

**LAWFOYER INTERNATIONAL**  
**JOURNAL OF DOCTRINAL LEGAL**  
**RESEARCH**  
**(ISSN: 2583-7753)**

---

---

Volume 2 | Issue 2

---

---

2024

© 2024 *LawFoyer International Journal of Doctrinal Legal Research*

Follow this and additional research works at: [www.lijdlr.com](http://www.lijdlr.com)  
Under the Platform of LawFoyer – [www.lawfoyer.in](http://www.lawfoyer.in)

---

---

After careful consideration, the editorial board of LawFoyer International Journal of Doctrinal Legal Research has decided to publish this submission as part of the publication.

In case of **any suggestions or complaints**, kindly contact [info.lijdlr@gmail.com](mailto:info.lijdlr@gmail.com)

---

**To submit your Manuscript** for Publication in the **LawFoyer International Journal of Doctrinal Legal Research**, To submit your Manuscript [Click here](#)

# RELIGIOUS AUTONOMY V. JUDICIAL INTERVENTION: DEFINING ESSENTIAL RELIGIOUS PRACTICES IN INDIAN CONSTITUTIONAL LAW

Sukhman Kapoor <sup>1</sup>

## I. ABSTRACT

Religious autonomy is one of the essential pillars of Indian democracy, and the nation is responsible for guaranteeing the same access to every citizen. Despite the fundamentality and pivotal nature of religious freedom, it cannot be categorized as an absolute right of the individual or community. The same has been subject to reasonable restrictions which can be better ensured by judicial intervention and interpretation whenever required. The balance between religious autonomy and judicial intervention in India is a complex and evolving issue, especially in safeguarding constitutional rights while respecting religious traditions. The **Doctrine of Essential Religious Practices (ERP)**, formulated by the judiciary, determines which religious practices are fundamental to faith and deserve constitutional protection. Judicial intervention in religious matters often stirs controversy, as seen in landmark cases like **Sabarimala** and **Triple Talaq**, where the courts ruled against traditional practices in favor of gender equality and fundamental rights. These rulings underscore the judiciary's role in ensuring that religious customs do not violate constitutional principles like justice, equality, and non-discrimination. Despite this, critics argue that such interventions infringe on religious autonomy, as the courts assume the authority to define what constitutes essential religious practices. The paper highlights the importance of a balanced approach, advocating for judicial intervention to be applied judiciously to protect individual rights while honoring religious traditions. By thoughtfully addressing these tensions, the courts can ensure that religious practices

---

<sup>1</sup> 3<sup>rd</sup> year B. Com LL.B (Hons.) Student at University Institute of Legal Studies, Panjab University Chandigarh.

are compatible with the values of a modern, diverse society, without compromising the core principles of religious autonomy.

## **II. KEYWORDS**

Religious autonomy, Doctrine of essential religious practices, Constitutional rights, public order, morality.

## **III. INTRODUCTION**

The balance between religious autonomy and judicial intervention in India is a multifaceted and evolving issue, specifically when it comes to safeguarding constitutional rights. The influence of religion in India is just limited to cultural and spiritual influence but also has a significant role to play in the political and economic scenario of the nation. The autonomy of religion intrinsically is the topmost priority of a democratic country like India but there are other essential and fundamental rights as well that are also subject to the same level of protection as the freedom of religion is, One cannot ignore another essential pillar of the constitution in the shadow of religious autonomy.

The Indian Constitution guarantees freedom of religion under Articles 25 to 28, which seek to protect an individual's right to profess, practice, and propagate religion while also ensuring the autonomy of religious institutions. However, these rights are not absolute; they are subject to limitations in the interest of public order, morality, health, and the fundamental rights of others. The doctrine of Essential religious practice is the best answer to these rising problems, but it may be a solution to some issues still controversy remains over the Judicial intervention in religion.

