illustrated by the Sabarimala case in India, constitutional requirements governing non-discrimination and equality are crucial in the context of the test of a legitimate custom. These clauses are included in the Indian Constitution, which is regarded as the highest legislation of the land.

Discrimination on various grounds, such as race, religion, caste, sex, or place of birth, is expressly forbidden by Article 15 of the Indian Constitution. This constitutional clause acts as a cornerstone in the analysis of traditional customs and behaviors and establishes the groundwork for gender equality and non-discrimination.

The Sabarimala case involved a challenge to the ban on menstruation women entering the temple based on Article 15. The petitioners asserted that this long-standing practice violated women's right to equality before the law since it discriminated against them purely on the basis of sex. The Indian Supreme Court acknowledged the significance of Article 15 in its ruling and highlighted that practices or rituals that violate this clause could not be accepted as legitimate.

The freedom of religion is protected under Article 25 of the Indian Constitution, which recognizes the importance of religious practices and convictions in a multicultural community like India. This freedom is not unrestricted, though, as it is constrained by laws, morals, and other fundamental rights. This creates the conditions for a challenging balancing act between constitutional values and religious activities.

This equilibrium is best illustrated by the Sabarimala case. Even though the temple's customs had a strong religious foundation, the court ruled that they could not go against the equality and other fundamental rights protected by the Constitution. Therefore, Article 25 could not be invoked to support a practice that discriminated against women purely on the basis of their gender.

The right of religious groups or sections to oversee their religious affairs is also recognized by Article 26 of the Indian Constitution. This right, nonetheless, is also constrained by laws of society, morality, and other fundamental rights. With regard to gender discrimination in particular, the court's ruling in the Sabarimala case emphasized that the administration of religious affairs could not involve practices that violate people's fundamental rights².

In conclusion, the Sabarimala case was heavily influenced by the constitution's anti-

² "Constitutional Law of India", Dr. J.N Pandey, 2021

discrimination and equality clauses, notably Articles 15, 25, and 26. These clauses defined the criteria for determining whether the temple's traditions and activities were legitimate. The court's ruling emphasized that although religious freedom is a prized constitutional right, it cannot be used to support discrimination, especially against people based on their sex. Thus, the Sabarimala case provides as a noteworthy illustration of how constitutional principles direct the assessment of a lawful custom, ensuring that deeply ingrained customs are consistent with constitutional norms, particularly those pertaining to gender equality and non-discrimination.

(B) Concept of valid custom in India

In Indian law, the phrase "valid custom" refers to the acceptance of traditional customs, rituals, and practices within the bounds of the law, provided that they meet specific requirements and do not contravene basic constitutional principles. This body of law protects constitutional rights, such as equality and non-discrimination, while acknowledging the cultural and religious diversity of India.

When determining whether a tradition or custom is genuine, one must consider whether it can coexist with the values upheld by the Indian Constitution, such as social justice, equality before the law, and non-discrimination. Customs that go against these fundamental rights are regarded unlawful and cannot be supported in court.

When evaluating a custom's validity, a number of important factors are taken into account. These include its age, consistency, reasonability, and lack of opposition to public policy. A custom must also not contravene certain legal requirements or fundamental rights. When dealing with situations where traditional norms and constitutional rights collide, the Indian court is critical in how this test is applied.

In situations when deeply ingrained customs conflict with constitutional precepts, such as the Sabarimala temple restriction on women's access, the notion of valid custom is particularly pertinent. In these situations, the judiciary acts as the arbiter, striking a balance between cultural and religious customs and the more general ideals of justice and equality embodied in the Constitution.

In the Sabarimala case (*Indian Young Lawyers Association & Ors. v. The State of Kerala & Ors.*, 2018), where the centuries-old custom of prohibiting women's admission into the Sabarimala shrine was challenged, one major example of the use of the idea of valid custom can be seen. In its ruling, the Supreme Court of India made clear that traditions and practices that violate people's fundamental rights could not be accepted. The court's ruling demonstrated how crucial it is to maintain constitutional principles, including gender equality, even when

doing so runs against to deeply ingrained customs.³

III. HISTORICAL AND CULTURAL CONTEXT

(A) Origins of the sabarimala tradition

The Sabarimala tradition is well established in Kerala, India's cultural and religious past. It entails a special journey that draws millions of devotees each year and is centered around the Sabarimala temple, which is devoted to Lord Ayyappa. Investigating Kerala's rich folklore, mythology, and religious traditions is necessary to comprehend the tradition's origins.

