

**LOCATING A RIGHT TO “DIGNITY” OF RELIGIOUS DENOMINATIONS: THE
CURIOUS CASE OF SABARIMALA TEMPLE**

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ABSTRACT

The Sabarimala episode provides a wonderful opportunity to rethink the idea of dignity in the context of religious denominations. This essay seeks to delve into the possibility of chalking out a theory for dignity of religious denominations based on the idea of communitarian dignity. Relying on Justice Sikri's construction of 'substantive' or 'communitarian dignity' in the Aadhaar judgment, the author fuses it with noted legal theorist Jeremy Waldron's concept of "group dignity". Using the foregoing scholarship, the author argues for the need for a new theory of dignity of religious denominations. Justice Sikri's postulates of intrinsic value (uniqueness and identity being a part of it), public or group autonomy, and community value form the 'core values of human dignity'. The author argues that these postulates pave the way for making a case for religious denominations as having a dignity of their own, both 'intrinsic' and 'public'. Their dignity forms a core value of their 'identity', and thus is inviolable. A plausible test for the 'balancing' of the communitarian dignity of religious denominations vis-à-vis individual dignity will be one subsumed within the essential practices' doctrine. Upholding of the essential practices would be the touchstone for evaluation of violation of the denominations' dignity.

I. INTRODUCTION

Recently, the Sabarimala temple in Kerala has been a hotbed of protests¹ and a site for contestation of a multitude of arguments in light of the lifting of ban by the Hon'ble Supreme Court of India on women between the ages of 10-50 years entering the temple.² This essay attempts to explore the possibility of making a case in favour of the ban by presenting an argument based on the notions of communitarian dignity through the lens of Hon'ble SC judge Justice Sikri's argument as postulated in the *Justice K.S. Puttaswamy (Retd.) v. Union of India*³ [Aadhaar judgment]. A cautionary note needs to be given at the outset that this would be a purely speculative essay forwarding the arguments of Justice Sikri in order to apply it in the context of religious denominations. The essay consists mainly of three parts: **a)** the idea of communitarian dignity as expounded in *Aadhaar* judgment, **b)** right to practice one's religion as an intrinsic part of human dignity and communitarian dignity of religious denominations and **c)** balancing of dignity of religious denominations vis-à-vis an individual's dignity. At the end of this exercise, the author

¹ *Sabarimala Row Explained: Why were women barred and the ensuing legal battle*, THE ECONOMIC TIMES (Nov. 14, 2019), <https://economictimes.indiatimes.com/news/politics-and-nation/sabarimala-row-explained-why-were-women-barred-amp-the-ensuing-legal-battle/the-2018-judgement/slideshow/72049957.cms>; Kerala Bureau, *1,400 arrested for violence during Sabarimala protest*, THE HINDU (Oct. 25, 2019), <https://www.thehindu.com/news/national/kerala/1400-arrested-for-violence-during-sabarimala-protest/article25325722.ece>.

² R. Krishnakumar, *Flare-up over Sabarimala again after Supreme Court order is interpreted variously*, FRONTLINE (Nov. 27, 2019), <https://frontline.thehindu.com/dispatches/article30096500.ece>.

³ (2019) 1 SCC 1 (India) [hereinafter *Aadhaar* judgment].

tries to establish that the Court should not interfere in religious matters which qualify the test of the essential practices doctrine as it would amount to a violation of the denomination's dignity.

II. THE IDEA OF COMMUNITARIAN DIGNITY

The renowned American political philosopher and public intellectual Michael Sandel conceptualizes a unique theory of communitarianism which could be a good starting point to help us imagine the contours of dignity in terms of the community. He argues for a novel model of the “community that could penetrate the self more profoundly”⁴, such that the community would turn out to be a “mode of self-understanding partly constitutive of the agent's identity”⁵. Sandel's communitarianism does not confine itself to the members of the unit professing communitarian goals and ideas, but rather they have a sense of their identity being defined to some extent by the community itself, of which they are a part.⁶ The community helps in constructing their identity by describing “not just what they have as fellow citizens but also what they are, not in a relationship they choose (as in a voluntary association) but an attachment they discover, not merely an attribute but a constituent of their identity”⁷. The profundity of this insight should not be underestimated in terms of its implications. It can be proclaimed in no uncertain terms that one derives a sense of dignity by the realization of the value of one's identity, and the ‘community’ (especially when it manifests itself in the form of a religious group) plays a significant role in shaping one's identity, as well as helping one in conceive the path to a dignified life.

