
JUDICIAL PROCESS AND GENDER JUSTICE @ 75 YEARS OF CONSTITUTION

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ABSTRACT

In this Article, Authors analyses in-depth of landmark Supreme Court cases that have played a crucial role in the advancement of gender equality. Each case marks a significant moment in the legal arena, tackling essential issues like employment discrimination, reproductive rights, and equal pay. The societal contexts in which these cases emerged, and their lasting impacts, we aim to clarify how these judicial decisions have collectively fostered progress toward gender equality. Gaining insight into these important cases allows us to better understand the ongoing battle for equal rights and the vital function of the judiciary in shaping social standards and legal systems. Although some court rulings show a cautious approach to gender justice, the overall trend suggests that the judiciary is trying to protect women's rights while considering public interests. A close look at various court outcomes shows that judges are committed to supporting gender justice. However, achieving true gender justice is still a significant challenge, especially in a society with diverse traditions, cultural practices, and socio-economic issues like poverty, lack of education, and deep-rooted patriarchal norms. Thus, it's clear that achieving gender justice requires more than just legal changes or court decisions; it needs a significant shift in how society views women. This change requires a united effort from the government and active participation from all parts of society to create an environment that truly promotes gender equality and justice

Keywords: Gender Justice, Equality, Women's Right, Discrimination, Judiciary.

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I. INTRODUCTION

Legal Reform regarding women refers to a series of changes in laws and society that happened before formal implementation of constitution, with the aim to improving women's rights and status. These reforms arose from a growing awareness of gender inequality and the need to fight discrimination against women. Important changes included new laws that enhanced women's access to education, property rights, and their role in public life. Many of these reforms came from grassroots movements pushing for women's rights and were influenced by broader social and political shifts, including the rise of feminist ideas. Ultimately, these pre-constitutional reforms set the stage for later constitutional protections, making women's rights an important part of society and the legal system.

In the post-independence period, India's legislation concerning women's rights can be divided into three main categories: social legislations, laws for working women, and laws aimed at preventing violence against women. The early emphasis on social legislations is particularly significant, as it demonstrated the government's commitment to improving women's rights, albeit within a limited framework. The first major Act was passed just seven years after independence, designed to offer justice for women. While reforms to Hindu law were introduced to enhance women's legal rights, they did not achieve full legal equality.

II. JUDICIARY ON GENDER JUSTICE

The vision of true equality and justice in the Constitution feels distant because laws aren't always enforced, and there's a lack of understanding about gender issues that hampers progress. However, the Indian judiciary offers hope, recognizing that while our Constitution and various statutes say we are equal, many women still experience inequality in real life. In the case, *Dimple Singla v. Union of India*³, brought attention to this gap and emphasized the need for a change in attitudes to truly eliminate discrimination against women. This has led to new and creative ways of interpreting women's rights, creating a legal framework that not only protects women but also promotes gender equality and justice. With each positive ruling and each courageous challenge to outdated norms, we are moving towards a new era a hopeful journey towards true gender equality where women can thrive and contribute to society without

³ (2002) 2 A1SLJ 161

the burden of doubt and discrimination.⁴

After the implementation of the Constitution the issue of reserving seats for women in colleges has become a significant topic in legal discussions, particularly through the Bombay High Court's decision in the *Dettatreya v. State of Bombay*⁵ case. The Court ruled that providing specific seats in women's colleges is not against the Constitution, especially Article 15, which prohibits discrimination based on religion, race, caste, sex, or place of birth. The Court explained that setting up colleges just for women is allowed and helps promote gender equality and address the challenges women face in accessing good education. The Court supported these reservations and highlighted the need to create a supportive environment for women, which is essential for their empowerment and progress in education and beyond. The court explained how Article 42 of the Indian Constitution, which requires the government to ensure good working conditions and maternity support for women, relates to Article 15(1), which prohibits discrimination based on sex, among other factors. The court determined that special maternity benefits for women do not violate Article 15(1) and are essential for the well-being of women in a mostly male workforce. This ruling also shows a broader commitment to understanding and addressing the unique difficulties that women encounter, ultimately helping them to participate more fully in different areas of society, including education. The Supreme Court in *Municipal Corporation of Delhi v. Female Workers*⁶ clarified that the maternity benefits given under the Maternity Benefits Act of 1961 apply not just to regular employees but also to casual and daily wage workers in the Municipal Corporation. The court supported the claims of non-regular female workers seeking maternity benefits and emphasized that while Article 42 isn't strictly enforceable, its principles should guide how we assess decisions that might deny maternity benefits. The Supreme Court highlighted the government's duty to protect women workers' rights and ensure their maternity needs are met in labor laws.

The Supreme Court in *Bhagwan v. Kamla Devi*⁷ empowers working women across the country. The court decided that women can seek financial support from their estranged husbands if their income isn't enough to support themselves, even if they have a job. This decision highlights the challenges which many women face in managing work and their personal lives. The court also clarified that being 'unable to maintain herself' doesn't mean a

⁴ Mamta Rao, *Law Relating to Women and Children*. 53 (EBC Lucknow 2005)

⁵ AIR 1953 Bom. 311

⁶ AIR 2000 SC 1274

⁷ (1975) 2 SCC 386

woman has to be completely without money. This is an important change that values the independence of women and ensures they can live with dignity and safety. It emphasizes that not having a lot of money should not take away a woman's rights, promoting fairness and sharing responsibility for financial support, which leads to a more just society for everyone.

