"THE SABARIMALA VERDICT: THE ANTAGONISM BETWEEN CUSTOMS AND LAW"

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INTRODUCTION

A PARALLEL

"*Every man lives in two realms, the internal and the external. The internal is that realm of spiritual ends expressed in art, literature, morals, and religion. The external is that complex of devices, techniques, mechanisms, and instrumentalities by means of which we live. Our problem today is that we have allowed the internal to become lost in the external. We have allowed the means by which we live to outdistance the ends for which we live*",

- Martin Luther King Jr,, (December 11, 1964.)

It is observed that Dr. King quotes Thoreau's[1] striking precept on Modern Life in his speech; "*Improved means to an unimproved end.*" This emphasizes on the nonchalance of moralistic and spiritualistic practices as materialism continues to thrive in the society. Substantially, Dr. King affirms that diverse customs that are distinct to every religion are slowly deteriorating as a more Modernistic Approach is employed in the society. The meaning of the expression Justice is highlighted by Lord Denning[2]: '*Justice isn't something temporal- it is eternal- and the nearest approach to a definition I can give is, "Justice is what the right-thinking members of the community believe to be fair.*"'[3]The prerequisite importance of Justice is met through the evolution of a rigid system of rules that regulates the action of people by imposition of penalties called Law. From a time when the relationship between people was governed by morality and religion to a time where institutions and individuals are administered by the use of prescriptive, normative and directive rules which are supported by sanctions, the idea of an approach to upholding justice has undergone a sense of transformation that has revolutionized the perspective of the people in the society on what constitutes the term 'Justice'.

[1] Henry David Thoreau (1817-1862), American poet and essayist.
[2] Lord Denning, *Constitutional Developments In Britain* (Bernard Schwartz ed.).
[3] Tapash Gan Choudhury, *Penumbra Of Natural Justice* 2 (3d ed.).

THE CUSTOM

THE STORY OF A NAISHTIKA BRAHMACHARI

Lord Ayyappan (*Sartavu* or *Śāsta*) is a Hindu Deity who is a celibate, usually in a yogic posture with a bell around his neck. He is born out of the idea of syncretism- the son of Lord Shiva and Mohini, who is female incarnation of Vishnu. The iconography of Lord Ayyappan portrays him as a "Naishtika Brahmachari". Sabarimala is the name of the summit of the Neelimala hill located in Kerala, renowned for its temple of Lord Ayyappa, the *Sannidhanam* and for the Ayyappa pilgrimage that takes place every year. This pilgrimage needs to be prepared for, forty-one days in advance. Several austerities are associated with this tradition like wearing black, blue or saffron clothes, sleeping on the bare ground and maintaining celibacy the entire duration.[4]

THE LAW

A CONSTITUTIONAL SCEPTICISM

Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorization of entry) Rules, 1965[5] authorizes the ban of the entry of women of "menstruating age" into the Sabarimala Temple. This rule is challenged by a group of five women lawyers. The Kerala High Court ruled in favour of upholding the ancient tradition and affirmed that only the "Tantri (priest)" had the power to determine decisions regarding the traditions and thus the petitioners resorted to moving to the Supreme Court. Senior Advocate Indira Jaising, who represented the petitioners asserted that the aforementioned restriction on women between the age of 10 to 50 entering the Sabarimala Temple opposed Article 14, 15 and 17 of the Constitution. Furthermore, it is also highlighted that this age-old tradition is discriminatory in nature and stigmatises women. This controversy is not something abrupt or unforeseen; there have been quite a number of instances where this rule has been challenged. Initially, in the case of *S. Mahendran*[6] in 1991, the Kerala High Court upheld the ban of the State on menstruating women from entering the Sabarimala Temple. The order of the High Court went unchallenged for 15 years. In this case, the defendants questioned whether the petitioner had the right to maintain the petition[7] stating that there is no involvement of a right impairing the public at large, through a counter affidavit. Since the disputed question involved purely concerns the Hindu religion and its religious practices only, the jurisdiction of the Kerala High Court could not be invoked to administer or control the

[4] ROSHAN DALAL, HINDUISM: AN ALPHABETICAL GUIDE (2010).
[5] Kerala Hindu Places of Public Worship (Authorisation of Entry) Act, §4, 1965 (India).
[6] S. Mahendran v. Secretary, Travancore Devaswom Board, Thiruvananthapuram, AIR 1993 Ker 42.
[7] INDIA CONST. art. 226.

