

JUDICIAL INTERPRETATION AND GENDER JUSTICE IN INDIA: AN ASSESSMENT OF LANDMARK RULING

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ABSTRACT

The term "gender" denotes the socially constructed roles and actions allocated to men and women in a particular society. According to Kofi Annan, "Gender equality is more than a goal in itself. It is a precondition for meeting the challenge of reducing poverty, promoting sustainable development and building good governance." Gender disparity uncovers prejudice against men, women, and transgender people in terms of personality, worth, behaviour, language, employment, status within the home, the community, and faith, among other areas. India is a male-dominated society which assigns to females a subordinate position in the social hierarchy. One way to conceptualize gender justice is as an idea that envisions a society free from prejudice based on gender. The Indian judiciary has initiated proactive stance by their constructive elucidation of the numerous constitutional sections for promoting women's rights, ensuring the legality of multiple laws, and establishing broad principles to actualize the concepts of "women empowerment" and "women's dignity." Although several measures have been made periodically to achieve gender parity, much more needs to be done as India continues to lag behind in the Global Gender Gap Index. One of the Sustainable Development Goals (5 SDGs) of the United Nations (UN) is to uplift all women and girls and achieve gender parity. Hence, the paper attempt to analyse significant rulings to assess how the Indian judiciary has responded to the idea of gender justice.

KEYWORDS: Gender Justice, Judiciary, Indian Constitution, Patriarchy and Marginalisation, Indian Women

INTRODUCTION

"Woman is the companion of man, gifted with equal mental capacities. She has the right to participate in the minutest details in the activities of man, and she has an equal right of freedom and liberty with him. She is entitled to an excellent place in her own sphere of activity as man is in his. This ought to be the natural condition of things and not as a result only of learning to read and write. By sheer force of a vicious custom, even the most ignorant and worthless men have been enjoying a superiority over woman which they do not deserve and ought not to have. Many of our movements stop half way because of the condition of our women."

Mahatma Gandhi

Simone de Beauvoir in her "The Second Sex" remarked that "one is not born, but rather becomes a woman. Gender differences in the society make the man superior through his role as the bread winner. It gives him a position of power in the society and family. Gender differences are set in hierachal

opposition such that men are superior and women are subordinate. Women's position is that of the 'other' and women are the continual outsiders. Civilization was masculine to its very depth" (Beauvoir, 1949). Gender discrimination is the unfair treatment or prejudice of people based on their gender, usually favouring one gender over another. Gender discrimination has historically primarily impacted women, resulting in limited access to education, employment prospects, and political engagement. India is primarily a patriarchal nation in which men rule practically every spheres of society. As per the annual Gender Gap Report, India was ranked at 127 out of 146 nations with regard to gender equality (WEF, 2023). The ideal of gender justice is acknowledged through several international frameworks such as Universal Declaration of Human Rights and, International Conferences on Women. Hence, the human rights for women are an essential, inseparable, and inviolable component of the Universal Declaration of Human Rights. The concern of gender justice is so vital that Fifth Goal of UN Sustainable Development Goals focus upon 'achieving gender equality and empowerment of girls'. Mary Astel rightly remarked that, "If all men are born free, how is it that all women are born slaves?" (Astell, 1996).

In India, systemic impediments and deeply ingrained patriarchal attitudes and practices confront a variety of obstacles that keep women from implementing their legal rights. Sylvia Walby describes it as the "patriarchal mode of production" where Women's labour is confiscated by their spouses and others who reside there (Walby, 1997). It is believed that that, in all facets of life, women and men in early India were treated equally. Nonetheless, later (approximately 500 B.C.), the status of women began to decline.

The makers of the Indian Constitution envisioned and introduced several provisions to establish gender parity in the Indian society (Nithya, 2014). As the defender of the constitution and protector of people's rights, the judiciary has played a decisive role in empowering women and attempting to bring gender justice to society. Justice, M. Hidayatullah remarked that, "Judges try to interpret it (constitution) as a living instrument and not a set of rules. The legislature and the administrative machinery also interpret the constitution but they do so for themselves. Judges interpret not only for themselves but for all" (Khanna, 2002). Nonetheless, there are numerous occasions when inefficient policy implementation and delays in the administration of justice make it impossible to administer justice in the time frame. This paper thus will provide an illustration on the role of Indian judiciary in gender justice.