Now, the author shall give a brief summary and analysis of the concept of ‘substantive or communitarian dignity’⁸ (borrowed from the Universal Declaration of Human Rights model⁹) as described in the *Aadhaar* judgment by Justice Sikri. It shall elaborate upon the substantive or communitarian concept of human dignity which is based on the idea of communitarianism as ‘common good’ or ‘public good’.¹⁰ However, as opposed to the general understanding of the concept, human dignity is being regarded as being intrinsic to the individual rather than being based on a common conception of the community as to what constitutes as dignity. It is only the “realization of intrinsic worth of every human being”¹¹ that the concept stresses upon, and the onus for such a realization is put on the state in most of the cases (in the context of socio-economic rights).

⁴ MICHAEL J. SANDEL, LIBERALISM AND THE LIMITS OF JUSTICE 149 (Cambridge University Press, New York, 2nd ed. 1998).

⁵ *Id.*, at 150.

⁶ *Id.*

⁷ *Id.*

⁸ *Aadhaar* judgment, at ¶114.

⁹ *Id.*

¹⁰ *Id.*, at ¶109.

¹¹ *Id.*, at ¶114.

Therefore, a distinction needs to be drawn between the general postulates of communitarian dignity and the one which is being proposed here in terms of the dignity being intrinsic to every human and realized for the entire community rather than just being defined according to the community. Moreover, it needs to be distinguished from Bentham's theory of 'hedonistic utilitarianism'.¹²

The general understanding of communitarian dignity can be derived from the conception of communitarian morality. Such a notion of what the governing morality should be flows from the community's idea of what constitutes as morality. In a similar manner, dignity which is defined by a society or community in terms of what it thinks dignity should be, would qualify as communitarian dignity. Consequentially, it follows logically that the availability of 'public good' to every individual of the community would define the dignity of every individual of the community. Again, what constitutes as public good would be decided upon by the community itself.

However, what Justice Sikri has proposed in the *Aadhaar* judgment is a very different interpretation of communitarian dignity, wherein he has arrived at an amalgamation of two contrasting interpretations of dignity. The first interpretation is the 'intrinsic dignity' of the individual, while the other is the 'community's values' which define the dignity of an individual.¹³ These two conceptions function as two opposite poles of dignity as a constitutional value, but they have been merged as one single theoretical concept of dignity. The idea of intrinsic dignity has been extended to the entire community as a public good which should be made available to each and every person of the community in order to uphold the communitarian morality. Such an understanding of dignity would serve as a path-breaking notion and help in the furthering of the fundamental human rights to the entire community. Justice Sikri has opened up the possibilities of going beyond the restricted paradigms of individual dignity which views intrinsic worth as being available only to individuals and not to communities. Thus, his conception of dignity beautifully encapsulates both intrinsic as well as communitarian dignity of individuals, and can also be extended to communities. What Justice Sikri promotes in the judgment is essentially a form of 'liberal communitarianism',¹⁴ where the rights of the individual and the community are balanced against each other.

¹² JULIUS STONE, *THE PROVINCE AND FUNCTION OF LAW: LAW AS LOGIC, JUSTICE, AND SOCIAL CONTROL, A STUDY IN JURISPRUDENCE* 267-98 (Associated General Publications, Sydney, 1946).

¹³ Neomi Rao, *Three Concepts of Dignity in Constitutional Law*, 86 NOTRE DAME L. REV. 243-7 (2013) (explaining how individual dignity is in part derived and defined by the community, covered under the rubric of "dignity as recognition").

¹⁴ W. Brugger, *Communitarianism as the social and legal theory behind the German Constitution*, 2 INT'L. J. CONST. L. 440-3 (2014) (discussing liberal communitarianism as a midway between "conservative" and "universalistic egalitarian communitarianism").

