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## INGRESSION OF WOMEN IN PLACES OF WORSHIP AN EQUALITY DIMENSION \*

### Abstract:-

The bans such as women's entry into temples involve notions and norms which directly clash with ideas of modernity and are also incompatible with rights enshrined in the Constitution. In a secular country like India, which promises to protect the rights of its citizens to practice religion and faith of his or her choice, rulings such as banning menstruating women to enter places of worship by priests are a violation of their rights. Women's groups and organizations have come forward and challenged this whole notion of "purity-impurity" and are protesting against this unjust ruling by the temple heads in the name of god, religion, culture and practices. It seems that there is an increasing interest and inclination towards religion, and worship of gods and goddesses in recent years. This paper brings to limelight the violative provisions of law as a result of this unjust practice. Further, the paper will contrast certain cases with judicial responses on the related issues.

### Introduction:

Human Rights these days is the most commonly debated topic, be it nationally or internationally. Those are rights that an individual possesses by virtue of being human and when the term human is used it should include both men as well as women, because it has become immensely important to understand that women also have these human rights because gender equality is there in the very core concept of human rights. It is an obligation upon States to ensure protection and promotion of women rights in furtherance of the UN Charter, but at the same time women have experienced discrimination in various walks of life, socially as well as economically. One such human right is the right to profess religion, which is universal as every human is entitled to a choice, opportunity and a right to pray and practice a religion. In the light of the same it becomes important to understand the present state affairs in India where in last few weeks there has been a constant debate about the right of women to enter temples, mosques and other religious places because sometimes there are restrictions imposed on women to enter such places.

The question still remains as to whether it's a discrimination or lack of knowledge about the Gods, at the same time these temple entry movements have been effectively used by the marginalized section in protest against the exclusion and as a challenge to the ancient hierarchical structure that determines who is banned from entering a particular religious place. Such restrictions and their oppositions is not new to the Indian social order as Mahatma Gandhi

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has also used the same tool many times to improve the living conditions of the Harijans as he also based his reform movements on the temple entry to Daliths.

### **The Present Indian Scenario**

The right of an individual to practice a religion of his or her choice has been recognized across most of the legal systems, which includes the right to go to religious places without any hindrance, but at the same time there have been instances where gender bias has crept up into the exercise of this right, as such in a patriarchal society like India it has shown its effect every now and then similar is the case with the reason protests on ban the entry of women in religious places like temples and shrines. What is astonishing is that the discrimination does not have any logical backing to support the exclusion of one section and various groups have every now and then contented that such discrimination in entry of women into temples was neither a ritual nor a tradition associated with Hindu Religion and that such discrimination was totally Anti- Hindu.<sup>1</sup>

It was quite surprising that the rituals around menstruation have been the same across the globe, be it Native America, Europe, Africa, Australia or Asia. The same practices of seclusion during menstruation, similar taboos related to touching food, not entering religious place, etc have been documented world over. Perhaps, it is only in parts of Asia such as India, where we still see many women who follow the rituals even now, and therefore most of us wrongly conclude that it is only in developing countries like India that such “superstitions” still exist.

#### **Reason Behind Restriction:**

In a country like India which is come a long way by ending practices like Sati, these incident remind that we still have a long way to go to accept women as an equal part of our society. One needs to understand that why do we need to give equal status to women; this thought that we “give” equal status to women needs to be checked as it is very important to understand that women are inherently equal to men. These age old practices made up solely on the basis of patriarchal bias do not have any theological backing and should end, because in a democratic, secular nation like India one cannot take away right of a woman to practice her religion just like other men.<sup>2</sup> Going a step further the research brings to light that women are not banned as a class but only a section of them are prohibited to enter worship places which has been evidently found and discussed below.

#### **PIL in Madras High Court**

On 'such days' women are not allowed to enter temples in Tamil Nadu, says a PIL assailing a state law which makes a vague reference to menstruating women and bars them from entering temples.