CONCEPTUALIZING JUDICIARY AND GENDER JUSTICE

In a legal system, it is the judiciary's duty to determine how the law must be interpreted and applied. When it comes to resolving conflicts, upholding the law, and defending people's rights and liberties, the judiciary functions as an impartial arbiter. To promote equality and fairness between people of different genders, the concept of gender justice is crucial. It aims to eradicate prejudices, biases, and inequalities that are ingrained in social, cultural, and economic systems. The term "gender inequality" denotes the unequal opportunities and treatment of people based on their gender. As against men, women have historically experienced prejudice and marginalization. Shulamith Firestone in her book, "The Dialectics of Sex" (1972) elucidated that patriarchy takes advantage of women's natural capacity for reproduction as a basic weakness. She articulates that using technical advancements to free oneself of the responsibility from delivery is the sole way for women to escape this captivity (Firestone, 1972). The notion of performativity that gender is unintentionally performed within prevailing narratives of heteroreality is introduced by Judith Butler in her gender theory (Butler, 1988). Creating a society where people of all genders are treated fairly and have equal access to opportunities, rights, and resources is the core aim of the fundamental principle of gender justice. Fundamentally, gender justice acknowledges

that gender comprises of several identities and expressions and is not merely restricted to binary notions. It promotes the freedom for people to determine and express their gender identification without worrying about prejudice or stigma. This includes transgender and non-binary people, who have long faced societal stigmas and structural obstacles. Addressing all facets of social, economic, and political life is necessary for achieving gender justice.

The judiciary holds a vital position in any democratic society, responsible for upholding the rule of law and ensuring the administration of justice. It serves as a key pillar of democracy by safeguarding individual rights and freedoms, interpreting and applying laws, and resolving conflicts in an equitable and unbiased manner. A key feature of the judiciary is its independence from the other branches of government. This separation of powers ensures that the judiciary can act as a check on potential abuses of authority by the executive or legislative branches. Additionally, the judiciary has a major role in safeguarding the rights and liberties of individuals.

John Rawls' "A Theory of Justice," articulated the notion of distributive justice. His theory seeks to construct a just and equitable society by emphasising the rules governing the distribution of social and economic benefits. According to John Rawls, distributive justice mandates a fair distribution of primary goods: wealth, income, opportunities to obtain desirable social positions, and the social basis of self-respect (Rawls, 1971). The inequalities of outcome between women and men with respect to all these goods could be indicative of gender injustice, especially if gender turns out to negatively influence the women's opportunities to secure desirable social positions (Olsaretti, 2016).

Amartya Sen's Capability approach put forward that social arrangements should be evaluated primarily according to the extent of freedom people have to promote and achieving functions they value. His capability approach is a powerful framework for analyzing and evaluating wellbeing and social justice. It illustrates the impression that the ultimate goal of development societal progress should be to enhance individuals' capabilities, giving them the freedom to lead lives they value (Sen, 2000). Gender justice is an vital part of Sen's capability approach, as he emphasizes the need to address gender disparities and empower women to enjoy equal opportunities and capabilities. He believes that eliminating injustice necessitates a deep awareness of social and economic inequality, as well as actively participating in debates to discover solutions that improve people's capabilities. Sen emphasizes the significance of strengthening women's capacities and eliminating gender gaps in order for them to live lives they value. This necessitates addressing concerns such as unequal access to school,

healthcare, employment, and political engagement that may limit women's capacities. Women's perspectives and experiences must be heard and taken into account while framing guidelines and programmes that affect them (Robeyns, 2003). This approach emphasises the significance of providing an enabling environment for women's economic engagement. Improving women's economic capacities won't be advantageous to them personally, but will also contribute to overall economic growth and development.