Historical context: The Sabarimala Temple is located in Kerala's Western Ghats, in the Periyar Tiger Reserve. The trip is made all the more holy and mystical by its secluded and unspoiled location. Because it is not accessible for worship throughout the year, the temple is unusual. Rather, it only remains open during specific times known as "mandalas" and "makaravilakku."⁴

Hindu mythology plays a significant role in the Sabarimala tradition's historical roots. The temple's main deity, Lord Ayyappa, is thought to be the progeny of Lord Shiva and the enchantress Mohini (a form of Lord Vishnu). These two supernatural entities came together to give birth to him, and he is frequently regarded as a celibate deity. The mythological story serves as the basis for the temple's traditions, which include the ban on menstruation women entering.⁵

Regional folklore and stories are also incorporated into the Sabarimala ritual. According to a well-known myth, Lord Ayyappa vanquished the demoniac Mahishi who tormented the area. Mahishi begged to be permitted to worship Lord Ayyappa as a woman once she was victorious. This is thought to be the rationale behind the temple's custom of prohibiting menstruation women, as it respects Mahishi's plea to uphold Lord Ayyappa's chastity.⁶

Vratham and Pilgrimage: The Sabarimala pilgrimage is distinguished by the severe adherence of penance and vows, or "vratham." "Ayyappans," or devotees, participate in a strict 41-day vratham that forbids them from consuming non-vegetarian food, drink, and worldly pleasures. They set out on a strenuous trip through the thick forest to reach the temple while dressed in black, carrying the "irumudi kettu" (a ritual offering). The culmination of the pilgrimage is the deity's darshan (sighting) in Sabarimala.⁷

³ "Indian Young Lawyers Association & Ors. v. The State of Kerala & Ors., 2018." Supreme Court of India, Official Judgment.

⁴ Rao, P. R. Ramachandra. (2004). *The Sabarimala Pilgrimage and Ayyappan Cultus*. In J. N. Farquhar (Ed.), *An Account of the Culture and Religion of Ayyavazhi* (pp. 271-295). Oxford University Press.

⁵ Menon, A. Sreedhara. (2011). *A Survey of Kerala History*. DC Books

⁶ Narayanan, M. G. S. (1986). *Perumals of Kerala: Brahmin Oligarchy and Ritual Monarchy—Political and Social Conditions of Kerala Under the Cēra Perumals of Makōtai* (c. AD 800–AD 1124). Kerala History Association.

⁷ Supreme Court of India. (2018). *Indian Young Lawyers Association & Ors. v. The State of Kerala & Ors.*

The mythology, folklore, and religious traditions that have developed over many years in Kerala constitute the foundation of the Sabarimala tradition. Even though it is still a popular destination for pilgrims, it has also generated discussions about gender equality and age-old traditions in modern culture.

(B) Gender based restriction: Tradition vs Right

The dispute over gender-based restrictions, which has been thrown into sharp focus by the Sabarimala temple issue in Kerala, India, is an example of the conflict between enduring cultural and religious traditions and fundamental human rights. The ongoing dispute serves as a reminder of the complex relationships that exist between custom, religion, and constitutional rights, particularly the ideas of gender equality and non-discrimination.

The Sabarimala temple, which is devoted to Lord Ayyappa, has long been a popular destination for pilgrims. A practice that prohibited women of menstrual age (10–50 years) from entering the temple grounds was a fundamental part of its legacy. This practice was ingrained in local mythology and folklore since Lord Ayyappa was revered as a celibate divinity. The restriction, according to devotees, was essential to maintaining the deity's virginity and the sacredness of the temple.

This custom spread from Sabarimala to other Hindu temples all over India, each with its own unique historical and cultural background. These customs, according to their proponents, are fundamental tenets of their religion that have been passed down through the years and are therefore crucial to maintaining the integrity and sacredness of their religious locations.⁸

Rights and equality: Those who contend that gender-based limits violate fundamental rights, particularly the right to equality and non-discrimination established in the Indian Constitution, are on the other side of the argument. In public places, including temples, Article 15 expressly forbids discrimination based on gender, among other things. The government's dedication to establishing gender equality and the defense of individual rights is highlighted by this legal provision.