It wanted the court to strike down as discriminatory and unconstitutional Rule 3(c) of the Tamil Nadu Temple Entry Authorisation Act 1947, which prohibits "women at such times during which they are not, by custom and usage, allowed to enter temples."<sup>3</sup>

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<sup>1</sup> Menstruation, Puberty and Right to Worship, Economic and Political Weekly

<sup>2</sup> Ibid

<sup>3</sup> <http://www.livelaw.in/tag/rule-3c-of-the-tamil-nadu-temple-entry-authorisation-act-1947/> (09.10.2016, 15 hrs)

**"Every Hindu woman has a fundamental right, like every Hindu man, to enter any temple under the control of Hindu Religious & Charitable Endowments (HR&CE) department,"** the petitioner said, adding that no rules, statutory or otherwise, can prescribe any condition with regard to women relating to a particular point of time during which they can be prohibited from entering a temple and worship.<sup>4</sup>

### **Significance of Rituals and Scientific Reasons**

***"Menstruating women should not enter temples or participate in religious ceremonies"***

This is one taboo which perhaps hurts the sentiments of most religious women and young girls. The thought keeps cropping up – "Am I so dirty during my period that even God would want me to stay away?"

It is believed that during menstruation, women are constantly dissipating energy from their bodies. Most religious chants are meant to balance out the energies in our body. However, this would interfere with the natural losing of energy that must happen in menstruating women to prevent excessive energy build-up. Hence, menstruating women are told to keep away during such occasions, so that their natural processes are not tampered with.

According to Ayurveda, menstruation is closely linked to the functions of the *doshas*, the bio-energies that make up every individual, and help in performing different physiological functions in the body. The three types of *Doshas* are *Vata*, *Pitta* and *Kapha*, which correspond to the elements of air, fire and water respectively. Each *dosha* has a primary function in the body. *Vata* (element, air) is the moving force responsible for communication, perception and cognition; *Pitta* (element, fire) is the force of assimilation and is responsible for metabolism; and *Kapha* (element, water) is the force of stability.<sup>5</sup>

Menstruation is regarded in Ayurveda as a special opportunity enjoyed by women for monthly cleansing of excess *doshas*; it is this monthly cleansing that accounts for female longevity. There is a build up of energy in the days leading to menstruation as the body prepares for pregnancy. If pregnancy does not take place and menstruation starts, this built up energy gets dissipated from the body during menstruation. During menstruation, *Vata* is the predominant *dosha*. *Apana vayu*, one of the elemental air functions of the *Vata Dosha*, is responsible for the downward flow of menstruation. Therefore, any activity that interferes with this necessary downward flow of energy during menstruation should be avoided. During this period, women are more likely to absorb other energies in their environment. This forms the basis of most of the cultural practices around menstruation in India.<sup>6</sup> Its scientifically proven that the energy during menstruation goes downwards into the earth, (at the puja table, offerings, altar), the energy is going upwards. This can bring discomfort in the body.

The other reason was that menstruating women become open to receiving and absorbing energy during this time. This means, they can easily absorb other's energies, including negative energies. Hence, they are asked to stay away from crowds and gatherings.

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<sup>4</sup> The Times of India, January 21, 2016

<sup>5</sup> <https://mythrispeaks.wordpress.com/2014/03/26/menstrual-taboos-and-ancient-wisdom> (06.10.2016, 17hrs)

<sup>6</sup> <https://mythrispeaks.wordpress.com/2015/05/28/unearthing-menstrual-wisdom-why-we-dont-go-to-the-temple/> (07/10/2016, 20hrs)

Another document said that menstruating women are so powerful, that their offering to God drowns out the offerings of everyone else present in the room. Hence, they are told to stay away from places of worship during menstruation. These explanations might also be valid for the taboos around touching others and touching certain types of food during menstruation, since touching involves transfer of energy.<sup>7</sup>