Martha Nussbaum, in her book, "Sex and Social Justice", refers to how all human beings, be it male or female, "have a dignity that deserves respect from laws and social institutions" (Nussbaum, 1999). She contends that an impartial society must guarantee that all persons have the means to live a dignified and meaningful life. Martha Nussbaum's gender justice theory focuses on the idea of treating all humans as equals, regardless of gender. She contends that society should provide opportunity for people to improve their skills and live fulfilling lives free of discrimination. She emphasises the importance of fundamental skills such as education, health, and personal liberty, which should be available to all people, regardless of gender. Nussbaum's work on capabilities and human functioning provides an important backdrop for her work on feminism, liberalism, and internationalism within the framework of global economic development (Nussbaum, 1999). Kimberly Crenshaw, through her intersectional theory, highlights how race, class, caste and religious community intersect and are relevant for understanding particular issues related to women (Crenshaw, 2017). Flavia Agnes, in her book, Law and Gender Inequality, explains how discrimination against women is clearly evident when we look at family laws, as they have evolved from a patriarchal position. It is the onus of women to maintain the purity of class, caste and clan, and this often gets exercised through strict sexual control of women (Agnes, 1999).

PTRIARCHY AND MARGINALISATION OF INDIAN WOMEN

In India, systemic impediments and deeply ingrained patriarchal attitudes and practices pose several barriers that prohibit women from enjoying their civil liberties. The process of subordination known as "social closure" occurs when one group monopolizes advantages by denying opportunities to a lower group of outsiders that it considers weak and illegitimate (Azra & Musavi, 2020). As an independent group, women constitute 48.42% of India's total population. According to studies, in all spheres of life, women and men in early India were treated equally. Nonetheless, later (approximately 500 B.C.), the status of women began to decline. Despite the fact that reformatory movements like Jainism permitted women to join religious orders, Indian women were often subjected to

restrictions and confinement. Sati, child marriages and ban on widow remarriages assimilated into Indian society. In the latter half of 19th century, numerous social reformers like Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar, Jyotirao Phule etc. battled to elevate women's status. Sati was abolished as a result of efforts of Raja Rammohun Roy's in 1829. The Widow Remarriage Act of 1856 was a result of Ishwar Chandra Vidyasagar's campaign to better widows' circumstances. Numerous female reformers, including Pandita Ramabai, contributed to the cause of women's empowerment (Nithya, 2014). Personal laws in India, which govern matters such as marriage, divorce, inheritance, and adoption for different religious communities, have substantial consequences for gender justice. While these laws aim to accommodate diverse religious beliefs and practices, they have frequently faced criticism for containing provisions that discriminate against women. These discriminatory provisions perpetuate gender inequality and deny women equal rights and opportunities within their own communities, undermining the principles of gender justice and contributing to the marginalization of women.

According to statistics revealed by the IMF (International Monetary Fund), equality between men and women is in itself an important development goal, and women's economic participation is also constitute a part of the growth and stability equation. In a research conducted by the Inter-Parliamentary Union, India was ranked 149th out of 193 nations in terms of the percentage of women who serve in the lower house of parliament. Women's political participation remains abysmally low in the Lok Sabha as well as state legislative assemblies. As we are aware, judiciary is a patriarchal institution, since 1989, only 10 women have made it to the Supreme Court. Presently, only three female judges of the 33 Supreme Court judges among the total 268 judges in the Supreme Court's history, they constitute 4.1% of all Supreme Court judges (Indian Express, November 26, 2023). According to National Judicial Data Grid, women make up approximately 11% of the total number of judges at the district court level, and around 9.5% at the high court level.

In high court's, 775 Judges are working out of which 106 are women Judges and 669 are male. At present no women Chief Justice is working in any High Court of the country. As per the figures from 15 States released by the Bar Council of India there are 284507 women lawyers enrolled out of the total 1542855 advocates, accounting for 15.31%. Collegium has thus far recommended 192 candidates for the high courts. A total of 37 of them were women. In Subordinate Courts, 30 per cent are women judicial officers. We have seen a steady improvement in the representation of women in the judiciary. But despite recent

progress, bias against women in the legal system still exists (Ministry of Law and Justice, 2023).

