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‘Buried’ Under Public Order: A Critical Analysis of the Ramesh Baghel Case

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ABSTRACT

This paper analyses the split verdict delivered by the Supreme Court in Ramesh Baghel v. State of Chhattisgarh, a case that raised the conflict between an individual's right to dignity and religious freedom and the invocation of “public order” by the State. The primary research question that guides the paper is this: where the State justifies a limitation on fundamental rights by pleading public order, how should the courts reconcile Articles 14, 21 and 25 in a conflict between an individual's autonomy and majoritarian apprehension. The first part lays down the trajectory of Articles 14 and 21, demonstrating that the State's reliance on the maintenance of public order operates as a proxy for communal discomfort rather than a constitutionally verifiable threat. The second part analyses the proceedings before the Supreme Court and the split verdict that resulted, with emphasis on the differing opinions of Justice S.C. Sharma and Justice B.V. Nagarathna and their respective constitutional interpretations, one order-centric and deferential to communal sentiment, the other rights-centric and transformative. The third part dissects the split verdict through the constitutional tests of reasonable classification and proportionality. Through this lens, the paper argues that Justice Nagarathna's reading of the facts aligns with constitutional morality and retains the primacy of individual rights over collective appeasement.

Keywords: Article 21, Public order, Split verdict

I. INTRODUCTION

“There is no crueller tyranny than that exercised under the shield of law and in the name of justice.”¹ Montesquieu

The Constitution of India operates at the intersection of individual rights and collective interests. Articles 14² and 21,³ which guarantee the fundamental right to equality and the right to life respectively, lie at the heart of this tussle. Article 14 requires every individual to be treated equally, while permitting the State to draw reasonable classifications. Similarly, the Constitution

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¹ MONTESQUIEU, CONSIDERATIONS ON THE CAUSES OF THE GREATNESS OF THE ROMANS AND THEIR DECLINE ch. 14 (David Lowenthal trans., Hackett Publ'g Co. 1999) (1734).

² INDIA CONST. art. 14.

³ INDIA CONST. art. 21.

permits the State to restrict the liberty guaranteed under Article 21 according to procedure established by law. These limitations are meant to help the State achieve a legitimate purpose, including the preservation of communal harmony. Together, the two articles are directed at a framework that upholds both individual rights and communal values. The tension between them resurfaces whenever the right to equality runs up against entrenched social norms and the sentiments of a majority towards a minority.

This comment critically analyses the constitutional tension between Articles 14 and 21 and the State's claim to be maintaining public order, through the lens of *Ramesh Baghel v. State of Chhattisgarh*.⁴

Imagine that, immediately after the death of one's kin, the family is denied burial in its ancestral land, severing the deceased from the place that shaped his existence. This comment examines that situation as it arose in *Ramesh Baghel* and the Court's reasoning in adjudicating it. The first substantive part lays down the trajectory of cases concerning violations of the right to equality and dignity that came into conflict with public order. The second part critically analyses the case proceedings and the split verdict delivered by Justice B.V. Nagarathna and Justice S.C. Sharma. The third part scrutinises the split verdict by applying the constitutional tests established in the leading precedents.

II. THE TRAJECTORY OF DIGNITY AND THE RIGHT TO A DECENT BURIAL

A satisfactory assessment of the case trajectory⁵ recognises that the ambit of Article 21 has evolved from a narrow reading to one directed towards autonomy and dignity. The Court's interpretation of Article 21 extends well beyond a strict textual reading of the right to life and personal liberty. In *Kharak Singh v. State of Uttar Pradesh*,⁶ the Court accepted that "life" under Article 21 means something more than "mere animal existence",⁷ and later decisions built on this to recognise a right to a dignified life. The courts that followed included within Article 21 the right to a dignified burial. When a person ceases to exist, he loses his personal rights but continues to possess posthumous rights concerning his body, reputation and estate. These can be read to include a respectable burial, without external hindrance, in accordance with one's familial and customary practices. India, being a culturally pluralistic country, has a plethora of

⁴ *Ramesh Baghel v. State of Chhattisgarh*, 2025 INSC 109 (India), https://api.sci.gov.in/supremecourt/2025/2184/2184_2025_8_1501_58845_Judgement_27-Jan-2025.pdf.