But, as already noted, it needs to be distinguished and differentiated from hedonistic utilitarianism as propagated by Bentham and Mill, since the latter does not function on the intrinsic worth of the individual. As lucidly explained in *National Legal Services Authority v. Union of India & ors.* [NALSA judgment],¹⁵ the welfare of the society rather than welfare of an individual is the primary focus of this school of thought. It propounds the maximum happiness for most of the people as a cardinal principle. The *Aadhaar* judgment leans more towards a Kantian notion of dignity wrapped in a communitarian framework. It can be realized that Justice Sikri adopts an interpretation of the Kantian notion as explained in the *NALSA* judgment (along with the way it is expressed in the international human rights regime, such as the Universal Declaration of Human Rights)¹⁶. The reinterpretation of the term “freedom” as not merely meaning the absence of restraint but in terms of attainment of individual perfection was understood as also being a part of the Kantian criterion of ‘justice’. The court noted this reinterpretation to be the ‘second tendency’ of the Kantian criterion. It added that the foregoing trend still holds good.¹⁷ Elucidating further, they recalled that post the Second World War, there was a greater emphasis in drafting of law such as the UN Charter and what followed it. There was a revival of the natural law theory of justice in the united sense that developed after the great world war. Moreover, referring to Blackstone’s opening pages in his ‘Vattelien Fashion’, the court added that the principal aim of a society lies in protecting individuals’ enjoyment of those absolute rights which were vested in them by the ‘immutable laws of nature’.¹⁸

Justice Sikri (after stating the previous discussion from *NALSA* in his judgment) goes on to state that, ‘right to choice’ and ‘right to self-determination’ were accepted as facets of human dignity.¹⁹ He adds that much like the rights of transgenders discussed in *NALSA*, recognition of the foregoing aspects of human dignity would yield happiness to the individuals.²⁰ At the same time, such an approach would also be in public good.²¹ The importance of right to choice and the right to self-determination as a part of human dignity entirely transforms the concept from the question of the requirement of the employment of dignity to achieve the existential minimum, to dignity playing the role of defining an individual’s or a community’s identity, and this is reflected the most in cases involving socio-political and cultural rights.

¹⁵ *National Legal Services Authority v. Union of India & ors.*, (2014) 5 SCC 438 (India).

¹⁶ *Id.*

¹⁷ *Id.*, at ¶108.

¹⁸ *Id.*

¹⁹ *Aadhaar* judgment, at ¶97.

²⁰ *Aadhaar* judgment, at ¶97.

²¹ *Aadhaar* judgment, at ¶97.

Justice Sikri gives content to the concept by recognizing three elements of human dignity; namely, intrinsic value, autonomy and community value, and regards these as the “*core values of human dignity*”.²² He states that it is these elements which have to be considered while exercising legal reasoning while delving upon ‘hard cases’.²³

Intrinsic value of dignity is described as the uniqueness which it assigns to the individual, is anti-utilitarian, and protects the individual against any form of discrimination. Autonomy is regarded as the ‘ethical element’²⁴ of human dignity, which helps an individual realize its self-worth and instils it with the right to self-determination. However, with the growth of the welfare state, this notion of autonomy is expanded to include ‘public autonomy’²⁵ as well. In the context of socio-economic rights, autonomy is seen as the realization of the existential minimum of all the individuals, and both private and public autonomy are dependent on it for their exercise. The last of the core values of human dignity, i.e., community value, is labelled as the ‘social dimension’²⁶ of human dignity, and is supposed to emphasize “*the role of the state and community in establishing collective goals and restrictions on individual freedoms and rights on behalf of a certain idea of the good life*”.²⁷ In order to maintain plurality in a constitutional democracy, this value pushes for the idea of ‘overlapping consensus’²⁸ (as used by John Rawls) in an act of balancing to be done by the court.