CONSTITUTIONAL PROVISIONS ON GENDER JUSTICE

Subject to the law and public morality, the Indian Constitution guarantees "to all the citizens... justice, social, economic, and political; equality of status, opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association, and action". The fundamental law of the land guarantees equality for all, and this makes gender equality an inseparable element of it. The Right to Equality is covered under Articles 14 to 18 of the constitution. It argues that the state cannot deny equal rights before law to any citizen of India. The directive principles of state policy in the Constitution direct the government to endeavour to protect a social order that promotes the wellbeing of all citizens. India's judiciary has played a crucial role in shaping the jurisprudence of distributive justice through landmark decisions that reaffirm the significance of equitable dissemination of resources and opportunities. Reservation policies, such as reservation of seats in educational institutions and government jobs, have been instrumental in offering chances for promotion and addressing various kinds of disparities faced by certain communities. Despite significant progress, distributive justice in India still faces challenges due to socioeconomic disparities, regional imbalances, and unequal access to resources. The effective implementation of distributive justice policies is often hindered by administrative bottlenecks and corruption (Samajpati, 2022). The Legislature brought forth several legislations so to ensure gender parity. Abolition of Sati Act, 1829, Widow Remarriage Act, 1856, Dowry Prohibition Act, 1961, The Workmen Compensation Act, 1921; Payment of Wages Act, 1936; Factories Act, 1948, Minimum Wages Act, 1948, Equal Remuneration Act (1973), The Protection of Women from Domestic Violence Act, 2005, The Maternity Benefit Act, 1961, The Sexual Harassment of Women at Workplace Act, 2013, The Surrogacy (Regulation) Act, 2019, Women's Reservation Bill. The 50% reservation of seats for women in Panchayat bodies with the 73th Constitutional Amendment Act, 1992 etc are notable among them. Women's Reservation Act, 2023 provide 33% reservation for women in the Lok Sabha (House of the People) and state legislative assemblies (GoI, 2023). A number of schemes are implemented by the Government so to achieve gender equality and emancipation of women. Through numerous commissions and committees set up under its constitutional framework, India has made noteworthy advancements in advancing gender justice and women's empowerment. These organizations are essential in promoting gender equality, addressing women's issues, and developing laws to safeguard and advance women's rights.

ROLE OF JUDICIARY IN ENSURING GENDER JUSTICE: LANDMARK RULINGS

The Indian judiciary indeed plays a decisive role in promoting gender justice and safeguarding women's rights. Over the years, it has delivered landmark judgments and legal interventions that have advanced gender equality and addressed discriminatory practices. Through its interpretation of laws, the judiciary has broadened the magnitude of women's rights and challenged discriminatory norms, especially in cases related to sexual harassment, domestic violence, and inheritance. Additionally, the court has played a crucial role in assisting women's empowerment by upholding their property rights, promoting education, healthcare, and employment opportunities, and advocating for increased representation in decision-making bodies through reservation policies.

The legal validity of the Indian Foreign Service (Conduct and Discipline) Rules of 1961 was contested in the C. B. Muthamma v. Union of India (1979) case. The rules stipulated that a female employee must obtain written permission from the government prior to her marriage being solemnized and that she may request to resign from the service at any point after her marriage. The Supreme Court ruled such position as prejudiced against women and called it unconstitutional. It clearly stated that the law of equality must govern (AIR 1868). In the case of Dr. Upendra Baxi & Ors. v. State of Uttar Pradesh (1981), the petitioners had highlighted the appalling living conditions of the girls residing in the Government Protective Home in Agra, as well as the State's denial of their right to a life of basic human dignity. The State Government was given many directives by the court to improve the management of protective homes, including the provision of cooking gas, adequate ventilation, and mosquito netting (SCC 308). Mohd. Ahmed Khan vs. Shah Bano Begum judgement (1985) was landmark. The 1986 passage of the Muslim Women (Protection of Rights on Divorce) Act was an immediate outcome of the considerable influence that the ruling had on the legal landscape. Supreme Court held that "there is no escape from the CONCLUSION that a divorced Muslim wife is entitled to apply for maintenance under Section 125 and that, Mahr is not a sum which, under the Muslim Personal Law, is payable on divorce". The court explained that Muslims were also included by Section 125(3) of the Code of Criminal Procedure. It was emphasized that Section 125 took precedence over Muslim Personal Law in the event of a dispute (SCC 556; AIR 1985). The Shah Bano case illustrated consideration to the subject of gender justice in India, sparking a debate about how to strike a balance between religious freedom and women's rights.