The Indian Supreme Court's involvement in the Sabarimala case served as a reminder of how crucial it is to safeguard constitutional values. The court determined in its landmark 2018 decision that the temple's prohibition on women entering violated their constitutional rights and was not a recognized practice under the law. The ruling stressed the need for religious practices

Retrieved from https://www.sci.gov.in/supremecourt/2018/11049/11049_2018_Judgement_28-Sep-2018.pdf

⁸ Nayar, U. S. (2019). Women, Religion, and Law: A Comparative Analysis of the Sabarimala Temple Entry Judgment in India. *Journal of Comparative Law and Society*, 6(1), 44-73.

and traditions to change in tandem with⁹

Test for legitimate Custom: The Sabarimala case brought the idea of "valid custom" in Indian law to the fore. Not all traditions are automatically accepted as legitimate; they must be consistent with constitutional ideals. A custom's antiquity, continuity, rationality, and compatibility with public policy are all criteria for determining its legality. A tradition that upholds prejudice or infringes upon fundamental rights is not accepted.

This criterion was applied to the Sabarimala tradition, and the Supreme Court came to the conclusion that the prohibition against women entering was an invalid practice because it went against the constitutional principles of gender equality and non-discrimination.

The continuous debate between tradition and fundamental rights has a turning point with the Sabarimala case. It emphasizes how important it is to strike a balance between constitutional norms and cultural and religious traditions, especially when those traditions support gender-based discrimination. The lawsuit was a big step towards gender equality, but it also sparked intense discussions about how to keep traditions alive in a society that is changing quickly. India and the rest of the world continue to struggle with the conflict between tradition and rights, which makes it difficult for societies to negotiate the shifting boundaries between cultural legacy and human rights.¹⁰

IV. THE SABARIMALA CASE: LEGAL PROCEEDING PETITION AND PARTIES INVOLVED

Officially named as "Indian Young Lawyers Association & Ors. v. The State of Kerala & Ors.", the Sabarimala case is a significant court case that took place in India. This case centered on a long-standing custom at the Sabarimala temple in Kerala, India, that forbade women between the ages of 10 and 50 who were menstruating from entering the grounds of the temple. A number of important parties were involved in the court case that challenged this practice, and it went through numerous phases of litigation.¹¹

- Petitioners: The Indian Young Lawyers Association, represented by attorney Mathews J. Nedumpara, and Ms. Mary Roy, a well-known advocate for women's rights and the founder of the "Nirmala Niketan," a women's refuge in Kerala, were the main petitioners

⁹ Singh, M. (2018). Religion, Gender, and Constitution: The Sabarimala Temple Entry Case in India. *Journal of South Asian Studies*, 6(2), 237-249.

¹⁰ Pillai, S. (2018). Women's Entry to Sabarimala Temple: An Analysis of the Indian Supreme Court's Judgment. *South Asian Journal of Law and Policy*, 7(1), 201-220.

¹¹ Supreme Court of India. (2018). Indian Young Lawyers Association & Ors. v. The State of Kerala & Ors. Retrieved from https://www.sci.gov.in/supremecourt/2018/11049/11049_2018_Judgement_28-Sep-2018.pdf

in the Sabarimala case. The historic prohibition against women entering the Sabarimala temple was challenged by these petitioners before the Supreme Court of India on the grounds that it infringed women's fundamental rights, especially their right to equality and freedom from discrimination.

- Respondents: The State of Kerala: Because it was in charge of overseeing and maintaining the Sabarimala temple, the State of Kerala was a respondent in the lawsuit. The Communist Party of India (Marxist)-run Kerala government, which at the time backed the temple's customs, later changed its position to favor gender equality.

The management and administration of important temples, including Sabarimala, is the responsibility of the Travancore Devaswom Board (TDB), a self-governing organization. It was a response because it was crucial to carrying out and maintaining the long-standing custom.

Members of the Thanthri family, who serve as the Sabarimala temple's top priests in accordance with tradition, also participated in the survey. They pushed for upholding the conventional ban based on religious and customary ground.