Thus, we come up with a triad of values pushing the communitarian doctrine of dignity, and these are uniqueness/identity, autonomy, and plurality. It is this triad which forms the basis of the argument of this essay. The right to assert one’s identity, to be unique and to have autonomy, when clubbed with the right to have self-determination and choice, fostered in a culture espousing plurality, lays the foundations for claiming religious liberty and to assert the intrinsic dignity of religious communities and denominations. Community value of dignity recognizes that the individual is not a separate entity, but is an integral part of the community and survives and sustains itself within the community. So, plurality being an intrinsic part of our community, and our right to assert our religious freedom being a part of our identity and right to self-determination, it becomes imperative that freedom of religion and religious liberty be asserted and assured as a fundamental human right to every citizen and to every religious community. Justice Sikri has arrived at his interpretation of dignity from the human rights model which regards the right to

²² *Id.*, at ¶116.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

religious freedom and liberty as its integral part and one of the most important human rights. As he acknowledges in one of his papers:

“Jurisprudentially, therefore, if some were to argue the question “Why are human rights valid?”, the answer would be that it has roots in human dignity which provides justification for human rights. No doubt, discussion of dignity goes back to Kant, which assumed prominence after the Second World War and in last few decades ‘dignity’ has received much broader meaning. Dignity, as fulcrum of human rights, is not only accepted by jurists, it is given imprimatur by courts as well. This story of human rights, from its inception, hundreds of years ago, finding its roots in ‘dignity’, is beautifully summed up by Professor Dr. A. Lakshminath and Dr. Mukund Sarda in their Article²⁹ in following words:

From exploitation to exploration

From exploration to proclamation

From proclamation to declaration

From declaration to protection

From protection to perfection.”³⁰

III. RELIGIOUS LIBERTY AND HUMAN DIGNITY

This section seeks to explore the moorings of religious liberty in human dignity. It argues that just like any socio-economic right, religious freedom (as a socio-cultural right) should also be considered as an intrinsic part of human dignity as it is an equally essential part of the seamless web of social rights.³¹ Being an intricate and inalienable facet of one’s identity, everyone must have the autonomy to exercise their religious freedom and assert their religious identities.³² Besides, it should also be regarded as a part of the existential minimum required for a dignified life of any individual. The exercise of every individual’s religious freedom demands the state (here, the judiciary) to strike a balance between various contesting rights (overlapping consensus) and to put reasonable restrictions on individual freedoms in order to maintain plurality, which is the very essence of any constitutional democracy.

²⁹ Dr. A. Lakshminath and Dr. Mukund Sarda, *From Human Rights to Human Dignity- An Unending Story*, 5 CNLU L. J. 16 (2015).

³⁰ Justice A.K. Sikri, *Human Dignity as a Constitutional Value*, UNIVERSITY OF HAWAII (Feb. 28, 2020), <http://blog.hawaii.edu/elp/files/2016/06/HUMAN-DIGNITY-HAWAII.pdf>.

³¹ Mark P. Lagon, *Dignity, Pluralism, and Religious Freedom: An Interests-Based Case*, 17 GEO. J. INT’L AFF. 72 (2016); James E. Jr. Wood, *Religious Pluralism and Religious Freedom*, 31 J. CHURCH & ST. 7 (1989); Kathleen A. Brady, *Religious Group Autonomy: Further Reflections about What Is at stake*, 22 J. L. & RELIG. 153 (2006).

³² Andras Zs. Varga, *Personal Dignity and Community*, 6 HUNG. LAB. L. J. 167 (2010); Kevin J. Hasson, *Religious Liberty and Human Dignity: A Tale of Two Declarations*, 27 HARV. J. L. & PUB. POL’Y 81 (2003); Kimberly Younce Schooley, *Cultural Sovereignty, Islam, and Human Rights- Towards a Communitarian Revision*, 25 COLUM. L. REV. 651 (1995).