Judiciary's role in deciding essentiality of the religious practices is based on major parameters but even after that, there remains a slight doubt that questions the transparency of this practice, which can only be resolved by introducing a delicate balance between them. This framework introduces an essential tension: while individuals and religious communities seek to freely practice their beliefs, the judiciary must

intervene when religious practices infringe on these constitutional boundaries. This often requires the courts to interpret what constitutes an "essential religious practice," a task that inherently challenges the judiciary to define and sometimes limits religious freedoms.

The Law Commission of India and constitutional bodies have reinforced judicial intervention in various landmark judgments. For instance, the 183rd Law Commission Report (2002) emphasized that religious freedom cannot override fundamental rights, particularly in cases where religious practices lead to discrimination or violate constitutional guarantees.<sup>2</sup>

The National Commission for Women has repeatedly supported reforms, particularly those that protect the rights of women within religious practices, citing the need to align religious traditions with modern constitutional values like gender, justice, and equality.<sup>3</sup> The following analysis explores this intersection of law and faith, examining how India's constitutional framework attempts to respect religious autonomy while ensuring that such freedoms do not compromise the secular, democratic, and egalitarian values enshrined in the Constitution.

#### **IV. CONSTITUTIONAL FRAMEWORK FOR RELIGIOUS FREEDOM (ARTICLE 25-28)**

##### **A. The Right to Religious Freedom in the Indian Constitution**

The Freedom of religion is the most basic, essential, and fundamental freedom enshrined in the Indian Constitution, which reflects the national commitment to secularism and cultural diversity. With due consideration to India's Pluralist society, the framer of the Indian Constitution established the provision to protect individual and community religious rights. It is commonly said that India is a nation where lies "**Unity in Diversity**" i.e. all the citizens residing in India practice a different religion and share diverse

---

<sup>2</sup> Law commission of India, "183<sup>rd</sup> Report on General Clauses Act, 1897" (November, 2002)

<sup>3</sup> National commission for Women Act, 1990 Act No. 20 of 1990 (India)

backgrounds, but the beauty of the nation can be appreciated from this fact only as all of them regardless of the disparities have a feeling of solidarity.

All this is possible in diverse nations like India because of the freedom-oriented, rights-based, and egalitarian structure of the Indian Constitution. The rights enshrined in **Part 3 Article 25 -28** of the Constitution specifically address religious freedom, providing a comprehensive legal framework for the expression and management of religious beliefs and practices. These provisions safeguard the right to freely profess, practice, and propagate one's faith while also imposing certain reasonable restrictions to maintain public order, morality, and health. Health concerns provide another ground for regulating religious practices.

In **Mohd. Hanif Quareshi v. State of Bihar**<sup>4</sup> The Supreme Court upheld the cow slaughter ban for public health and economic reasons, reinforcing the state's right to restrict practices detrimental to public welfare. In **Hinsa Virodhak Sangh v. Mirzapur Moti Kuresh Jamat**<sup>5</sup>, the Court permitted limitations on animal slaughter in public spaces, citing sanitation and public health concerns.

Additionally, the **Narasu Appa Mali Case** <sup>6</sup>Allowed the state to outlaw bigamy, emphasizing that practices harmful to social health may be curtailed even if permitted under personal law. In **Ram Prasad Seth v. State of Uttar Pradesh**,<sup>7</sup>The Allahabad High Court held that noise pollution from loudspeakers during religious events could be regulated under the guise of public order. Such rulings affirm that practices conflicting with communal peace may be curtailed to preserve societal stability.

Article 25 guarantees to every citizen "**Freedom of Conscience and Right to Profess, Practice, and Propagate Religion**"<sup>8</sup> This article grants individuals the freedom to choose their religious beliefs, practice their religion, and even share it with others. However,

---

<sup>4</sup> Mohd. Hanif Quareshi v. State of Bihar, 1958 AIR 731

<sup>5</sup> Hinsa virodhak Sangh v. Mirzapur Moti Kuresh Jamat (2008) 5 SCC 33

<sup>6</sup> State of Bombay v. Narasu Appa Mali, AIR 1952 BOM 1951

<sup>7</sup> Ram Prasad Seth v. State of Uttar Pradesh, AIR 1961 ALL 334

<sup>8</sup> INDIA. CONST. art. 25.

rights cannot be said to be absolute rather they are subject to restrictions. In the infamous case of *Bijoe Emmanuel v. State of Kerala*<sup>9</sup>, three Jehovah's Witness children refused to sing the national anthem, citing their religious beliefs. The Supreme Court upheld their right under Article 25, emphasizing that freedom of conscience protected their actions as long as they respected others' rights and did not disrupt public order.