religious functions or practices. It was held that only the Thanthri who had an authority over the Sabarimala Sastha Temple could determine the answers to the religious questions posed in this case. This case resurfaced in 2006 in the *India Young Lawyers Association*[8], contending that the ban violated the constitutional rights of women in the country.[9]

THE CASE IN VIEW INVOLVES TWO PARAMOUNT ASPECTS: THE SOCIETAL ASPECT AND THE LEGAL ASPECT

The Sabarimala verdict is considered as an act of social engineering, a means to regulate the development and behaviour of a society in the future. A scrutiny of the verdict backed by the arguments brought forth, by a layman would lead one to believe that it was initiated for the prosperous growth of the society as a whole. As it was speculated that the practice of the Sabarimala Temple was supported by a degree of patriarchy, the existence of it seemed rather detrimental to the prevailing gender equality in the society. Even though the majority in the country supported the verdict given and perceived it as a reinstatement of the equal rights of women, some felt that it was an exorbitant intrusion by the Hon'ble Supreme Court with the religious sentiments of the people that are meant to be upheld. They believed that the temple was not a mere tourist spot but a place where religious beliefs were given upmost importance and could not be sacrificed. These ardent devotees, inclusive of both men and women, claimed to have never felt the religious practice that has been followed for centuries to be a discriminatory practice directed towards women. These devotees cited the *Triple Talaq case*[10] and emphasised on the fact that it was a historic, fair and commendable triumph by women and it was not at the impediment of any religious belief as such. Contrastingly, it is collectively felt by these devotees that the judgement passed on the Sabarimala case was neither a landmark judgement nor was it was an achievement for women or mankind as a whole. They believed that it put the future of the existence of traditions in jeopardy since it had been questioned once and altered consequently. The diverse stances by people focuses on how the Sabarimala Case is leading to an evident segregation among Hindus in the society.

[8] India Young Lawyers Association v. State of Kerala, 2018 SCC OnLine SC 1690.
[9] INDIA CONST. art. 32.
[10] Shayara Bano v. Union of India, (2017) 9 SCC 1.

THE LEGAL ASPECT OF THIS CASE REVOLVES AROUND CERTAIN CORE ISSUES:[11]

- "*Whether the exclusionary practice which is based upon a biological factor exclusive to the female gender amounts to "discrimination" and thereby violates the very core of Articles 14, 15 and 17 and not protected by 'morality' as used in Articles 25 and 26 of the Constitution?*
- *Whether the practice of excluding such women constitutes an "essential religious practice" under Article 25 and whether a religious institution can assert a claim in that regard under the umbrella of right to manage its own affairs in the matters of religion?*
- *Whether the Ayyappa Temple has a denominational character and, if so, is it permissible on the part of a 'religious denomination' managed by a statutory board and financed under Article 290-A of the Constitution of India out of the Consolidated Fund of Kerala and Tamil Nadu to indulge in such practices violating constitutional principles/ morality embedded in Articles 14, 15(3), 39(a) and 51-A(e)?*
- *Whether Rule 3 of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules permits 'religious denomination' to ban entry of women between the age of 10 to 50 years? And if so, would it not play foul of Articles 14 and 15(3) of the Constitution by restricting entry of women on the ground of sex?*
- *Whether Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965 is ultra vires the Kerala Hindu Places of Public Worship (Authorisation of Entry) Act, 1965 and if treated to be intra vires, whether it will be violative of the provisions of Part III of the Constitution?"*

After these issues were brought up, a level of emphasis was placed on the fact that the Division Bench of the High Court of Kerala, in *S. Mahendran*[12] upheld the practice of banning entry of women belonging to the age group of 10 to 50 years in the Sabarimala Temple during any time of the year. The issues raised in that case were observed by the Supreme Court. The issues cited focus on whether the denial of entry of that class of woman amounts to discrimination under Article 14, 15 and 17 and whether the court has the discretion to give directions to the Devaswom Board and the Government of Kerala to restrict the entry of such women into the temple.[13] It is observed from the conclusive judgement that the custom is being practiced from time immemorial and is not deemed as discrimination against women[14]. In *Riju Prasad Sarma*[15], Hon'ble Supreme Court held that the religious customs which are protected under Articles 25 and 26 are immune from challenge under other provisions of Part III of the Constitution. This