There is no reason why groups shouldn't be regarded as having intrinsic dignity. On the contrary, as Waldron puts it, a strong argument could be made for groups having a dignity of their own, separated from the idea of individual dignity and the community's notion of dignity and identity built upon it.³³ Waldron strongly asserts that there is no way as a matter of logic that can rule out the idea of inherent dignity of groups, or 'group rights'. He adds that as a matter of liberal dogma, we should not rule out such a possibility. The belief that a given group or community makes a massive contribution to sustaining dignity of its individual members could be the basis of making an argument in favour of the inherent dignity of groups or group rights.³⁴ To quote Waldron, "*It is possible that everything we want to say about the dignity of a people could by some heroic effort of analysis be reduced in the end to an account of the massive contribution that a given community makes to sustaining the dignity of its individual members* [emphasis supplied]."³⁵ Waldron further states that a people *qua* community may have a human importance. This importance could be in terms of culture, identity or destiny which goes beyond what is severally or cumulatively good for the human individuals that it comprises. Such an importance, he adds, cannot be characterized except in 'communal terms'.³⁶ Furthering the possibility of inherent dignity of groups or group rights, he adds that even though groups ultimately are composites of individuals, yet there could be *something* (of importance) in the group that characterizes such a communal dignity. Waldron further mentions that we should be ready to give the best account of this 'something' (if it exists). This best account may be impossible to create without characterizing the existing value in dignitary terms.³⁷

Nonetheless, Waldron also warns about the risks that may be posed by talk of group dignity, *particularly*, when it proves impossible to give a proper account of the importance of a certain sort of group except in terms of group dignity. He cautions that the notion of "group dignity" can be abused, although the potential of abuse does not mean that we must eschew the notion when it is appropriate.³⁸ In order to discuss dangers of this notion, he makes an argument like the moral realists would (in his learned opinion) that the accuracy of a way of characterizing moral phenomena is no guarantee of its harmlessness. *Alternatively*, he adds that even if the foregoing moral realist approach is discarded (i.e., even if one chooses 'value'), then characterizations for pragmatic reason rather than metaphysical ones does not guarantee that the pragmatic reasons

³³ Jeremy Waldron, *The Dignity of Groups*, Acta Juridica NYU L. REV. 66 (2008) (discussing the importance of individual dignity vis-à-vis group dignity).

³⁴ *Id.*, at 83-4.

³⁵ *Id.*, at 83-4.

³⁶ *Id.*, at 83-4.

³⁷ *Id.*, at 83-4.

³⁸ *Id.*, at 83-4.

would all line up tidily on one side.³⁹ Although, even if there are important values endangered by discussing the notion of group dignity, there may be important things to be gained from discussing the notion. In any case, if we are led to the idea of inherent dignity of groups⁴⁰ by our sensitivity to the elements of value involved in these situations, Waldron states that we should be clear-headed about two aspects: *firstly*, the reasons by which we describe things in this way, and *secondly*, the risks and the dangers that such characterizations involve.⁴¹

However, Waldron does not regard the idea of group dignity as a good enough reason to form the basis of religious freedom. Waldron believes that the reasons generally provided to emphasize group dignity and group rights lack substance. He states that in order to sustain rights like freedom of religion, it is unnecessary to talk of group dignity.⁴²

Further asserting his disagreement, Waldron adds that it is unnecessary to believe in ‘group dignity’ in order to ground social and economic rights.⁴³ He asserts that social and economic rights too can be given an individualistic grounding. While he concedes that such a grounding would inevitably appeal to notions of ‘group solidarity’, the understanding of ‘solidarity’ itself is more a matter of mass altruism among individuals. Such an understanding of solidarity does not subscribe to strong valuation of the group considered as an entity apart from the needy individuals who compose the said group. He therefore feels that in order to sustain a sense of altruistic obligation, group dignity is unnecessary.⁴⁴

Moving on, Waldron argues that ‘inherent dignity’ of groups should be discussed for the correct reason, which according to him indicates that there must be ‘something of value’ about groups or something of concern with the ‘human experience’ of groups which cannot be expressed in any other way.⁴⁵

Waldron sums up his position on the subject by stating, “*So: group dignity without identity – that is my slogan.*”⁴⁶ The author would like to register a fundamental disagreement with the rationale forwarded by Waldron for group dignity to not be employed as a basis for religious freedom or for ensuring socio-economic rights (Waldron’s position also goes against Justice Sikri’s theory of

³⁹ *Id.*, at 83-4.

⁴⁰ It is to be noted that while Waldron uses the phrase “inherent group-dignity”, the author is using the phrase “inherent dignity of groups” for the purposes of consistency and continuity.