⁵ Sucheta, *Explained | Supreme Court's Split Verdict on a Christian Man's Appeal to Bury Deceased Father in His Native Village*, SCC ONLINE BLOG (Jan. 29, 2025), <https://www.sconline.com/blog/post/2025/01/29/explained-split-verdict-christian-man-burial-father-native-village-sc-legal-news/>.

⁶ *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295 (India).

⁷ *Id.* (quoting Field, J., in *Munn v. Illinois*, 94 U.S. 113 (1877)).

customary traditions with respect to burial, differing by religion, caste and sub-group. This is the root of the friction between an individual's right to dignity and the claims of public life, and of the social disharmony it can generate.

This theoretical understanding must take into account the practice of the Indian courts. In *Ashray Adhikar Abhiyan v. Union of India*,⁸ the Court directly addressed the treatment of the dead. It held that even a deceased homeless person must be treated with dignity,⁹ which would include arranging a burial in accordance with the religious practice of the deceased. The case significantly bridges the gap between legal reasoning and moral sentiment. It highlights that dignity is not a privilege or an earned value but a basic humanitarian necessity included within Article 21. The principle was refined in *Common Cause v. Union of India*,¹⁰ which extended the right to live with human dignity beyond the moment of death. It follows that if the State respects and recognises the right to die with dignity, it must analogously respect a community's burial rites, which fall within the same spectrum.

These cases serve as significant precedents for *Ramesh Baghel v. State of Chhattisgarh*.¹¹ This contemporary dispute revives the question of the right to a dignified burial and raises the further question of whether that right, located in Article 21,¹² can be denied under the wide bracket of "public order". The act of burial does not consist merely of ritual; it carries deep-rooted sentiments embedded in ancestral veneration. The split verdict delivered by Justice S.C. Sharma and Justice B.V. Nagarathna grapples with this dilemma of community sentiment, individual rights and public disorder. When a member of a particular community is deprived of the right to a dignified burial, the deprivation underlines the unequal treatment received by that community as a whole. The verdict therefore raises the question of whether an act of public exclusion can ever positively contribute to public order. The trajectory of Article 14¹³ also exposes a distinct divide within the Supreme Court of India between formal equality and substantive equality. This judicial inconsistency in deliberating such cases produces incoherence among the judges, which in turn leads to arbitrary adjudication.

III. THE SPLIT VERDICT IN RAMESH BAGHEL

Ramesh Baghel v. State of Chhattisgarh marks a crucial development in the constitutional interpretation of the relationship between individual freedom of religion and public order. The

⁸ *Ashray Adhikar Abhiyan v. Union of India*, (2002) 2 SCC 27 (India).

⁹ *Id.*

¹⁰ *Common Cause v. Union of India*, (2018) 5 SCC 1 (India).

¹¹ *Ramesh Baghel*, *supra* note 4.

¹² INDIA CONST. art. 21.

¹³ INDIA CONST. art. 14.