[11] https://barandbench.com/wp-content/uploads/2018/09/Sabarimala-judgment.pdf, 6-7.
[12] *India Young Lawyers Association v. State of Kerala*, 2018 SCC OnLine SC 1690.
[13] *India Young Lawyers Association v. State of Kerala*, 2018 SCC OnLine SC 1690.
[14] *India Young Lawyers Association v. State of Kerala*, 2018 SCC OnLine SC 1690.
[15] *Riju Prasad Sarma v. State of Assam,* (2015) 9 SCC 461.

immunity that is quoted in this judgement makes it clear that the ancient practice does not violate Part III of the Constitution or discriminate women as a whole. Another facet that needs to be considered is that this restriction is not in contravention of the provisions of The Kerala Hindu Places of Public Worship (Authorisation of Entry) Act, 1965. It does not essentially discriminate between sections or classes of Hindus in any matter of entry into the temple; the prohibition is only placed on women of a particular age group and not women as a whole. Pertaining to the case at hand, it is observed that 96% of the women in Kerala are educated and independent and thus it is a matriarchal society. It is fundamentally incorrect to approach the case with notions of patriarchy. The basis of the practice is the celibacy of the Deity, not misogyny, which, by no stretch of imagination, is supported by the Hindu Shastras. There are many other popular Ayyappa Temples in Kerala which allows women to enter without any age restrictions. The reason for restriction of a particular age of women into the Sabarimala Temple is because Lord Ayyappa is a celibate in that particular temple and thus cannot come in contact with women of menstruating age. This does not indicate that women are being objectified or insulted in any way, it is merely a religious custom being followed. Some arguments suggest that menstruating women may "pollute" the confines of the temple, which portrays them to be unclean or impure. This argument is brought forth by the petitioners of the case, identifying it as discrimination and a violation of the very core of Articles 14, 15 and 17 of the Constitution. The decision of the Court in *Deepak Sibal*[16] is referred to buttress the view that the exclusionary practice *per se* overlooks the sacrosanct principle of equality of women in the society and equality before law and that the burden of proving otherwise lies on the Devaswom Board. "*The right to equality under Article 14 in matters of religion and religious beliefs has to be viewed differently. It has to be adjudged amongst the worshippers of a particular religion or shrine, who are aggrieved by certain practises which are found to be oppressive or pernicious."*[17]

The issue of maintainability of this case cannot be treated as a "mere technicality" but is to be adjudged with much more importance as the permission of such PIL's into religion would only lead to the unnecessary intrusion of interlopers and a pose as a grave peril to the minority communities in future. Thus, the courts cannot test religious customs and beliefs solely based on the criterion of Article 14 or rationalize the religious customs, beliefs and faith that exists outside its ken; the principle of equality embedded in Article 14 does not countermand the freedom of religion guaranteed under Article 25.

[16] *Deepak Sibal v. Punjab University*, AIR 1989 SC 903.
[17] *India Young Lawyers Association v. State of Kerala*, 2018 SCC OnLine SC 1690, 7.4.

"It is not for the courts to determine which of these practises of a faith are to be struck down, except if they are pernicious, oppressive, or a social evil, like Sati."[18] Moreover, several sources state that *sati* has no connection to Hindu faith and it did not evolve from Hinduism in the first place.[19] The ancient sacred texts of Hinduism has promoted and opposed the practice but there never existed a prejudiced stance. A simple explanation to the origin of the custom of *sati* could not be retraced.[20] It is evident from the language of Article 15 of the Constitution that it is not applicable to religious institutions. In addition, an amendment to Article 15 for the inclusion of religious places was consciously rejected by the Constituent Assembly Debates of 29th November, 1948. Amendment No. 296, which makes it a case of *casus omissus*. The term "discrimination" cannot include all legislative differentiation and it is not mentioned in Article 14.[21] It is to be noted that the discrimination that is prohibited must be "only" on the grounds of religion, race, caste and so on. Article 15 does not prohibit the State from making discrimination on grounds of sex coupled with other considerations[22] and any violation of the same will have an adverse impact on the secular character of our Nation which is one the basic features of the Constitution.[30] Thus, Art. 15 does not apply to the present case as it is averse to the secular structure of India and the exclusionary practice is dependent upon not one ground but the grounds of sex, gender and religious practices. Article 17 is a concern of the case because notions of purity and pollution being perceived as the rationale behind the exclusion of the entry of women into the temple, the ideologies being a violation of the constitutional right against "untouchability". It is explicit that this case does not come under the purview of Article 17 as the Article refers only to untouchability on the basis of caste prejudice and not to women as a class. Article 25(2) is identified to be connected to the object of Article 17. While Article 17 is applied on a more general note, Article 25(2), which deals with secular aspects, is applied specifically to temples and reiterates the object of Article 17 in the context of Temples and Hindus to establish a sense of clarity. This stresses on the aberration with respect to the application of both the Articles to this case. Women do not fall under the protection of Article 25(2) as it entails community as a class, not on the basis of gender. Even if a conclusion is reached upon the applicability of this Article to women, it is only analogous to social issues and not matters of religion that are covered by Article 26(b). Additionally, the abolishment of such a practice perturbs the very aura of the temple while it upsets the rights of devotees under Article 25(1).