⁴¹ Waldron, *supra* note 33, at 83-4.

⁴² *Id.*, at 84-5.

⁴³ *Id.*, at 84-5.

⁴⁴ *Id.*, at 84-5.

⁴⁵ *Id.*, at 84-5.

⁴⁶ *Id.*, at 90.

“communitarian dignity”). The mere fact of the ability of accommodation of both the rights within the traditional individualistic framework does not constitute as a rationale reasonable enough for group dignity to not be argued for the same purposes. Moreover, Waldron clearly fails to realize that religious identity of individuals begins as a form of group identity, flowing from the feeling of being a part of a religious group. Religious identity in this sense has historically been a group identity. An individualistic conception of religious identity is a Eurocentric notion which traces its origins in the liberal humanist framework of the Renaissance period.

What is more, the dichotomy created between ‘intrinsic’ and ‘public’ dignity is a false one and collapses when the dignity of an individual is derived from one’s religious identity, which in turn is shaped by the community as much, if not more, by the religious community and its beliefs. The parallels drawn by Waldron between religious communities and political parties as groups are flawed with no grounding in real experiences of people. Religion has always been at the core of our identity and display of solidarity with our religious group has a much larger traction than that with our political affiliation. Waldron’s is an escapist approach to discussing about group dignity in the context of religious communities, perhaps inevitably so, considering the deeply problematic turn that such an approach can take.

Notwithstanding the dangers, as Waldron also notes, group dignity needs to be talked about, especially in the context of religious communities. It is all the more essential to do so in order to safeguard and further the religious freedom of minority groups and religious denominations. We need to acknowledge that the fundamental nature of religious identity makes both ‘group’ and ‘individual’ dignity intrinsic, inseparable and indispensable parts of it. Group dignity is rendered meaningless without identity, as it is identity that registers the uniqueness of every group. It is identity of the group that each individual of the group identifies with and is proud of. The author would like to humbly submit that the content of group dignity is enriched and maximized in the context of religious communities and denominations, and without it these groups lay deprived of their identity and uniqueness, which sounds a death blow to all the abstract talk of pluralism.

A merger of this idea of groups having both public and intrinsic dignity leaves us with two approaches to tackle the Sabarimala controversy. First approach would be an individual advocating the ban on the basis of one’s right to religious freedom being infringed, and thus amounting to a violation of one’s dignity. The second one would be the Ayyapans representing themselves as a religious denomination and claiming their right to exercise their religious liberty as an intrinsic part of their group dignity. Such an assertion would be well within the scope of the idea of

communitarian dignity as propounded in the *Aadhaar* judgment as it does envisage group autonomy and community value which calls for overlapping consensus.

Besides, it upholds uniqueness, identity and plurality as parts of communitarian dignity which would be strong contestations in favour of the Ayyapans (disciples of Lord Ayyapa at the Sabarimala temple) as a religious denomination. It is in the context of the balance being struck between this intrinsic dignity of groups as a form of communitarian dignity and individual dignity, that reasonable restrictions be placed on individual dignity so as to lead to the free exercise of group dignity within the framework of communitarian dignity.

IV. COMMUNITARIAN DIGNITY VIS-À-VIS INDIVIDUAL DIGNITY

The author would like to contend that the content of the dignity of religious denominations should be determined on the basis of an evaluation of the 'essential practices' of that denomination. The essential practices doctrine was first propounded in a judgment delivered by a 7-judge bench of the Hon'ble Supreme Court of India in the *Shirur Mutt* case.⁴⁷ It was held that the doctrines of a religion need to be referred while ascertaining what constitutes the 'essential part' of a religion. It was further held that Article 25(2)(a) does not contemplate regulation by the State of religious practices. The freedom of such practices is guaranteed by the Constitution, except when they run counter to public order, health and morality. On the other hand, the court stated that Article 25(2)(a) intends to regulate activities which are of economic, commercial or political character though they are associated with religious practices.⁴⁸

It was further observed that the Indian Constitution does not confine 'freedom of religion' only to 'religious beliefs'. The Constitution extends freedom of religion to 'religious practices' and subjects it to the restrictions enumerated in the Constitution.⁴⁹ Consequently, aside from these restrictions, a religious denomination or religious organization has complete immunity in the matter of deciding its rites and ceremonies (which are essential according to the tenets of religion these denominations or organizations) under Article 26(b).⁵⁰ Therefore, no outside authority would have any jurisdiction to interfere with decisions of such denominations or organization in their religious matters.⁵¹

⁴⁷ *The Commissioner, Hindu Religious Endowments, Madras v. Shri Lakshmindar Tirtha Swamiyar of Shri Shirur Mutt*, (1954) SCR 1005 (India).