dispute arose from the refusal of the local panchayat to allow a Christian burial in a village in the Bastar region of Chhattisgarh. The appellant, the son of the village pastor, sought to bury his father according to Christian rites in the family's ancestral land in the village. The burial was resisted on the ground that it would disturb local harmony and create "communal tensions", since most residents belonged to a different religion. The objection was driven primarily by members of the Mahra community, who asserted that a Christian burial within the village area violated customary practice. This sentiment within the Mahra community was treated as determinative of public order. The authorities instead pointed the appellant to a designated Christian burial ground in the village of Karkapal, some twenty to twenty-five kilometres from the ancestral land. The appellant approached the High Court, contending that the denial violated his father's constitutional rights under Articles 14, 15, 21 and 25.¹⁴ The Chhattisgarh High Court dismissed the writ petition, relying on the Chhattisgarh Gram Panchayat (Regulating Places for Disposal of Dead Bodies, Carcasses and Other Offensive Matter) Rules, 1999, framed under the Chhattisgarh Panchayat Raj Adhiniyam, 1993, and on the availability of the designated burial ground at Karkapal, and treated the restriction as a reasonable step towards maintaining public peace and harmony.¹⁵ Aggrieved by that decision, the appellant approached the Supreme Court. A division bench of Justice B.V. Nagarathna and Justice Satish Chandra Sharma delivered a split verdict on 27 January 2025, exposing two distinct approaches to the constitutional interpretation of the matter. Because the body had by then lain in a mortuary for three weeks, the bench nonetheless agreed, in exercise of its powers under Article 142, to direct that the burial take place at Karkapal with police protection and logistical support from the State.¹⁶ The case presents an opportunity to examine how the judiciary balances an individual's freedom against the State's regulatory power under the limitation clause of Article 25(1), which makes the freedom of religion "subject to public order, morality and health".

Justice Nagarathna adopted and emphasised a rights-centric and transformative reading of the Constitution. She placed the right to a decent burial within the existing framework of Articles 21 and 25,¹⁷ read with the duty of the gram panchayat under the 1999 Rules to ensure that every dead person of the village is buried promptly, whatever his faith. Her reasoning is consistent with the line of authority running through *Ashray Adhikar Abhiyan* and *Common Cause*: the right to dignity extends beyond life, and the State has a constitutional duty to safeguard the

¹⁴ INDIA CONST. arts. 14, 15, 21, 25.

¹⁵ *Ramesh Baghel*, *supra* note 4, ¶¶ 5–6 (Sharma, J.) (noting the High Court's order dated 9 January 2025 in W.P. (C) No. 125 of 2024).

¹⁶ *Ramesh Baghel*, *supra* note 4, ¶ 3 (Order of the Court).

¹⁷ INDIA CONST. arts. 21, 25.

posthumous religious rights of the deceased. Read alongside *Ram Manohar Lohia v. State of Bihar*,¹⁸ which distinguishes public order from the ordinary maintenance of law and order, her opinion treats the villagers' hostility as a matter for the panchayat and the police to quell rather than as a ground on which the appellant could be excluded. In her words, "Had the village Panchayat quelled the 'aggressive objections' and 'threats to the appellant's family', the matter would have been resolved at the village itself."¹⁹ She further held that the stance recorded in the affidavit of the Additional Superintendent of Police, that a person who has converted to Christianity is not allowed to be buried in the village graveyard, was nothing but a violation of Articles 14 and 15(1). Her interpretation confines State regulation to objectively verifiable threats and narrows the use of public order as a tool of social exclusion.

In a differing opinion, Justice S.C. Sharma adopted an administrative and restraint-oriented approach. Relying on *Rev. Stainislaus v. State of Madhya Pradesh*,²⁰ he reiterated that religious rights are not absolute and must be regulated in the interests of social harmony and public order. He treated local sentiment and administrative prudence as sufficient justification for directing the burial to the designated ground at Karkapal. This reasoning effectively broadened the implications of public order to include potential societal discomfort, elevating collective claims over individual rights.

Read from a constitutional perspective, the verdict crystallises the tussle between collective and individual rights. The split judgment presents "public order" in a conflicting dual role, as a legitimate safeguard of peace and as a licence for social exclusion. It poses a crucial question for constitutional adjudication: whether public order requires an authentic threat to public tranquillity or may rest on the social discomfort of majoritarian sentiment.²¹ When public sentiment overrides constitutional rights, what emerges is not public order but public orthodoxy. Justice Nagarathna's opinion aligns with Ambedkar's vision of the Constitution as the ultimate protection of the individual against the collective. Ambedkar conceived of constitutional morality as a discipline that a people must cultivate rather than a sentiment it may be presumed to hold, a safeguard against what is commonly called the tyranny of the majority.²² Justice Sharma's opinion can be read as reinstating the very social domination that the Constitution was designed to weaken.