Article 26 grants this to religious denominations to manage their affairs which means that they can freely establish their institution, hospitals, or any other form of setup and can also manage these institutions on their own without any external interference which ensures the maintenance of the fundamental right to religious freedom.<sup>10</sup>

Article 27 This article reinforces the secular nature of the State by preventing the use of public funds for religious purposes, ensuring that taxpayer money does not support any specific religious activity or institution.<sup>11</sup>

Article 28 This article mandates that State-funded schools cannot provide religious instruction, except in cases where institutions are established under a religious endowment. In State-aided but not entirely funded schools, students may receive religious instruction, but only voluntarily.<sup>12</sup> In the case of *Aruna Roy v. Union of India*<sup>13</sup>, the Supreme Court emphasized that Article 28 ensures secular education in public institutions, reinforcing that any religious instruction in government-run schools must respect individual choice and cannot be forced upon students.

### **B. Balancing Religious Freedom with Public Order, Morality and Health**

The Indian Constitution guarantees religious freedom, but it is not absolute, it is subject to reasonable restriction as it also recognizes social harmony and national security as a prime consideration. This provision ensures that a legitimate balance is maintained between individual freedom and mandatory social order and norms.

---

<sup>9</sup> *Bijoe Emmanuel v. State of Kerala*, AIR 1987 SC 748

<sup>10</sup> INDIA. CONST. art. 26

<sup>11</sup> INDIA. CONST. art. 27

<sup>12</sup> INDIA. CONST. art. 28

<sup>13</sup> *Aruna Roy v. Union of India*, AIR 2002 SC 3176

The Indian Constitution upholds religious freedom while judiciously balancing it with considerations of public order, morality, and health, thereby ensuring societal welfare and cohesion. Public order constraints allow the State to curtail religious practices that may provoke violence or disturb social peace, emphasizing that personal beliefs must not undermine communal harmony. Similarly, morality provisions empower the government to eliminate practices deemed exploitative or contrary to ethical norms, particularly when they conflict with fundamental rights, as seen in the prohibition of untouchability. Health-related restrictions enable the State to regulate religious practices that threaten public health, underscoring that individual liberties should not endanger collective well-being. By incorporating these measured limitations, the Constitution affirms a framework in which diverse religious practices are protected, yet aligned with the overarching principles of safety, ethical integrity, and public health.

## V. THE DOCTRINE OF ESSENTIAL RELIGIOUS PRACTICES

Since time immemorial, religion has played a pivotal role in shaping India's cultural fabric, societal norms, and national identity. From the dawn of civilization, faith has been an integral part of Indian life, influencing every aspect of existence, from birth to death. The nation's rich spiritual heritage, which encompasses diverse traditions and beliefs, has fostered a unique blend of tolerance, coexistence, and pluralism.

This in modern times has been ensured by the introduction of the judicial application known as "*Essential Religious Practices*" According to this doctrine protection is conferred to the religious practices that are considered 'essential' by the law for any particular religion. It is a principle based on jurisprudence which the Supreme Court formulated to determine religious practices. <sup>14</sup>i.e. Whether they are essential or not? Is there a necessity to retain such kind of practices or not? What if these essential religious

---

<sup>14</sup> Sanghamitra Padhy "Secularism and Justice: A Review of Indian Supreme Court Judgement." Economics and Political Weekly, vol.39, no. 46/47, 2004 pp. 5027-32 JSTOR, <http://www.jstor.org/stable/4415807> (accessed Oct. 18,2024)

practices are infringing the fundamental rights of an individual? These all questions are answered by the doctrine of essential practices.