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18 *India Young Lawyers Association v. State of Kerala*, 2018 SCC OnLine SC 1690, ¶ 8.2.
19 Axel Michaels, *Hinduism: Past And Present* 149-153 (2004).
20 http://shodhganga.inflibnet.ac.in/bitstream/10603/72215/11/11_chapter%205.pdf, 99-100.
21 *Kathi Raning Rawat v. State of Saurashtra*, AIR 1952 SC 123.
22 *Air India v. Nargesh Meerza*, AIR 1981 SC 1829; *Ewanlangki-e-Rymbai & Elaka Jowai Secular Movement v. Jaintia Hills District Council & Ors.*, AIR 2006 SC 1589; *Vasantha R. v. U.O.I & Ors.*, (2001) IILLJ 843 Mad;

"Constitutional morality"[23] in a plurality society like ours provides a sense of freedom to practice irrational customs and this cannot be wrenched from the hands of the devotees as their rights have been protected as well. The petitioners put forward that the practice of exclusion of women into the temple is not an "essential religious practice" as it does not satisfy the test of essential practice that has been established in the decision of the Hon'ble Supreme Court in *Acharya Jagadishwarananda Avadhuta*.[24] This contention leads to the inspection of what the exact definition of "essential religious practice" is. The Essential Religious Practices Test/ Paradox[25] is also considered during this introspection. "*The contention formulated in such broad terms cannot, we think, be supported. In the first place, what constitutes the essential part of a religion is primarily to be ascertained with reference to the doctrines of that religion itself. If the tenets of any religious sect of the Hindus prescribe that offerings of food should be given to the idol at particular hours of the day, that periodical ceremonies should be performed in a certain way at certain periods of the year or that there should be daily recital of sacred texts or ablations to the sacred fire, all these would be regarded as parts of religion and the mere fact that they involve expenditure of money or employment of priests and servants or the use of marketable commodities would not make them secular activities partaking of a commercial or economic character; all of them are religious practices and should be regarded as matters of religion within the meaning of article 26(b).*"[26]

The vagueness of the term has created mayhem over the years through many legal cases; the scope of the term has been challenged and contemplated many a times. In *Durgah Committee*[27], the Supreme Court stated that practices, even secular ones, that are considered as a part of a religion that are merely superstitions and not essential to the religion. Hence, these practices are precluded from the protection of the Constitution. To understand this preclusion, Thus, it is concluded that, "*What constitutes an essential part of a religion or religious practice has to be decided by the courts with reference to the doctrine of a particular religion and include practices which are regarded by the community as a part of its religion.*"[28] Even this conclusion that is drawn by the Court is not precise; a cord of ambiguity clings on to what constitutes an "essential part of a religion". It is left completely to the discretion of the Court and thus cannot be defined positively. This is the beginning of the dissenting opinion among people in the society related to the Sabarimala case. Whether the Sabarimala Temple is of denominational character is also in question. After quoting that test for determination of the denominational character of a temple requires common faith,

[23] India Const. arts. 25, 26.
[24] *Commissioner of Police v. Acharya Jagadishwarananda Avadhuta*, (2004) 12 SCC 770.
[25] *Commissioner of Police v. Acharya Jagadishwarananda Avadhuta*, (2004) 12 SCC 770.
[26] *The Commissioner, Hindu Religious Endowments, Madras v. Shri Lakshmindar Thirtha Swamiyar of Shri Shirur Mutt,* AIR 1954 SC 282: (1954) SCR 1005.
[27] *Durgah Committee, Ajmer v. Syed Hussain*, AIR 1961 SC 1402: (1962) 1 SCR 383; *S.P. Mittal v. Union of India*, AIR 1983 SC 1: (1983) 1 SCC 51; *Mohd. Hanif Quareshi v. State of Bihar,* AIR 1958 SC 731: 1959 SCR 629.
[28] *H.H. Srimad Perarulala Ethiraja Ramanuja Jeeyar Swami v. State of Tamil Nadu*, AIR 1972 SC 1586, at 1593.