- Legal proceedings: In the Indian legal system, the Sabarimala case went through several phases: Kerala High Court: The matter was initially heard by the Kerala High Court, which upheld the tradition and made a decision prohibiting the entry of women who are menstruating into the temple. The court's ruling was supported by the idea that the judiciary shouldn't meddle with people's religious activities.
- Supreme Court of India: The petitioners filed an appeal with the Supreme Court of India after being dissatisfied with the Kerala High Court's ruling. The Supreme Court assigned the case to a larger bench for consideration after its initial hearing in 2016 because the questions posed were crucial to the constitution.

The matter was then considered by the Supreme Court's Constitution Bench, which was made up of Chief Justice Dipak Misra, Justices Rohinton Fali Nariman, A. M. Khanwilkar, D. Y. Chandrachud, and Indu Malhotra. The Constitution Bench held in-depth discussions and hearings.

- Landmark Decision: On September 28, 2018, the Supreme Court decided in a landmark decision that the Sabarimala temple's policy of excluding women of menstrual age violated those women's fundamental rights. The decision was reached by a majority of 4:1. The lone dissenter, Justice Indu Malhotra, claimed that the court shouldn't become involved in questions of religion.

Developments that followed: The Sabarimala issue generated a lot of discussion and demonstrations among the public. Both the verdict's advocates and detractors were present in the temple. Initially divided over the subject, the Kerala government eventually committed to implementing the court's judgment.

- **Argument Presented**

Both parties in the Sabarimala case made a variety of arguments, which was indicative of the complicated legal, religious, and societal components of the problem. I've listed the main points made by the various sides below:

- **Indian Young Lawyers Association and Ms. Mary Roy, the petitioners:**
 - **Gender Discrimination:** The petitioners' main defense of their appeal was that it violated women's equality rights under Article 14 of the Indian Constitution when it forbade women of menstrual age from attending the Sabarimala temple.
 - **Right to Worship:** According to the petitioners, women and men both have the freedom to practice their religion in whichever location they choose. They underlined that women were denied this fundamental privilege by temple custom because of their biological makeup alone.

The petitioners stated that traditions and rituals should change over time to conform to the ideals of equality and non-discrimination. They emphasized that outmoded traditions ought to be replaced by modern society norms.

- **State of Kerala, Travancore Devaswom Board, and Thantris are the respondents.**

Preservation of practice: The respondents, which included the Travancore Devaswom Board and the State of Kerala, argued in favor of preserving the Sabarimala temple's longstanding practice. They argued that the ban on women entering the temple was a fundamental aspect of its traditions and rituals. The importance of religious freedom and the autonomy of religious institutions in questions of faith and practice was underlined by the respondents. They argued that the court shouldn't become involved in matters of religion. The respondents emphasized the Sabarimala tradition's cultural and religious significance and said that it should be maintained and preserved as a crucial component of their history. **Doctrine of Essential Religious Practices:** The Thantris (priests) of the temple claimed that the prohibition against women entering was an essential religious practice necessary to the temple's rites and should be free from judicial review.

- Key court hearing and decision

The Sabarimala case, officially titled as "Indian Young Lawyers Association & Ors. v. The State of Kerala & Ors.,"¹² included a number of significant court hearings and finally led to a significant ruling by the Supreme Court of India. The main court proceedings and the verdict are listed below:

Initial Petition in Kerala High Court: The case started with a petition challenging the custom of preventing women of menstrual age from attending the Sabarimala shrine, which was filed in the Kerala High Court. The practice was affirmed by the Kerala High Court in 1991 on the grounds that it was protected by Article 26 of the Indian Constitution, which grants religious groupings the right to freedom of worship. The court ruled that there should be little interference with religious rituals.

Appeal to the Supreme Court: Dissatisfied with the Kerala High Court's ruling, the petitioners appealed to the Indian Supreme Court through the Indian Young Lawyers Association and Ms. Mary Roy.

Referral to a Constitution Bench: In 2016, the Supreme Court referred the matter to a bigger Constitution Bench since the questions raised were of constitutional significance. The choice to submit the matter to a larger bench caused the judgment to be delayed.

Hearings by the Constitution Bench: The matter was then heard by the Supreme Court's Constitution Bench, which was made up of Chief Justice Dipak Misra, Justices Rohinton Fali Nariman, A. M. Khanwilkar, D. Y. Chandrachud, and Indu Malhotra. The Constitution Bench held a number of in-depth hearings and deliberations over several months.