### A. Origin of Doctrine

The birth of the doctrine took place out of the landmark judgment of the Hon'ble Supreme Court of India, *Commissioner of Hindu Religious Endowments, Madras v. Shri Lakshimindra Thirtha Swamiar of Sri Shiur Mutt* (1954)<sup>15</sup> It was interrupted by the court that in the ambit of the "religion," there comes all the rituals and traditional practices that are integral parts of the religion. It was held that the Constitution would protect all those religious practices that are not violative of the Public order, health, or morality.

The judgment very well clarified that state intervention can be allowed in religious matters if the practice in question does not fall within the scope of Articles 25 and 26 of the Indian Constitution. *Durgah Committee, Ajmer v. Syed Hussain Ali*,<sup>16</sup> The Court clarified that only essential and integral parts of religion would be protected. Practices that are merely secular or superstitious would not fall under the constitutional protection of religious freedom.

By this, it is well established here that religious autonomy is respected in India.

The judgment stated above has a pivotal to play when it comes to the essentiality of religious practices but with the evolving of time, new emerging thoughts of liberalization and modernization among the public have given a bit different direction to the same interpretation. In an exemplary case popularly known as the Sabarimala case ( 2018)<sup>17</sup> The Supreme Court allowed the entry of young women of all ages into the Sabarimala temple which was earlier traditionally barred by the women age group of 10 to 50 years. The Court in this case held that excluding women enter could not be considered an essential practice and thus does not deserve constitutional protection. Thus, the judgment

---

<sup>15</sup> *Commissioner of Hindu Religious Endowments, Madras v. Shri Lakshimindra Thirtha Swamiar of Sri Shiur Mutt*, 1954 AIR 282

<sup>16</sup> *Durgah Committee, Ajmer v. Syed Hussain Ali*, (1947) 49 BOMLR 235.

<sup>17</sup> *Indian Young Lawyers Association v. The state of Kerala*, AIR ONLINE 2018 SC 243



points to the importance of the determination of the doctrine concerning dynamic religious and societal standards.

In the other case of *Acharya Jagdishwaranand Avadhuta v. Commissioner of Police, Calcutta*<sup>18</sup> the Supreme Court held that performing the “Tandava dance” by Ananda Margis was not an essential practice of the Ananda Marga faith. The Court ruled that even though followers considered the practice significant, it was not fundamental to their faith and thus not constitutionally protected. In one case, the Supreme Court upheld a law barring individuals with more than two children from contesting panchayat elections. The petitioners argued that having multiple children was an essential practice of Islam. However, the Court held that personal law practices that conflict with constitutional values do not necessarily qualify as essential practices.<sup>19</sup>

In the renowned case popularly known as the Triple Talaq case ( 2017) the practice of triple talaq a form of divorce in Islam, was not considered an essential religious practice by the court rather it violated the Constitutional as well as basic, fundamental rights of Muslim women. Following the same approach as in the case discussed above, the Supreme Court passed an order criminalizing triple talaq in India.<sup>20</sup>

In this case court reaffirmed its role in the determination of the essential religious practices. In the *Haji Ali Dargah Case*<sup>21</sup> The Bombay High Court ruled that women could enter the inner sanctum of the Haji Ali Dargah, declaring that excluding women based on gender was not an essential Islamic practice. The Court held that gender-based restrictions violate women’s rights and cannot be deemed essential to the faith.

Thus, the doctrine of essential religious practices plays a pivotal role in striking a balance between religious liberty and societal progress, ensuring equality and justice. While acknowledging religious autonomy, the judiciary has consistently held that practices

---

<sup>18</sup> *Acharya Jagdishwaranand Avadhuta v. Commissioner of Police, Calcutta* (1983) 4 SCC 522.

<sup>19</sup> *Javed v. State of Haryana* AIR 2003 SC 3057.