### **Not attending religious functions, visiting temples and not touching menstruating women**

To further understand the aspect of not visiting temples during menstruation, there is this information acquired from Guruji at Devipuram, in Andhra Pradesh. The unique answers from Sri Amritananda Natha Saraswati (Guruji), founder of Devipuram, a temple in Andhra Pradesh which is dedicated to the *Devi* tells us how in his temple, most of the priests are women, who are free to be at the temple during their period (though it is not forced). There is a *Kamakhya Peetham* at this temple, which is a natural formation in the shape of a Yoni (vagina) and worshippers gather here whether or not they have their period. He says the reasons behind menstruating women not visiting the temple was fascinating and turns all our silly assumptions of impurity upside down! In his words *“What is pure, we don’t touch. And what we don’t touch, we call it a Taboo. She (a menstruating woman) was so pure, that she was worshipped as a Goddess. The reason for not having a woman go into a temple is precisely this. She is a living Goddess at that time. The energy of the God or Goddess which is there in the murthi (idol) will move over to her, and that (the idol) becomes lifeless, while this (the menstruating woman) is life. So that’s why they were prevented from entering the temple. So it is exactly the opposite of what we think”*.

As Guruji said, asking menstruating women to not attend a temple has nothing whatsoever to do with a woman being impure. So next time someone says that a menstruating woman should not enter a temple because she is impure, we should let her know the explanation behind this practice, instead of simply dismissing it a taboo. And let her decide whether or not she wants to follow these practices.<sup>8</sup>

### **Provisions Under the Constitution:**

The constitution of India provides through various Articles the equality of all citizens of the country irrespective of the religion practiced, etc.

- **Article 14** provides that the state shall not deny to any person equality before law and equal protection of laws.<sup>9</sup>
- **Article 15** provides that the state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, etc., in general or in matter of access to or use of general and public places and conveniences.<sup>10</sup>

<sup>7</sup> Opcit, <https://mythispeaks.wordpress.com/> (07/10/2016, 23:15hrs)

<sup>8</sup> Opcit, [www.mythispeaks.wordpress.com](http://www.mythispeaks.wordpress.com) (05/10/2016, 21hrs)

<sup>9</sup> The Constitution of India, Government of India, Legislative Department

<sup>10</sup> Ibid

- **Article 25(1)** provides for the very basis of an individual's right to freedom of religion, the article provides that all persons are equally entitled to freedom of conscience and right to freely profess, practice and propagate religion.<sup>11</sup>

The scheme of these provisions clearly puts forth the intent to have equality in all spheres and to promote equal rights of women in matters of religion, but the practices of banning the entry of women in religious places clearly goes against the rights provided to women by the constitution as well as by various international covenants. It also promotes the idea that everyone is equal before God and no one has the right to bar people from practicing religion in a manner they choose to.

### **Restrictions and Rulings in Temples and Mosques**

#### ➤ **Shani Shignapur Temple, Maharashtra**

The incident that brought into light this practice is the Shani Shignapur Temple where women from the Bhumata Ranragini Brigade proceeded towards the temple to break a 400 year old tradition of the temple which provides that women will not enter its inner sanctum, but the police authorities barred the protesting women from entering the temple situated in Ahmednagar, Maharashtra. Tripti Desai the leader of the organization says that there is no such custom prevailing and that this rule has been implemented by the villagers as in other Shani temples across India women can enter the inner platform area also, through this movement the group has aimed at challenging age old practices in many such religious places by saying that there is no logic in barring the women to enter temples as the Vedas and the Upanishads do not mention the same. Taking the case of Shani temple, there is nothing mentioned that women cannot or should not pray or worship Shani, it is also known that Shani respects all women and does not inflict its ill effects upon women, but still there exists a general consensus that women should not enter such temples.

#### ➤ **Shabarimala Temple, Kerala**

Similarly another case came forth wherein temple administration has banned women aged between 10- 50 to enter the Shabarimala Temple in Kerala according to Kerala Hindu Places of Public Worship (Authorization of entry) Rules 1965, because a menstruating women is thought to be impure. Last year, court had asked the Kerala government to file its affidavit in response to a petition challenging the Sabarimala Ayyappa Temple's custom of prohibiting the entry of women between the age of 10 and 50 years. The previous state government had defended the ban on entry of women in Sabarimala temple, telling the court that beliefs and customs of devotees cannot be changed through a judicial process and that "the opinion of the priests is final" in matters of religion. The Congress-led UDF government had also withdrawn the "erroneous" stand of its predecessor, the Left Democratic Front (LDF) government, which had stated in an affidavit in November 2007 said "it is not fair to deny a section of women from entering Sabarimala temple". Recently the Supreme Court of India has come down heavily on the Travancore Devaswom Board which is the managing Board of Sabarimala Temple in Kerala asking reasons and logic behind prohibiting women from entering the temple.