¹⁸ *Dr. Ram Manohar Lohia v. State of Bihar*, AIR 1966 SC 740 (India).

¹⁹ *Ramesh Baghel*, *supra* note 4, at 31 (Nagarathna, J.).

²⁰ *Rev. Stainislaus v. State of Madhya Pradesh*, (1977) 1 SCC 677 (India).

²¹ Kale Sanskruti Madhukar, *When Even Death Isn't an Equalizer: A Critique of Ramesh Baghel v. State of Chhattisgarh*, LAW SCH. POL'Y REV. (June 4, 2025), <https://lawschoolpolicyreview.com/2025/06/04/when-even-death-isnt-an-equalizer-a-critique-of-ramesh-baghel-v-state-of-chhattisgarh/>.

²² 7 CONSTITUENT ASSEMBLY DEBATES (Nov. 4, 1948) (speech of Dr. B.R. Ambedkar).

IV. TESTING THE VERDICT AGAINST EQUALITY AND RELIGIOUS FREEDOM

Ramesh Baghel must further be read through the lens of Article 14,²³ which guarantees equality before the law and the equal protection of the laws. In its early years the Court's interpretation of Article 14 deferred to the State's claims of maintaining public order. Yet in *State of West Bengal v. Anwar Ali Sarkar*,²⁴ the Court struck down a law providing for "speedier trial" before special courts on the ground that it rested on an arbitrary classification violating Article 14. This solidified the reasonable classification test, a two-pronged test essential for determining the validity of State action. The test requires, first, an intelligible differentia and, secondly, a rational nexus between that differentia and the object sought to be achieved, such as the maintenance of public order, before the State's decision can be permitted.

Article 14 prohibits discriminatory State action and requires that any differentiation satisfy the test of reasonable classification. Applied to *Ramesh Baghel*, the conclusion is that the panchayat's refusal cannot be sustained constitutionally. The panchayat's stance effectively classified the villagers on the ground of religion: Christians were excluded from burial in the village land while members of other religions were not. This distinction lacks any rational nexus with the stated objective of maintaining public order. There was no evidence of an imminent threat, and the restriction rested purely on social apprehension. Justice Nagarathna's approach fits an equality framework that demands objective justification for any State interference with rights, whereas Justice Sharma's regard for local sentiment leaves room for arbitrary classification. The case illustrates how a liberal reading of "public order" operates as a veil for discrimination and unequal treatment, undermining the substantive equality that Article 14 seeks to secure.

The narrowness of this early approach to Article 14 gave rise to landmark judgments such as *E.P. Royappa v. State of Tamil Nadu*²⁵ and *Maneka Gandhi v. Union of India*,²⁶ which called upon the courts to broaden their review and led to the development of the test of arbitrariness. That test is crucial in determining the validity of State action within the constitutional framework. The Court held that arbitrariness is the antithesis of equality, and the doctrine prevents the State from resorting to discriminatory procedures. Applying the test here, the panchayat's denial of burial is arbitrary. The panchayat's justification falls back on the maintenance of public order, but the rationale behind its stance is neither intelligible nor

²³ INDIA CONST. art. 14.

²⁴ *State of West Bengal v. Anwar Ali Sarkar*, AIR 1952 SC 75 (India).

²⁵ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3 (India).