<sup>20</sup> *Shayara Bano v. Union of India and ors.* AIR 2017 SC 4609

<sup>21</sup> *Dr. Noorjehan Safia Niaz v. State of Maharashtra*, AIR 2017 (NOC) 45 (BOM.)

contravening constitutional values, such as gender equality and public order, cannot be deemed indispensable.

## **VI. JUDICIAL INTERVENTION IN DEFINING RELIGIOUS PRACTICES**

When it is Judicial intervention in defining religious practices in India, it takes us back to the position from where this question has arisen i.e. the need to balance religious freedom concerning the fundamental rights as enshrined in the Indian Constitution. From the above explanation of the Doctrine of essential religious practice, one could get that the Judiciary has a crucial role in determining the essentiality of heritage practices. However, this role has been always subject to debate over the ages due to the complex interaction between the secular laws in our nation and religious autonomy.

The ERP doctrine allows the judiciary to assess whether a practice is essential to a religion and therefore deserving of protection under Articles 25 and 26. This intervention is meant to prevent non-essential or socially harmful practices from being shielded under the guise of religious freedom. However, this has placed courts in a sensitive position to interpret religious tenets, which some critics argue should be left to religious authorities.

Courts must balance religious rights with other fundamental rights like equality, dignity, and public welfare. For example, practices that discriminate against certain groups or harm public health are often curtailed despite being religiously motivated. The Supreme Court of India has significantly evolved the doctrine of essential religious practices through landmark judgments, establishing its authority to interpret and define the contours of religious freedom. This delicate balance protects constitutional rights while respecting religious autonomy.

### **A. Case Laws to Support Argument**

With the help of various judgments same can be interpreted as in the Shirur Mutt Case.<sup>22</sup>(1954) Courts were to determine essential religious practices, safeguarding them under Articles 25 and 26. Following the Durgah Committee Case (1961) the doctrine was refined, permitting state regulation of non-essential practices and acknowledging the evolutionary nature of religious traditions<sup>23</sup>. In Bijoe Emmanuel (1986) court upheld Jehovah's Witnesses' right to refuse to sing the national anthem, recognizing their practice as essential and constitutionally protected.<sup>24</sup>. Ananda Margis Case (2004) it was held that performing the Tandava dance in public was non-essential, prioritizing public safety and order.<sup>25</sup>.

Triple Talaq Case (2017) court declared instant triple talaq unconstitutional, deeming it non-essential to Islam and violative of women's rights.<sup>26</sup>.Sabarimala Case (2018) the court ruled that barring women from entering the temple was non-essential, upholding gender equality and non-discrimination.<sup>27</sup>

### **B. Challenges with Judicial intervention in religious matters**

Judicial intervention in religious matters brings a unique set of challenges, especially within a diverse society like India. The Constitution guarantees freedom of religion, yet also allows the state to regulate certain secular aspects tied to religious practices. This creates a complex line for courts to navigate, as they must differentiate between essential religious practices, which are protected, and those that can be regulated in the interest of justice and equality. Religious groups often perceive judicial actions as an infringement on their autonomy, as seen in cases like Sabarimala (women's entry into temples) and Triple Talaq (Islamic divorce practices).

---

<sup>22</sup> Ibid

<sup>23</sup> The Durgah Committee, Ajmer and ors. v. Syed Hussain Ali And Others 1961 AIR 1402

<sup>24</sup> Ibid

<sup>25</sup> Acharya Jagadishwaranada Avadhuta and ors. v. Commissioner of Police (1983) 4 SCC 522

<sup>26</sup> Ibid

<sup>27</sup> Ibid

Here, the judiciary's role in upholding individual rights can appear at odds with respecting religious customs. Furthermore, the concept of secularism in India entails a unique model where the state maintains a principled distance from religion but intervenes to uphold justice. Court decisions on religious issues, however, sometimes evoke public backlash, as they may be perceived as biased, stirring protests or unrest, as witnessed in past rulings. The complexity of religious traditions adds another layer of difficulty, as religious doctrines are nuanced and can be difficult to interpret accurately.