⁴⁸ *Id.*, at ¶ 20.

⁴⁹ *Id.*, at ¶ 23.

⁵⁰ *Id.*, at ¶ 23.

⁵¹ *Id.*, at ¶ 23.

In light of the above, the dignity of religious denomination would flow from the upholding of the essential practices of the denomination. A violation of the latter would consequentially result in a violation of the former, and the members both individually and collectively (as the denomination) would be able to claim remedies and protection against such violations. Therefore, the balancing test should be derived from the essential practices test itself. In case of a claim of violation of an individual's dignity by an essential religious practice, the examination by the courts must be two-fold: firstly, whether the individual has a locus standi (read as maintainability of the claim; see Justice Indu Malhotra's dissenting opinion in the *Sabarimala* judgment⁵²), which should be allowed only when the individual belongs to the denomination. If the first requirement is satisfied, then secondly, the court should examine whether the granting of protection from such a violation would result in a violation of the denomination's dignity, which would be considered violated only if any restriction is placed upon the essential practices of the denomination. In such a scenario, the denomination's dignity would have to be given preference over the individual's claims as its violation would affect the entire people of the denomination at large.

V. AYYAPANS AS A RELIGIOUS DENOMINATION

The last leg of the arguments in favour of the communitarian/group dignity of Ayyapans would be a two-fold exercise. The first would be to demonstrate that the Ayyapans, specifically the believers of Lord Ayyapa at the Sabarimala temple of Kerala, do indeed constitute a religious denomination and do meet the criteria for being qualified to be called as such. The second part would be to prove that the ban placed on the entry of women between the age group of 10-50 years does qualify as a legitimate one on the touchstone of the essential practices' doctrine. This would be done by showing that the ban is a part of their essential practices and thus is an integral part of their faith and can't be lifted or else it would amount to an unreasonable breach of the denomination's religious freedom, faith and conscience, and would thus be a violation of their community's dignity. However, establishing the same would be beyond the scope of this essay.

In arguendo, the author would also like to add that an argument could be made in favour of the dignity of the idol/deity being defined by the religious group's idea of what should constitute as its dignity and the content of the group's dignity being laid down with the dignity of the idol/deity as one of its facets. Thus, the dignity of the denomination would flow partly from the dignity of the religious idol as well.

⁵² Indian Young Lawyers Association & ors. (Sabarimala Temple, in re) v. State of Kerala & ors., (2019) 11 SCC 1 (India), ¶¶ 445-51.

VI. CONCLUSION

Religious denominations, just as individuals, have an intrinsic dignity of their own. The communitarian dignity of religious denominations is not just restricted to their intrinsic dignity, but is rather replenished by an idea of “public good” which tries to achieve the perfection and happiness of the entire community. Plurality calls for a celebration of difference and the balancing of competing interests to establish peace and harmony within the civilizational matrix. The paradigms of dignity are being reconceptualized and redefined, for the vision of a better, happier society. Religious liberty and freedom of denominations needs to be upheld in order to uphold their individual and collective dignity, as the identity and uniqueness of each denomination needs to be celebrated without any discrimination, and only that would be a way for the perfection of the individuals. The review petition of the *Sabarimala* judgment⁵³ has provided the apex court another opportunity to uphold the constitutional values of liberty, autonomy and dignity and thus flourish the plurality of India as a multi-cultural matrix.

⁵³ Kantaru Rajeevaru v. Indian Young Lawyer’s Association Thr. Its General Secretary Ms. Bhakti Pasrija & Ors., Review Petition (Civil) No. 3358 of 2018 (India).