#### ➤ **Haji Ali Dargah, Mumbai**

Similar is the case in some Muslim Dargah's where women are only permitted to enter upto a certain point, even the Haji Ali Dargah in Mumbai and the Nizamuddin Shrine in Delhi prohibit women to enter certain areas. Bombay high court has ruled that all women must be allowed into the inner sanctum of Mumbai's Haji Ali dargah. This comes after a petition was filed by the Bharatiya Muslim Mahila Andolan (BMMA) challenging the ban imposed by the

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<sup>11</sup> Ibid

Haji Ali Dargah Trust.<sup>12</sup> The authorities of these temples and mosques have their own reasons to support the practice, but at the same time one cannot neglect the rights provided for equality and profess and practice religion, that is why the question still remains as to why there are such barriers which prevent women from exercising their right to pray.

➤ **Trimbakeshwar temple, Nashik**

The Shiva temple located around 30 kms away from Nashik is one of the 12 famed jyotirlingas and also one of the places that restrict entry to women in the core area. The temple trust was in the news after it banned entry to the inner sanctum for men as well as women, a move seen by some to be maintaining gender-equality. Though reports suggest that the temple has never 'denied' entry to women, there has also been news about people associated with the temple being unhappy about 'breaking the age-old tradition'. Interestingly, mythology mentions the Ardhanarishvar form of Lord Shiva which depicts a union of masculine and feminine forms and energies.<sup>13</sup>

➤ **Kartikeya temple, Pushkar**

Lord Kartikeya is the son of Lord Shiva and considered as the God of War. The temple at Pushkar celebrates Kartikeya's brahmachari form and restricts entry to women. It is believed that women who enter the temple are cursed and not blessed. There is another temple in Pehowa, Haryana that celebrates Kartikeya's brahmachari form and like the temple at Pushkar, women are not allowed in the temple.<sup>14</sup>

➤ **Sree Padmanabhaswamy Temple, Thiruvananthapuram**

Considered the richest temple in the world, the Sree Padmanabhaswamy temple houses treasure vaults. When it comes to worship, the temple has a weird rule. Women devotees can worship the deity but shouldn't go inside the temple chambers. Women inventory officials too aren't allowed into the treasure vaults and a few years back, the temple authorities even restricted entry to a woman expert from the Archaeological Survey of India (ASI).<sup>15</sup>

### **The Judicial Approach:**

The Indian Judiciary has also played its role in determining the rights of an individual to practice and promote a religion of his/ her choice as in

- ***Ratilal Panachand Vs. State of Bombay***<sup>16</sup>, the Supreme Court held that the “**Freedom of conscience connotes a person’s rights to entertain beliefs and doctrines concerning matters which are regarded by him as conducive to his spiritual well being**”. Right to Religion includes the right to go to religious places without any restrictions.
- The Supreme Court also in the case of ***Punjab Rao Vs. DP Mishram***<sup>17</sup> pointed out the importance of freely professing ones religion and held that to profess a religion means “**the right to declare freely and openly ones faith**”.
- In the case of ***Dr. Noorjehan Safia Niaz And 1 Anr vs State Of Maharashtra And Ors***<sup>18</sup> on 26 August, 2016, a PIL was filed under Article 226 of the Constitution of India, the