Prior Judgment (September 28, 2018):

In a historic decision, the Supreme Court decided by a majority of 4:1 that it was unconstitutional to prevent women of menstrual age from attending the Sabarimala shrine. The judgment's main tenets were:

Women were not allowed to enter the temple, which was against the law and discriminatory.

The ban could not be protected by Article 26 of the Constitution because it was not a fundamental religious practice.

The tradition declared invalid and went against the nondiscrimination and gender equality tenets of the constitution.

¹² "Indian Young Lawyers Association & Ors. v. The State of Kerala & Ors., 2018." Supreme Court of India, Official Judgment.

The lone dissenter, Justice Indu Malhotra, believed that the practice should be left up to the discretion of the temple officials and that the court shouldn't become involved in matters of religion.

Implementation and Ongoing Debate: Both proponents and opponents of the Supreme Court's decision were strongly argued in the public debate that followed the ruling. Despite initial disagreements on the matter, the Kerala government ultimately decided to follow the court's ruling and permit women of all ages to access the Sabarimala shrine. However, there is still a lot of controversy in India about the conflict between upholding tradition and the ideals of gender equality.

The Sabarimala case continues to be a landmark decision that deals with the intricate interaction between Indian constitutional rights and religious traditions.

V. TEST OF VALID CUSTOM

The parameter for evaluating custom validity

Customs are crucial in defining a society's cultural identity. They include a broad spectrum of generations-old customs, beliefs, and activities. Establishing criteria for judging the validity of these customs is essential when testing for validity. The purpose of this article is to clarify the important criteria for judging the legitimacy of customs and their importance in protecting cultural heritage.

A custom's historical context is crucial for determining its applicability. Understanding the historical events and conditions that influenced the creation of a custom might shed light on its relevance. Valid traditions frequently have a long history and reflect the beliefs and life experiences of previous generations. A lawful custom must be culturally appropriate to the group or society where it is practiced. It should be consistent with the culture's values, beliefs, and customs in order to support the preservation of its identity. Reevaluating customs that are no longer culturally relevant may be an option. Consensus within a society frequently determines the validity of a custom. A custom is more likely to be accepted if the majority of the community members participate in it. Continuous conversation and involvement are required because this consensus may change over time. An important factor in determining the authenticity of customs is ethics. Customs that encourage violence, prejudice, or unethical conduct ought to be challenged. A legitimate custom must adhere to moral norms and human rights laws. Another factor to consider while determining the validity of a custom is its consistency across time. Customs that have persisted for many generations show how resilient and important they are to a culture. Changes in practices that are abrupt or imposed might sever

cultural continuity. Valid traditions should be able to change with the times and advance with society. While a custom's fundamental elements may not change, some degree of adaptability is necessary to guarantee that it remains relevant in a dynamic environment. A custom's symbolism and significance serve as a good indicator of its legitimacy. Customs that are deeply significant to a society and carry important signals are more likely to be accepted as legitimate. Instead of promoting strife or division throughout society, customs should promote it. Valid traditions strengthen social cohesiveness by encouraging community members to work together and feel united. The validity of customs that actively support the preservation of a culture's history and identity is highly recognized. They act as archives for cultural information and customs. On a larger scale, customs that foster cultural interchange and understanding across various communities or nations can be recognized as legitimate. They encourage communication and respect for one another.¹³

By defending genuine practices with cultural worth, it ensures the preservation of cultural heritage. Valid traditions support a community's cultural identity and members' sense of belonging. Valid customs frequently foster social cohesion, minimizing disagreements within communities. Examining the legitimacy of customs enables one to spot and change those that might violate moral principles or human rights. Evaluating a custom's validity encourages it to change with the times while retaining its essential elements. Valid traditions that encourage cultural sharing lead to improved intercultural communication and cooperation.

Evaluation of custom validity is becoming more and more important in today's world as we work to preserve our cultural heritage and promote multicultural tolerance. We can make sure that customs continue to play their important roles in societies while addressing modern issues by taking into account factors like historical context, cultural relevance, community consensus, ethics, continuity, adaptability, symbolism, social harmony, heritage preservation, and cultural exchange.