In Mrs. Mary Roy Etc. vs. State of Kerala & Ors. (1986) ruling, the Supreme Court gave Syrian Christian women the power to demand an equal portion of their father's assets. Ms

Mary received justice due to the court's consideration of two crucial Articles of the Indian Constitution, namely, Article 14 and Article 15, which deal with the right to equality and the right against discrimination, respectively. The court proclaimed that no personal law can be prioritized or held above the Constitution of India and hence if any act in an area invalidates the significance and importance of the provisions of the constitution then such a provision shall be held void and therefore must not be applicable (AIR 1986 & SC 1011). This judgement has brought about an important change in the condition of women who were excluded from inheriting their fathers' property. In Delhi Domestic Working Women's Forum vs. Union of India (1995) case, the Court remarked that rape transgressed the fundamental right to live with dignity under Article 21 of the Constitution (AIR 1995 (1) SCC 14). The court mandated the National Commission of Women to prepare a scheme for the rehabilitation of the rape victims and also set up a board for compensating the victims.

In Sarla Mudgal vs. Union of India (1995) case, the court stipulated that unless and until the first marriage is dissolved by decree in accordance with the Hindu Marriage Act, the second marriage will be void. The Court emphasizes the enforcement and implementation of the Uniform Civil Code in India to regulate matters related to marriage, divorce, adoption, inheritance, custody of the child, and other matters related to matrimonial disputes under a uniform law applicable to all religious communities uniformly (1995 3 SCC 635). In Vishakha and others v State of Rajasthan (1997) case, the Supreme Court proclaimed that sexual harassment of working women at their places of employment is a breach of their gender equality and right to life and liberty mentioned in Articles 14, 1 and 21 in the Indian Constitution (AIR 1997 SC 3011). The Vishakha Judgment was followed by some other related judgments like the case of Apparel Export Promotion Council v. Chopra, which emphasized that sexual harassment, is gender based discrimination and quoted the international Labour Organization (ILO) for the same. The lawsuit resulted in the development of the widely regarded Vishakha Guidelines. The Sexual Harassment at Workplace Bill was tabled in the Parliament in 2007 and it was only in 2013 the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act was passed. Following this case, the Supreme Court clearly defined what constitutes "sexual harassment."

Lata Singh vs. State of Uttar Pradesh & another (2006) was a landmark case wherein the Supreme Court responded strongly that a woman should have the freedom to choose and that "she was free to marry anyone she likes or live with anyone she likes" (2006(5)SCC 475). Justice Markandey Katju emphasised that "We sometimes hear of —honour killings of such persons who undergo inter-caste or inter-religious marriage of their own free

will. There is nothing honourable in such killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal-minded persons who deserve harsh punishment. Only in this way can we stamp out such acts of barbarism". In Suchita Srivastava & Anr. v. Chandigarh Administration (2009) case, the Supreme Court proclaimed that "the Pregnancy cannot be terminated without the consent of the victim and the reproductive choice of the victim should be respected" (2009 (9) SCC 1).