²⁶ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (India).

rationally connected to that object. To take the analysis further, consider first the intelligibility of the classification. The classification drawn by the panchayat, and accepted by the High Court, distinguishes on religious grounds within the Mahra community and discriminates against its Christian members. Such a classification does not accord with the secular ideals enshrined in the Constitution. It lacks any administrative basis for denying the Christian sub-group its burial rites, particularly where burial in the village had been the historical practice. Secondly, the courts must establish a rational nexus between the classification and the object. Here the reasoning rests on an inherent assumption that permitting the burial would disrupt village solidarity, without considering that what was sought was the fulfilment of a basic humanitarian and constitutional right. The denial of a constitutionally guaranteed right raises questions of administrative overreach, but more importantly it highlights structural arbitrariness on the part of the State. Justice Nagarathna's reasoning strongly aligns with this analysis. Justice Sharma, by contrast, makes formalistic claims about preventing public discontent without demonstrating rationality, reasonableness or non-arbitrariness.

Extending the reasonable classification test in this way, this comment contends that Justice Nagarathna's reasoning is the more constitutionally coherent. Her core premise is that fundamental rights are guaranteed to all individuals and cannot be contingent on ever-changing societal preferences. Her reasoning places the burden of justification on State actors, requiring a demonstrable basis for limiting rights, rather than shifting that burden to the individual to prove that his religious practice will be tolerated. She treats public order as an exception to rights, not as a competing value that can override them on account of sentiment. Justice Sharma's reasoning, on the contrary, allows public order to be invoked on the strength of anticipated discomfort. This permits authorities to validate pre-emptive limitations without any trace of an imminent threat to public order, thereby elevating majoritarian expectations over individual autonomy. Such an approach is liable to transform public order into a mechanism of social veto, diluting the essence of fundamental rights. Justice Nagarathna's opinion preserves the constitutional framework of rights and puts forward a rights-centric methodology.

While the reasonable classification test yields a coherent argument about the State's action, it is criticised for being formalistic and for permitting differential State action whenever even a thin rational link can be found. This comment therefore also evaluates the case under the proportionality test, which examines the reasoning offered by the judges as a constraint on State

power while protecting individual freedom. The proportionality test provides a “heuristic tool” to determine the constitutionality of an action that limits a fundamental right.²⁷

The proportionality test is a cornerstone of this debate. The Supreme Court formally laid down the test in *Modern Dental College & Research Centre v. State of Madhya Pradesh*²⁸ and reaffirmed and elaborated it in *K.S. Puttaswamy v. Union of India*²⁹ and *Anuradha Bhasin v. Union of India*.³⁰ The test ensures that any measure adopted by the State serves a legitimate goal and is not excessive, arbitrary or disproportionate to the goal the State seeks to achieve. It has four limbs. The first is the need for a legitimate aim, which may be public order, health, morality and the like; the panchayat’s claim to be maintaining public order can be treated as a legitimate aim. Secondly, there must be a rational connection between the measure and the objective. The panchayat’s blanket claims were speculative and lacked any rational foundation; they appear to be measures rooted in majority appeasement rather than genuine steps towards communal harmony, and they discriminate against a community that enjoys guaranteed constitutional protection. Thirdly, the measure must be the least restrictive means of achieving the end. The State should have chosen measures such as temporary police protection for the family, or mediation with the villagers, which would have been far less intrusive. The judgment itself records the appellant’s case that he had sought exactly that:

“The appellant then made an application seeking protection and help from the respondent-authorities to ensure the peaceful and honourable burial of his father in the Christian burial area of the village before the Chhindwada Police Station and also made similar applications to the Collector, Bastar.”³¹

This passage shows the appellant’s plea for less intrusive measures from the State. Lastly, the test requires a balance between the objective and the fundamental right: the means chosen must not override the right in a manner that disproportionately harms the individual’s liberty and dignity. On this test, the constitutional reasoning in *Ramesh Baghel* reveals numerous flaws. Although the State’s aim of maintaining public order is legitimate, there is no rational connection between the burial and any disturbance in the public sphere. Justice Nagarathna’s opinion flows from precisely the reasoning the proportionality test demands.