common organisation and a designation by a distinctive name, the *Amicus Curiae* of the Petitioners in the case accentuates that even if Lord Ayyappa's devotees constitute a denomination, the restriction on the entry of women into the temple infringes the rights conferred under Article 26 of the Constitution of India. Firstly, the Sabarimala Temple does not have distinct religious ceremonies that can be regarded as common faith. Secondly, it does not have a separate administration as it is regulated by the statutory board formed under the Travancore-Cochin Hindu Religious Institutions Act, 1950. Thirdly, it acquires the State Funding under Article 290-A of the Constitution. Fourthly, there is no specific association of followers for this temple who identify themselves distinctly, apart from the Hindus who visit the shrine on a regular basis. These points focus on how the Sabarimala Temple is not essentially a "religious denomination". The basic query that needs to be answered is whether the Sabarimala Temple is to be considered a "religious denomination" in the first place. If the answer was positive, it would guide us to the question of whether it has to power to indulge in practices going against the constitutional principles/ morality embedded in Articles 14, 15(3), 39(a) and 51-A(e). *"…in regard to affairs in matters of religion, the right of management given to a religious body is a guaranteed Fundamental Right which no legislation can take away.*"[29] This intensifies the power vested in a religious denomination and how it cannot be overlooked by any legislation. However, this is applicable only if the temple was a "religious denomination". The four rights conferred to religious denominations from clauses (a) to (d) of Article 26 of the Constitution are not exclusive and disjunctive in nature but rather collectively conferred for an establishment of their identity. The petitioners in this case place a level of importance on the views of H.M. Seervai[30] wherein the author has quoted that the right to acquire property is implied in clause (a) as a religious denomination cannot be constituted without having a property and how the management of affairs takes place under clause (b) if there was no property. Thus, it can be concluded that a religious denomination that claims separate and distinct identity, it is essential to own some property requiring constitutional protection. The decisions in *Raja Birakishore*[31], *Sardar Syedna Taher Saifuddin Saheb*[32], *Sastri Yagnapurushadji*[33] and *S.P. Mittal*[34] are scrutinized in the court due to the emphasis placed on them by the petitioners to assert that few mere differences in practices carried out in certain Hindu Temples cannot accord them the status of religious denominations.

[29] *Ratilal Panachand Gandhi v. State of Bombay*, AIR 1954 SC 388, 391: 1954 SCR 1055; *Pannalal Bansilal Patil v. State of Andhra Pradesh*, AIR 1996 SC 1023, 1031.
[30] H.M. Seervai, *Constitutional Law Of India* 931 (3d ed.).
[31] *Raja Birakishore v. State of Orissa,* (1964) 7 SCR 32.
[32] *Sardar Syedna Taher Saifuddin Saheb v. The State of Bombay,* AIR 1962 SC 853.
[33] *Sastri Yagnapurushadji v. Muldas Bhudardas Vaishya,* (1966) 3 SCR 242.
[34] *Durgah Committee, Ajmer v. Syed Hussain,* AIR 1961 SC 1402: (1962) 1 SCR 383; *S.P. Mittal v. Union of India*, AIR 1983 SC 1: (1983) 1 SCC 51.

It is also contended by the petitioners that there cannot be absolute prohibition of women from entering the Sabarimala Temple. This view is substantiated by referring to the judgement in *Shirur Mutt*[35] and *Sri Venkatramana Devaru*[36] where the latter emphasises on how a religious denomination cannot altogether exclude or prohibit any section or class of people all the time. Contrastingly, §15A (1) of the Travancore Cochin Hindu Religious Institutions Act, 1951 substantiates on the duties of the Travancore Devaswom Board which explicitly states that the Board is required to observe and maintain the practices of Temples under its administration. This is complimented by the *Jaintia Hills Case*[37] which deals with the constitutionality of §3 of the United Khasi-Jaintia Hills Autonomous District (Appointment and Succession of Chiefs and Headmen) Act, 1959, in which it did not amount to a contravention of Articles 14, 15 and 16 when the provision included only members of a particular clan to contest in the elections of the District Council and precluded those people of Christian faith. When the argument that some women may die before 50 and would never be able to see Lord Ayyappa and worship him wholeheartedly was put forward, it was rebutted with a statement that a person's fate cannot be a legal consideration to reverse an age-old practice and death, which is natural to all human beings cannot waver tradition. Apart from this, Advocate J Sai Deepak came forward to represent the Deity in itself and argued for the rights of his "client" whom he portrayed as juristic person, giving God right as a person under Articles 21, 25(1) and 26 of the Constitution of India. This is inclusive of his right to preserve his celibate form and uphold his vow to be a "Naishtika Brahmachari". The personification of Lord Ayyappa by giving attributes of a human being who possesses his own rights that cannot be taken away from him is what is what makes this specific argument so distinctive.