Judiciary in Independent Thought vs. Union of India (2013) case held that "Sexual intercourse by a man with his wife, who is below 18 years of age, is rape. A girl child below the age of 18 cannot be treated as a commodity having no say over her body or someone who has no right to deny sexual intercourse to her husband". The bunch remarked that "Human rights of a girl child are very much alive and kicking whether she is married or not and deserve recognition and acceptance" (SCC 800, AIR 2017 SC 4904). In NALSA v. Union of India (2014), the Court held that discrimination on grounds of 'sex' is not just limited to biological sex (male or female), but also includes discrimination on grounds of gender identity and hence, persons who treat themselves neither male nor female (AIR 2014 SC 1863). It also observed that discrimination on grounds of gender identity violates both equality before law and equal protection of law. In R And Another vs. State of Haryana & Others (2016) case, a woman was granted permission by the court to abort her 24-week pregnancy due to medical reasons. Justice S. A. Bobde maintained that "Risk to mother to continue with pregnancy can gravely endanger her physical and mental health". Similarly, S.C Sharma said that: "In case the life of would be mother is in danger she has the right to save her life by abortion the fetus". Shayara Bano vs. Union of India (2016) judgement declared instant Triple Talaq Unconstitutional. The bench not only ruled that the practice was unlawful but also instructed the union government to create the necessary legislation (2017) 9 SCC 1).

In Navtej Singh Johar & Others. vs. Union of India (2016) case, the apex judiciary declared that Section 377 of the Indian Penal Code, 1860, it outlawed sexual relations between adults of the same sex and prohibited physical activity against the natural order, which was unlawful insofar as it outlawed consenting adult sexual relations (AIR 2018 SC 4321). The Court held that denying LGBT people their right to privacy on the grounds that they are a minority would be a violation of their fundamental rights, drawing on its ruling in K.S. Puttaswamy vs. Union of India. Chief Justice Dipak Misra rightly pointed out that "constitutional morality would prevail over social morality to ensure that human rights of LGBT individuals are protected, regardless of whether such rights have the approval of a majoritarian government".

In *Shafin Jahan v. Ashokan K. M. & Others* (2017) case it was found that “Right to change of faith is part of Fundamental Right of choice”. The Supreme Court in *Suchitra Srivastava and Anrs Vs. Chandigarh Administration* (2009) *Meera Santosh Pal V Union of India* (2017) ruled that the right to personal liberty also includes women's reproductive choice. In *Joseph shine v Union of India* (2018), The Supreme Court ruled that Section 198(2) of the CrPC was unconstitutional to the degree that it applied to Section 497, IPC, and invalidated Section 497 of the IPC for violating Articles 14, 15, and 21. This ruling overturned a number of earlier rulings that had maintained the criminality of adultery. The Court upheld the Constitution's basic right to sexual privacy. It was established that Section 497 ignored substantive equality because it upheld the idea that women were not equal partners in marriage and that, in a society and legal system that viewed them as their spouse's property, they were incapable of freely consenting to a sexual act. In India women is usually treated as a property of men (2018 SC 1676). This judgement is significant one against this notion deconstructing the patriarchal notion of objectification of women, where women are treated as the property of her husband.

In the landmark Indian Young Lawyers Association vs The State of Kerala (2018) case, the court announced that the Sabarimala Temple's prohibition on women is unconstitutional and allowed women of all ages to enter Kerala's Sabarimala shrine, ending the long-standing custom of prohibiting menstruation women from entering the temple's grounds. It highlighted that the practice infringed upon Articles 14, 15, 17, 19(1), 21, and 25(1), which guarantee the fundamental rights to equality, liberty, and freedom of religion. As per Articles 14 and 15, any regulations that violate the dignity of women by dividing them will be overturned (2018 SCC OnLine SC 1690). According to former Chief Justices of India, Dipak Misra and Justice D.Y. Chandrachud “social exclusion of women due to their physiological characteristics, such as their menstrual status, was equivalent to a kind of untouchability, stigmatized them, and could not be justified”. The court ruled that everyone has the right to practice their religion, regardless of gender or sexual orientation, under Article 25 of the Indian Constitution. In *Joseph Shine vs UOI*, (2018) case, the Court resolutely reaffirmed that the right to equality (Article 14) guarantees equal protection under the law for men and women alike. This landmark judgment challenged the constitutional validity of Section 497 of the Indian Penal Code (IPC), an archaic law that criminalized adultery. The judgment emphasized the principle of marital equality, treating husbands and wives as equal partners in a marriage, and holding them equally accountable for their actions. The court clearly elucidated that “Husband Is Not the Master of Wife”. Justice Chandrachud remarked that “Section

497 was destructive to woman's dignity and Autonomy is intrinsic in dignified human existence”.