<sup>12</sup> The Times of India, August 26, 2016

<sup>13</sup> Ibid

<sup>14</sup> Ibid

<sup>15</sup> Ibid

<sup>16</sup> 1954 All India Reporter 388, 1954 Supreme Court Reporter 1035

<sup>17</sup> 1965 All India Reporter 1179, 1965 Supreme Court Reporter (1) 849

petitioners, who are social activists, have alleged gender discrimination and arbitrary denial of access to women in the sanctum sanctorum at the Haji Ali Dargah. High Court lifts ban imposed on women entering *Haji Ali dargah, Mumbai*. The Bombay High Court lifted the ban imposed on women from entering the sanctum of Haji Ali dargah at Bombay, saying it contravenes the fundamental rights of a person. A division bench of Justices V M Kanade and Revati Mohite Dere said, **“We hold that the ban imposed by the Dargah Trust, prohibiting women from entering the sanctum sanctorum of the Haji Ali Dargah contravenes Articles 14, 15 and 25 of the Constitution of India. Women should be permitted to enter the the sanctum sanctorum at par with men.”**

- In the case of *Shani Shignapur Temple, Maharashtra*, The Bombay High Court came out in favour of women’s right to worship saying there is no law that prevents women from entering a place of worship, and if men are allowed entry, women should be allowed too. A Division Bench of Chief Justice D.H. Waghela and Justice M.S. Sonak said: **“There is no law that prevents entry of women in any place. If you allow men, then you should allow women also. If a male can go and pray before the deity, why not women? It is the State government’s duty to protect the rights of women.”** The Bench said if temple authorities impose restrictions on someone’s entry in a religious place, they could face six months’ imprisonment as per the Maharashtra law.<sup>19</sup>
- In the case of *S. Mahendran vs The Secretary, Travancore*<sup>20</sup>, a PIL was filed with far-reaching consequences regarding the faith of **Sabarimala temple**, a temple of great antiquity, visited by more than 20 lakhs of persons every year from all parts of India. The question posed is, whether it is open to all women, irrespective of their age, to trek the hill and worship of the temple, and how far is it permissible as per existing beliefs and custom. The restriction is for entry of women at such times during which they are not by custom and usage allowed to enter temples. The Board issues notifications every year informing the public about the prohibition regarding entry of women of the age group of 10 to 50 in the Sabarimala temple and Pathinattampadi during Mandalam, Makaravilakku festival and Vishu.

Justice Deepak Misra observed while hearing the petition that the constitution rejects any kind of discrimination on the basis of age, gender, and caste and unless there is a right to prohibit the entry of woman into a temple one cannot prevent them from worshipping at the temple as the Kerala High Court had upheld the ban on entry of women in the year 1991.

## Conclusion:

**“If I, a woman, have faith. If I want to worship. I must have access to see Him... that part is protected by the Constitution irrespective of sex, gender, caste or biological phenomena”**, says a Senior Advocate and amicus curiae in the Shabarimala Case.

The tantric tradition which has been followed for centuries requires that a devotee visiting the shrine for the first time will have to observe certain religious routine of bodily cleanliness, dress, food restrictions and a prayer routine for 41 days (a mandala) without interruption where the menstrual cycle for a woman in the child-bearing ages is a hindrance. After menopause there is no ban and also before 11 years as it is the earliest age for the