CONCLUSION

IDEALISM OR REALISM?

Precision would be established only when the Hinduism is defined as a way of life rather than as a religion. Contrary to several other religions, Hinduism cannot be associated with rigidity or imposition in any sense; there is no means of conversion to Hinduism, a binding book or mandatory prayer attendance requirements.[38] Hinduism does not possess the tenacity required for a religion to survive in the dynamic world yet it has withstood the exorbitant changes in

[35] *The Commissioner, Hindu Religious Endowments, Madras v. Shri Lakshmindar Thirtha Swamiyar of Shri Shirur Mutt*, AIR 1954 SC 282: (1954) SCR 1005.
[36] *Sri Venkatramana Devaru v. State of Mysore,* (1958) SCR 895: 1958 AIR 55.
[37] *Ewanlangki-e-Rymbai and Elaka Jowai Secular Movement v. Jaintia Hills District Council*, MANU/SC/1638/2006.
[38] Sitansu Chakravarti, *Hinduism, A Way Of Life* 71 (1991); Julius J Lipner, *Hindus: Their Religious Beliefs And Practices* (2d ed.); MK Gandhi, *The Essence Of Hinduism* 3 (VB Kher ed.).

lifestyle owing to technological advancements. As humans evolved, Hinduism evolved. Hinduism's exquisiteness is a consequence of the enduring and unfaltering nature of its customs and traditions and the unceasing belief in God. The myths that have lived on for as long as humans have and will live on for as long as humans will compliment Hinduism in an elegant manner. "*Legislature is Brahma, executive is Vishnu and Shiva is judiciary because only Shiva has the "ardhanarishwara' form" which can be equated to Article 14, right to equality*", said the renowned Senior Advocate Mr. K. Parasaran in his argument against the entry of women into the temple.[39] He interlaces Law and Religion in a beautiful manner and tries to underline the symbiotic relationship between the two aspects, both of which have been stirred by the Sabarimala case.

THE OATH OF OFFICE FOR CHIEF JUSTICE OF SUPREME COURT OR HIGH COURT IS AS FOLLOWS

"I, (name), having been appointed Chief Justice (or a Judge) of the Supreme Court of India, do swear in the name of God (or affirm) that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws."[40] By swearing in the name of God thereby, the Chief Justice of Supreme Court or High Court affirms his belief in God, and hence in true religion. Faith cannot be put in a compromising position by law just because it is not as rigid. A judge is bound to safeguard the interests of religion as much as he is bound to protect the law of the country; one cannot be acquired at the cost of the other.

WHAT DO PEOPLE AIM TO ACHIEVE: JUSTICE OR UTOPIA?

Utopia is an imaginary community or society which provides impeccable qualities to all its citizens; a place without any problems. In a world like this, perfect justice would prevail and disorder would be non-existent. By challenging a tradition that has lasted for ages in the name of procuring a sense of absolute equality, there arises a qualm in the mind with respect to what is anticipated to be achieved. An anomaly seems to have emerged with respect to the difference between equality and equity. Equality, in the typical sense, between a man and a woman is a myth. Men and women have physiological differences which can only be embraced, not neglected. This leads to the conclusion that the outlook on what constitutes Justice has been misinterpreted over the years. The divergence between both the genders can easily be tackled by

[39] *India Young Lawyers Association v. State of Kerala*, 2018 SCC OnLine SC 1690.
[40] India Const. Schedule III.

disposing of preconceived notions of equality and the unconscious biases that have thrived in people's minds over time. Moreover, a paradox is formed when the Utopian place that has been created by people is actually realized to be an imperfect place, a place jammed with the wrong perceptions of people on what idealism is. At the end of the day, what people bear is the stark reality, a place with a perfect blend of chaos and ways to control it. Instead of contemplating which aspect of life will overpower the other, customs or law, people could begin to acknowledge the fact that they are both facets of life, amidst which no animosity can be concluded, only a true sense of equality.