The Court declared in *Kamla Neti (Dead) through LRs versus The Special Land Acquisition Officer & Ors.* (2022) that, “When the daughter belonging to a non-tribal is entitled to an equal share in the property of the father, there is no reason to deny such a right to the daughter of a person of the tribal community” ((2023) 3 SCC 528) In another ruling the Supreme Court proclaimed in *The State of Jharkhand vs Shailendra Kumar Rai @ Panday Rai* (2022) case that “any person who conducts the “two-finger test” or per vaginum examination (while examining a person alleged to have been subjected to a sexual assault) in contravention of its directions shall be guilty of misconduct”. It remarked that this test is patriarchal, has no scientific basis and instead re-victimizes and re-traumatizes women who may have been sexually assaulted, and is an insult to their dignity.

Similarly, in *X V The Principal Secretary, Health & Family Welfare Department Govt Of Nct Of Delhi* (2022) case, it was felt that unmarried women have the right to terminate their pregnancies under Rule 3B of the MTP (Medical Termination of Pregnancy) Rules. In the judgement, the Supreme Court undertook a thorough interpretation of Rule 3B of the 2021 amendment to the Medical Termination of Pregnancy Rules of 2003. It recognised that abortion is a reproductive right and is underpinned by constitutional values such as the right to a dignified existence, the right to privacy, and the right to equality. The bench remarked that “ It is the woman alone who has the right over her body and is the ultimate decision-maker on the question of whether she wants to undergo an abortion Depriving women of autonomy not only over their bodies but also over their lives would be an affront to their dignity”. It recognized that, in accordance with Article 21 of the Constitution, a woman's right to choose her reproductive path is an integral aspect of her personal liberty. It is against an unmarried woman's personal autonomy and freedom to deny her right to a safe abortion (2022 SC 809). In a judgment delivered in *Deepika Singh v. Central Administrative Tribunal and Ors.*, the apex Court of India granted relief to a woman, who had been denied maternity leave on the ground that she had previously availed child-care leave for her two non-biological children. In *Prabha Tyagi V. Kamlesh Devi* (2022) Honourable Supreme Court of India declared that there is distinction between sub-sections (1) and (2) of Section 17 of the Protection of Women from Domestic Violence, 2005. It is held that every woman in a domestic relationship has a right to reside in the shared household even in the absence of any act of domestic violence by the respondent.

CONCLUSION

The journey towards achieving gender justice is a continuing process, and there are challenges and gaps that need to be considered. Gender inequality exists within the judiciary itself, and there have been occasions where the judiciary has taken gender-insensitive stands. Numerous rulings and court pronouncements have had a major impact on the evolution of Indian law pertaining to the protection and uplift of women. To attain true gender justice, it is crucial for the judiciary to remain vigilant and continue evolving its understanding of gender issues. Ensuring gender diversity within the judiciary and fostering a gender-sensitive approach in handling cases is essential to enhance the judiciary's effectiveness in promoting gender justice. Furthermore, sustained energies are needed to bridge the gap between legal provisions and their implementation, ensuring that women's rights are protected effectively in practice. Training and sensitization of judges, lawyers, and court staff on gender issues can further improve the delivery of gender justice. Overall, while the Indian judiciary has made important strides in promoting gender justice, there is still work to be done to create a society where women's rights are fully protected, and gender equality is truly realized. Women's education should be the focus of attention since it is obvious that education is the only thing that allows women to achieve their rights and dignity. It is also important to develop women's independence, self-reliance, and self-propulsion. The most important one is the way society views women needs to be altered. In the words of Justice R. C. Lahoti "Let the issue of gender injustice not be perceived as a war between the two sexes. Long before, when consciousness in society towards gender injustice was not present then resentment on the part of women was justified; but now the approach should be of complementing each other rather than competing on perceptions, which may not be real or may be non-existent. Societal bonds are based upon integration, mutual dependence and respect. They are not just contractual but based on deep organic unity".

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