²⁷ Aparna Chandra, *Proportionality in India: A Bridge to Nowhere?*, 3 U. OXFORD HUM. RTS. HUB J. 55 (2020), <https://ohrh.law.ox.ac.uk/wp-content/uploads/2021/04/U-of-OxHRH-J-Proportionality-in-India-1.pdf>.

²⁸ *Modern Dental College & Research Centre v. State of Madhya Pradesh*, (2016) 7 SCC 353 (India).

²⁹ *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1 (India).

³⁰ *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637 (India).

³¹ *Ramesh Baghel*, *supra* note 4, ¶ 14.2 (Nagarathna, J.) (recording the appellant’s case).

To broaden the analytical scope, consider a further perspective. If the deceased had expressly recorded, in a final statement or a will, the wish to be buried in his ancestral land, the constitutional analysis would shift significantly. A burial choice recorded in a will is an expression of posthumous autonomy protected under Article 21.³² Denial of burial in those circumstances would infringe the individual's right to dignity and autonomy, and the panchayat's refusal would override a legally recognised personal mandate without any constitutionally supported justification.

Even in the absence of a will, as in this case, the constitutional question retains its relevance. What happens when Articles 14, 15 and 21 come into conflict with Article 25? The Constitution supplies a clear hierarchy. Article 25(1), the freedom to profess, practise and propagate religion, is expressly "subject to public order, morality and health and to the other provisions of this Part", which include Articles 14 and 21.³³ The Supreme Court in *Bijoe Emmanuel v. State of Kerala*³⁴ reiterated that the freedom under Article 25 operates within that express limitation, and it is this limitation that prevents a community's religious claim from overriding another individual's right to equality and dignity. Therefore, when a court is presented with a conflict between communal religious sentiment and an individual's right to dignity and equality, the Constitution requires that the latter prevail. In simple terms, Articles 14 and 21 protect the person, Article 25 protects religion, and in a conflict constitutional supremacy is accorded to the person.

V. CONCLUSION

Ramesh Baghel v. State of Chhattisgarh broadens our constitutional understanding of the State's power to impose reasonable restrictions. The split verdict exposes a deeper conceptual error in treating public order as holding equal value with, or even overriding, individual dignity and freedom. This is inconsistent with the normative foundations of a constitutional democracy, in which majority rule is constrained by rights. Rights, in Ronald Dworkin's formulation, operate as "trumps",³⁵ designed to protect individual entitlements even where the majority disagrees.³⁶ Justice Sharma's reasoning reverses this relationship by treating rights as contingent on collective sentiment. This undercuts the core philosophical purpose of fundamental rights, which is to shield individuals from the pressures of conformity imposed by social groups.

³² INDIA CONST. art. 21.

³³ INDIA CONST. art. 25, cl. 1.

³⁴ *Bijoe Emmanuel v. State of Kerala*, (1986) 3 SCC 615 (India).

³⁵ Ronald Dworkin, *Rights as Trumps*, in THEORIES OF RIGHTS 153 (Jeremy Waldron ed., 1984).

³⁶ Jamal Greene, *Foreword: Rights as Trumps?*, 132 HARV. L. REV. 28 (2018).

The judgment exposes persistent flaws in Indian constitutional adjudication and raises the dilemma of whether the Constitution protects the individual from the community or whether the community determines the limits of individual freedom. This comment has argued that Justice Nagarathna's interpretation is doctrinally and normatively sound, since it preserves the hierarchy of constitutional values, placing rights first and restrictions after. In contrast, Justice Sharma's reasoning treats public order as a threshold that requires no justification, permitting judicial anticipation to substitute for evidence and majoritarian settlement to substitute for the application of law.

A Constitution founded on pluralism cannot permit anticipated disagreement and apprehension to function as a veto on fundamental rights. If public order is understood as synonymous with majoritarian preference, then every individual's freedom under Articles 21 and 25 becomes contingent on social acceptance. Justice Nagarathna's reasoning averts that erosion by its insistence on proportionality, justification and constitutional morality.