The judiciary must also be cautious when addressing discriminatory practices embedded within religious norms, like gender-based restrictions, aiming to foster social justice without alienating cultural values. Therefore, judicial intervention in religious matters requires a careful, balanced approach that safeguards constitutional rights while respecting the diversity and autonomy of religious practices.

These judgments demonstrate the Supreme Court's crucial role in navigating the complex interface between religion, law, and society, ensuring constitutional values remain paramount. By establishing Interpretative Authority, balanced Constitutional Principles, upholding equality and justice, refining religious autonomy, and protecting fundamental rights.

## **VII. TENSION BETWEEN RELIGIOUS AUTONOMY AND JUDICIAL INTERVENTION**

Religious independence inherently involves a question of Judicial intervention. Because in a democratic country like India, there are always two sides of the same coin. As in this situation, one side of religious communities argues that they should be allowed to define their practices in their respective ways without interference from the secular court. But if we turn the coin around and see the other side the secular courts are tasked with ensuring that religious practices comply with constitutional values and fundamental rights which have been guaranteed by the Constitution itself in our nation.

## A. Criticism of Judicial Intervention

Judicial intervention in religious autonomy in India has been a topic of contention for several decades, with critics arguing that courts have at times overstepped their boundaries. Infringement on Religious Freedom: Article 25 guarantees every citizen the right to freely profess, practice, and propagate religion, subject to public order, morality, and health<sup>28</sup>. However, critics argue that judicial intervention, especially in the interpretation of "public order" and "morality," has constrained these rights.

- **Temple Administration and Religious Autonomy:**

- **State Control of Hindu Temples:** Unlike mosques or churches, thousands of Hindu temples in India are controlled by state governments under various laws, such as the Tamil Nadu Hindu Religious and Charitable Endowments Act. This has led to the judiciary being involved in matters of temple administration and priest appointments.
- **Data on Temple Control:** As of 2017, it was estimated that state governments directly controlled over 100,000 temples across India. This control has been criticized by Hindu organizations that argue the government should not interfere in religious institutions. <sup>29</sup>Judicial intervention in matters of temple management, priest appointments, and revenue usage has sparked significant debates about religious autonomy.
- **Example:** Chidambaram Nataraja Temple Case (2014): The Tamil Nadu government attempted to take over the administration of the Chidambaram Nataraja temple, a prominent Hindu temple. The Supreme Court, however, ruled in favor of the temple priests, asserting that the state had no jurisdiction over temple administration, affirming the autonomy of religious institutions.<sup>30</sup>

- **Gender Equality vs. Religious Traditions:**

---

<sup>28</sup> INDIA. CONST. art. 25

<sup>29</sup> G. Ramesh, Governance and Management of Temples: A Framework IIMB WP No. 621/2020

<sup>30</sup> Dr. Subramanian Swamy v. State of Tamil Nadu Civil Appeal No. 10620/2013

**Sabarimala Verdict** The 2018 Sabarimala judgment is one of the most prominent examples of judicial intervention where the Supreme Court allowed women of all ages to enter the temple, which had previously restricted women of menstruating age.

The National Family Health Survey (NFHS-4) shows that 82% of the Indian population identifies as Hindu, with many adhering to traditional temple practices. The backlash from religious groups highlighted the tension between modern constitutional values and age-old religious traditions.<sup>31</sup>

Despite the Supreme Court's ruling, thousands of devotees protested, and the temple authorities argued that the restriction was based on religious customs, not gender discrimination. This led to widespread unrest and legal petitions challenging the ruling.

- **Statistical Data on Religious Practices**

According to the Pew Research Center's 2021 Report on Religion in India, 84% of Hindus say religion is very important in their lives, while a majority of Muslims (80%) and Christians (76%) share sentiment. This data reflects the deep-rooted significance of religious autonomy in India.<sup>32</sup>

- **Alternative approaches for maintaining balance**

An alternative approach to balancing religious autonomy with judicial oversight involves fostering cooperation and gradual reform, rather than relying solely on court interventions. One effective strategy is the creation of mediation bodies comprising religious leaders, legal experts, and human rights advocates. These groups can collaboratively address conflicts related to religious practices before they escalate to the judiciary, allowing for solutions that respect both tradition and rights. Legislative reforms developed in consultation with religious communities can also be impactful. When

---

<sup>31</sup> National Family Health Survey (NFHS-5) 2019-21, Ministry of Health and Family Welfare Government of India.