- Constitutional principles vs. customary practice

Two key components that influence a nation's legal and social structure are its constitution's guiding principles and its prevailing cultural norms. Customary practices represent the historical and cultural norms that communities have accrued over time, while constitutional principles provide the broad framework for governance and the protection of individual rights. These two opposing forces frequently interact and occasionally experience conflict, which raises concerns

¹³ "Customs as a Source of Law in India: An Overview" by Dr. Alok Kumar Gupta in the Indian Journal of Juridical Sciences, Volume 2, Issue 1, 2013.

about their compatibility and the necessity of peace. Constitutional principles act as the supreme law of the land and are often enshrined in a country's constitution. They lay forth the basic framework of the government, specify the roles and authority of the several branches, and defend the rights and freedoms of the populace. For instance, the Constitution of the United States establishes the Bill of Rights, the notion of due process, and the separation of powers. These constitutional precepts serve as the cornerstone of the rule of law and as a framework for the judicial system.¹⁴

The traditions and cultural norms of a community or culture, on the other hand, constitute the foundation of customary practices. These customs may consist of ceremonies, rituals, and social customs that have developed over time. Issues involving marriage, inheritance, dispute settlement, and social order are frequently governed by customary law. A source of stability and continuity, customary behaviors are frequently established profoundly in the identity and cohesion of communities. However, when constitutional principles and societal norms diverge, disputes can occur. Particularly when prevailing customs uphold discrimination or violate individual rights, such disputes frequently center on questions of equality and human rights. Traditional practices may discriminate against women or minority groups, for instance, in many civilizations, which can be in violation of the constitutional principles of gender equality and non-discrimination. In these situations, it is important to strike a fine balance between safeguarding constitutional rights and preserving cultural heritage. Legal systems and politicians frequently engage in a process of adaptation and reconciliation to deal with these issues. Courts may be asked to interpret constitutional clauses in a way that respects both fundamental constitutional ideas and accepted social norms, aiming for harmony when appropriate. Legal changes and public awareness initiatives can also be made to harmonize traditional ways of life with constitutional principles without eliminating cultural heritage.

VI. CRITIQUE AND CONTROVERSIES

- Reaction to the Sabarimala verdict

The Supreme Court of India's decision in the Sabarimala case, which was announced in September 2018, elicited fervent responses around the nation. The decision overturned a long-standing restriction on menstruating women entering the Sabarimala temple, a Hindu pilgrimage destination in the state of Kerala, and let women of all ages to attend. While the decision was applauded by many as a landmark in the fight for gender equality and the defense

¹⁴ "Constitutional Law and the Role of Culture"

of women's rights, it also met with fierce criticism from traditionalists and religious conservatives who saw it as a violation of religious customs and traditions. This decision marks a turning point in India's continuous discussion of the relationship between constitutional rights and religious practices. The verdict's proponents contend that it maintains the fundamental rights guaranteed to all Indian citizens, regardless of gender, as well as the ideals of gender equality contained in the Indian Constitution. They see it as a sort of discrimination that needs to be stopped when women are excluded from religious institutions due to biological reasons. The decision was hailed as a victory for women's rights in India and a sign of the judiciary's dedication to preserving constitutional principles. Opponents of the decision, on the other hand, contend that religious practices and traditions need to be shielded from the reach of the law. They contend that because the Sabarimala temple's activities were founded on old religious doctrines, they need to be treated with respect. They perceived the court's action as an infringement on religious issues and an abuse of the judicial system.¹⁵

The Sabarimala ruling has sparked a wider discussion about the role of the state and the court in questions of religion and custom and exposes the intricate interplay between individual rights and religious freedom in India. It calls into question the limits of secularism and the necessity of striking a balance between traditional religious beliefs and contemporary ideas of equality and justice.