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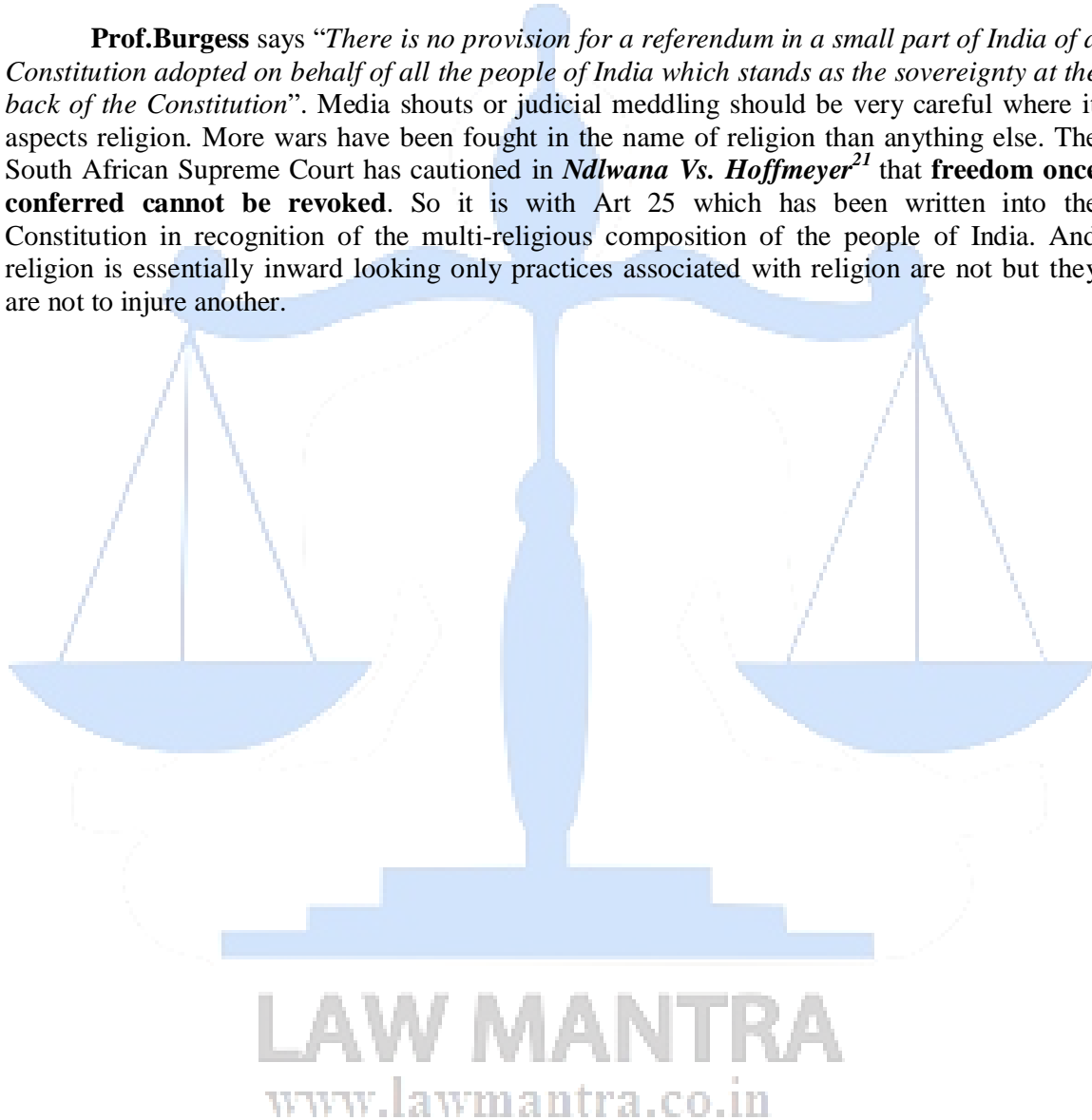
<sup>18</sup>Public Interest Litigation 106, 2014

<sup>19</sup> The Hindu, March 31, 2016

<sup>20</sup> All India Report 1993 Kerala 42

menstrual cycle to commence. This tradition which is part of the culture of a section of the citizens of India who follow it as a matter of faith is guaranteed unconditionally under Art 25 without any power to the state to place any kind of restrictions. This **cannot be amended by the judges of court who equate through their ignorance mountaineering with religious practices which have been followed by millions for centuries**. Times now have been screaming around Art 14 which denies power to the state to deny the equal protection of the laws to anyone.

**Prof.Burgess** says “*There is no provision for a referendum in a small part of India of a Constitution adopted on behalf of all the people of India which stands as the sovereignty at the back of the Constitution*”. Media shouts or judicial meddling should be very careful where it aspects religion. More wars have been fought in the name of religion than anything else. The South African Supreme Court has cautioned in *Ndlwana Vs. Hoffmeyer*<sup>21</sup> that **freedom once conferred cannot be revoked**. So it is with Art 25 which has been written into the Constitution in recognition of the multi-religious composition of the people of India. And religion is essentially inward looking only practices associated with religion are not but they are not to injure another.



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<sup>21</sup> Ndlwana v Hofmeyr, South Africa 1937 AD 229