<sup>32</sup> Pew Research Center, March 2024 "Globally, Government Restriction on Religion Reached Peak Levels in 2021, While Social Hostilities Went Down [pewresearch.org/religion](https://www.pewresearch.org/religion).

religious groups are involved in drafting laws, they are more likely to support reforms that uphold fundamental rights without compromising their beliefs.

Thus, it can be interpreted that Judicial intervention in religious matters is undoubtedly controversial and a bone of contention but at the same time we need to respect the sanity of the Judicial system and its tendency to walk a fine line between religious tolerance and legal oversight and alternative strategies for the same can help to solve this problem.

## **VIII. BALANCING RELIGIOUS AUTONOMY WITH CONSTITUTIONAL VALUES**

Balancing religious autonomy with constitutional values in India is a delicate and sensitive task. The Constitution guarantees freedom of religion, while also upholding principles such as equality, secularism, and the rule of law. This delicate balance requires ensuring that religious practices do not infringe upon fundamental rights, while also allowing religious groups the autonomy to govern their affairs.

### **A. Constitutional Framework**

The Constitution provides a framework for this balance through provisions such as Articles 25-30, which safeguard religious autonomy subject to public order, morality, and health. The judiciary plays a crucial role in interpreting this balance, often intervening when religious practices conflict with fundamental rights, particularly gender equality, non-discrimination, or public welfare. The Essential Religious Practices Doctrine, introduced in the *Shirur Mutt* case (1954), enables courts to determine which practices are essential to a religion and thus protected under Article 25. However, this doctrine has also been criticized for allowing courts to define religious norms.

- **Secularism Factor**

Indian secularism allows the state to intervene in religious affairs when necessary to ensure equality and justice. The state is not anti-religious but rather treats all religions equally, ensuring that religious practices do not undermine fundamental rights. Tensions arise between equality and religious practices, particularly regarding gender roles,

caste, or ritual purity. Courts have prioritized gender equality over religious customs, such as in the Sabarimala verdict (2018) and Haji Ali Dargah case (2016).

- **Uniform Civil Code**

Furthermore, Article 44 of the Constitution directs the state to work towards a Uniform Civil Code (UCC), which would replace personal laws based on religious practices with a common legal framework for all citizens.<sup>33</sup> Proponents argue that a UCC would ensure equality and gender justice, while opponents see it as an infringement on religious autonomy. The debate around UCC highlights the challenges in balancing religious freedom with constitutional values.

Public order, morality, and health considerations also limit religious practices. For instance, animal sacrifices, harmful rituals, or practices endangering public health have been restricted despite their religious significance.

Indian courts have often faced the complex task of balancing religious autonomy with constitutional values, particularly in cases involving gender equality and individual rights. Key cases such as the *Sabarimala Temple* and *Triple Talaq* decisions highlight this approach. In the *Sabarimala* case, the Supreme Court ruled that prohibiting women from entering the temple violated constitutional rights to equality and dignity, overriding religious customs that were not deemed "essential." Similarly, the *Triple Talaq* case invalidated the practice of instant divorce in Islam, asserting that religious traditions cannot infringe upon women's fundamental rights.

The *Uniform Civil Code (UCC)* debate and the *Haji Ali Dargah* case exemplify the Indian judiciary's approach to balancing religious autonomy with constitutional principles. The UCC, guided by Article 44 of the Constitution, calls for a unified civil code to replace personal laws governed by religious customs, promoting equality and secularism. However, many religious communities view the UCC as an infringement on their right to religious autonomy, particularly in personal matters like marriage, divorce, and

---

<sup>33</sup> INDIA. CONST. art. 44



inheritance. Together, these cases reflect the judiciary's careful navigation between protecting individual rights and respecting religious traditions, aiming to harmonize religious practices with constitutional mandates for equality and secularism.