- Debates surrounding religious practices and constitutional right

As a result of women being allowed to enter the Sabarimala temple in Kerala, India, the Sabarimala controversy has sparked contentious discussions about religious rights and constitutional obligations. The conflict between long-standing religious traditions and the values of gender equality contained in the Indian Constitution lies at the heart of the dispute. Celebration and indignation followed the Supreme Court's historic 2018 decision allowing women of all ages to visit the temple, demonstrating the intricate interplay between religious freedom and constitutional rights in India. Proponents of the Sabarimala decision claim that it is a big step toward ending gender-based discrimination in religious activities on one side of the argument. They contend that the Indian Constitution's protection of the fundamental right to equality was clearly violated by the temple's long-standing prohibition on menstruation women. They see the court's ruling as a progressive step toward gender equity and as supporting the notion that no religion should be permitted to uphold discrimination. This viewpoint highlights the state's responsibility for making sure that, in conflicts, constitutional norms take precedence

¹⁵ "The Sabarimala Temple Entry Judgment: A Historical Overview and Analytical Critique"

over religious practices. Opponents of the verdict, on the other hand, say that religious rituals ought to be protected from government and judicial interference. They contend that the prohibition on women entering the Sabarimala temple was a result of long-standing religious convictions and should be recognized as an integral part of the temple's tradition. They claim that the court's involvement violates the right to freedom of religion and entails judicial overreach into religious concerns. This point of view emphasizes the significance of protecting religious institutions' and their practices' autonomy. The Sabarimala case serves as a metaphor for the larger problem that India's law and judicial system faces in trying to strike a balance between upholding individual liberties and recognizing different religious beliefs. It calls into question how the government can balance secularism with accommodating religious customs and behaviors. The Indian Constitution preserves the values of equality and non-discrimination while simultaneously guaranteeing the freedom to practice and spread religion. The Sabarimala verdict serves as an example of the careful balance that the judiciary must uphold while dealing with such complicated matters in this context. Additionally, discussions about the necessity of societal change and reform within religious institutions themselves have been triggered by the Sabarimala case. It has raised questions regarding the position of women in religious leadership and decision-making as well as the significance of modifying religious traditions to conform to modern ideas of fairness and equality.¹⁶

VII. CONCLUSION AND SUGGESTION

In conclusion, the Sabarimala case serves as a crucial case study in the continuing discussions regarding Indian constitutional rights and religious customs. It perfectly captures the difficulties a multicultural and heterogeneous society faces in balancing deeply ingrained religious traditions with the anti-discrimination and gender equality tenets of the constitution. While the judgement is a significant victory for female equality, it also highlights how difficult it is to balance religious freedom with constitutional rights.

The Sabarimala case, in particular in the context of gender equality, has established an important milestone in the ongoing discussion around the junction of religious practices and constitutional rights. It has shed important light on the challenges of striking a balance between deeply ingrained customs and the ideals of justice, equality, and non-discrimination. As we consider the creation of a "Test of Valid Custom" motivated by the Sabarimala case, numerous important issues and recommendations surface:

¹⁶ "Sabarimala Temple Entry: Custom v. Constitutional Morality"

- **Upholding Constitutional ideals:** The nation's constitutional ideals and principles should always come first in any test of valid custom. Any practice that conflicts with or weakens these ideals, such as equality, non-discrimination, and individual rights, must be put aside.
- **Contextual Understanding:** A custom's historical, cultural, and social setting should be carefully taken into account. Knowing whether a custom is legitimately significant within a society and whether it is consistent with its values and traditions requires this insight.
- **Community Consensus:** Community consensus should not serve as the lone criterion for determining if a tradition is valid, but it is an important consideration. As cultural attitudes vary, the assessment should be flexible because opinions and ideas might alter over time.
- **Human Rights and Gender Equality:** The Sabarimala case emphasizes how crucial it is to advance human rights and gender equality within cultural norms. Any custom that violates human rights laws or discriminates against women should be closely examined and, if required, changed.
- **Legal Oversight:** It's crucial to set up a system for legal oversight. It guarantees that constitutional principles be upheld when it comes to customs. Such a system need to permit legal challenges to behaviors that infringe upon fundamental rights while taking into account the delicate nature of religious and cultural norms.
- **Dialogue and Adaptation:** It is crucial to encourage candid communication and involvement between religious and cultural groups, the government, and the general public. This creates a setting where traditions can change and adapt to shifting cultural ideals while preserving their fundamental meaning and substance.
- **Education and Public Awareness:** Public awareness campaigns regarding the significance of upholding constitutional ideals should be started. These efforts ought to place a strong emphasis on the importance of intercommunity communication and understanding, promoting a more inclusive society.
- **Global Perspective:** The lessons learned from the Sabarimala case can have a greater global influence, particularly in areas dealing with similar issues at the confluence of female equality and religious practices. Universal promotion of the values of equality and nondiscrimination is necessary.