Ultimately, striking this balance requires nuance, respecting religious traditions while protecting fundamental rights. India's dynamic social fabric and commitment to secularism and diversity make this balance contentious yet crucial.

## **IX. CONCLUSION AND SUGGESTIONS:**

The doctrine of essential religious practices remains a critical aspect of Constitutional law from the year 1954 when it came into existence. While it offers religious autonomy and a framework for the protection of the individual and community religious interest, it also places a significant responsibility on the shoulders of the Judiciary to interpret religious practices and decide whether they are essential or not, based on their constitutional validity. The tension between the two has been in existence from long back past and with every coming year the court faces novel challenges with each successive case. The facts of each case are sui generis, due to which it is unlikely to be resolved definitely.

Ultimately, the judiciary's role in defining essential religious practices must be exercised with proper caution and in decided limits. Courts must respect the autonomy of religious groups while at the same time promising to safeguard individual fundamental rights, this can only be accomplished by maintaining a delicate balance between both religious autonomy and constitutional rights. Courts are required to ensure that the practices that violate constitutional values such as human dignity and equality are not subjected to protection under the doctrine. Looking ahead, as India becomes increasingly diverse and its social fabric continues to evolve, the judiciary will likely face more complex cases that challenge the intersection of religion and constitutional rights.

It is imperative that courts not only apply the doctrine with foresight but also adapt to contemporary societal shifts, keeping in mind the need to protect individual freedoms while respecting the diversity of religious traditions. Future developments may see a

more robust framework for defining essential practices, one that better integrates social progress, human rights, and religious freedoms in an increasingly interconnected world. Thus, it can be said that the future of the essential practices depends upon how well the courts balance these competing interests in a rapidly evolving societal context.

## **X. REFERENCE:**

1. Law Commission of India, "183<sup>rd</sup> Report on General Clauses Act, 1897" (November 2002)
2. National Commission for Women Act, 1990 Act No. 20 of 1990 (India)
3. Bijoe Emmanuel v. State of Kerala, AIR 1987 SC 748
4. Aruna Roy v. Union of India, AIR 2002 SC 3176
5. Commissioner of Hindu Religious Endowments, Madras v. Shri Lakshimindra Thirtha Swamiar of Sri Shiur Mutt, 1954 AIR 282
6. Indian Young Lawyers Association v. The State of Kerala AIR ONLINE 2018 SC 243
7. Shayara Bano v. Union of India and ors. AIR 2017 SC 4609
8. The Durgah Committee, Ajmer and Ors. v. Syed Hussain Ali And Others 1961 AIR 1402
9. Acharya Jagadishwaranada Avadhuta and ors. v. Commissioner of Police (1983) 4 SCC 522
10. G. Ramesh, Governance and Management of Temples: A Framework IIMB WP No. 621/202
11. Pew Research Center, March 2024 "Globally, Government Restriction on Religion Reached Peak Levels in 2021, While Social Hostilities Went Down [pewresearch.org/religion](https://www.pewresearch.org/religion).

12. National Family Health Survey (NFHS-5) 2019-21, Ministry of Health and Family Welfare Government of India.
13. Sanghamitra Padhy “ Secularism and Justice: A Review of Indian Supreme Court Judgement.” *Economics and Political Weekly*, vol.39, no. 46/47, 2004 pp. 5027-32 JSTOR, <http://www.jstor.org/stable/4415807> (accessed Oct. 18,2024)
14. Javed v. State of Haryana AIR 2003 SC 3057.
15. Dr. Noorjehan Safia Niaz v. State of Maharashtra, AIR 2017 (NOC) 45 (BOM.)
16. Himsa Virodhak Sangh v. Mirzapur Moti Kuresh Jamat (2008) 5 SCC 33
17. Ram Prasad Seth v. State of Uttar Pradesh, AIR 1961 ALL 334