In the case of *Mrs. Neera Mathur v. Life Insurance Corporation of India*,⁸ the Supreme Court delivered a significant affirmation of the fundamental right to privacy for female employees, sparking enthusiasm and hope for women's rights in the workplace. The Court's ruling highlighted that probing into a woman's personal life such as asking about menstruation cycles and previous pregnancies during the hiring process not only undermines individual dignity but also constitutes a clear violation of Article 21 of the Indian Constitution, which protects the right to life and personal liberty. This decision marks a remarkable advancement for female empowerment and gender equality. It signifies that women should not have to endure intrusive inquiries to obtain a job, representing a bold move toward dismantling outdated stereotypes and fostering a culture of respect and understanding in the workplace. This judgment emphasizes the importance of privacy as a fundamental human right and paves the way for more compassionate and inclusive employment practices, ensuring that all employees, especially women, can feel safe and respected in their careers. It is an exciting development that resonates with gender justice advocates and reflects a meaningful shift toward acknowledging and respecting women's autonomy in all aspects of life.

The case of *Vishaka and Ors v. State of Rajasthan*⁹ represents a milestone in affirming women's rights in the workplace and ushering in a new era of legal protections against the pervasive issue of sexual harassment. In this case the Supreme Court of India made it clear that sexual harassment is not just a nuisance but a serious violation of personal liberty and dignity, particularly for women. This decision highlighted the essential idea that gender equality is not solely about representation; it also involves the crucial necessity for women to be protected from harassment and to work in environments that honor their dignity, which is a fundamental aspect of human rights. In the absence of specific national legislation addressing this urgent concern, the court courageously referenced the “Convention on the Elimination of All Forms of Discrimination Against Women” (CEDAW) and skillfully incorporated its principles into the context of the Indian Constitution. By aligning these international standards with the

⁸ 1992 SCC (1) 286

⁹ AIR 1997 SC 3011

broader goals outlined in the Preamble, the court developed a forward-thinking and inclusive legal framework that reflects the essence of justice. The court went beyond mere recognition and established a comprehensive set of guidelines aimed at preventing sexual harassment in the workplace, providing a strong foundation for organizations to create safe and respectful environments for women.¹⁰ This ruling is not only a significant victory for women's rights but also serves as a powerful call for cultural transformation that resonates throughout workplaces in India and beyond.

Another issue before the Allahabad High Court in the case of *Ram Raj Rajeswari Devi v. The State of Uttar Pradesh*¹¹, with respect to the U.P. Court of Wards Act, 1912 which is an important law that governs property management and outlines the responsibilities of property owners in Uttar Pradesh. The court had to look at a part of this law that showed gender-based discrimination, leading to an important constitutional discussion. The law stated that a male property owner could only be declared unable to manage his property under specific conditions, with proper notice given to him. In contrast, a female property owner could be declared unable to manage her property for any reason without any prior notice, preventing her from contesting this decision. This difference revealed clear bias against women and raised serious concerns about whether this law violated Article 15(1) of the Indian Constitution, which prohibits discrimination based on sex and other factors. The Allahabad High Court held that this law was fundamentally unfair, as it treated male and female property owners unequally, violating the principles of equality and justice in the Constitution. The court emphasized the need to rethink gender-based differences in property management laws.

The legal validity of Section 437 of the Code of Criminal Procedure, 1973,¹² needs careful review, especially regarding its rule that allows women accused of serious crimes to be granted bail even if there are reasonable grounds to believe they are guilty.

¹⁰ Ibid

¹¹ AIR 1954 All 608

¹² This section states as

“Section 437 – When bail may be taken in case of non-bailable offence

1. When any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but-
 1. such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;
 2. such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more

This provision creates a difference between female and male accused persons, emphasizing the need for gender-specific considerations in the criminal justice system and recognizing the unique challenges women face. In the case of *Choki v. State of Rajasthan*¹³, the Rajasthan High Court supported this provision, referring to Article 15(3) of the Indian Constitution, which allows the state to create special provisions for women and children. This establishes that it is acceptable to treat men and women differently in certain legal situations. The Court acknowledged that Section 437 is not only constitutional but also necessary to address the historic disadvantages faced by women in the legal system. This decision highlights how criminal law in India is evolving, finding a balance between ensuring public safety and addressing the specific realities of gender in the justice system. Section 437 shows a commitment to fairness and justice while protecting women's rights by allowing women accused of serious crimes to have different bail rules.

The Constitution of India, while upholding the principles of equality, does not expressly prohibit employers from considering gender as a factor in employment decisions, particularly when such considerations are implemented in accordance with a legally sanctioned affirmative action plan. In the case of *Vijay Lakshmi v. Punjab University*,¹⁴ it was elucidated that provisions in Rules 5 and 8 of the Punjab University Calendar, Volume III, which mandate the appointment of a female principal at an institution designated for women or require the appointment of female teaching staff, do not contravene Articles 14 and 16 of the Constitution. This is primarily because the classification based on gender is deemed reasonable and is directly linked to the objectives intended to be fulfilled, namely, promoting gender representation in educational leadership roles. The Indian Constitution empowers the State Government to establish special provisions aimed at benefiting women under Article 15(3), thereby allowing for affirmative action designed to address historical injustices and societal imbalances. Notably, this entitlement to formulate specific protective measures is not constrained by Article 16, which deals with equal opportunity in matters of public employment. Hence, it is evident that the Indian Judiciary has undertaken a constructive role in safeguarding and advancing the rights of women within the broader spectrum of societal equity, effectively

occasions of a cognizable offence punishable with imprisonment for three years or more but not less than seven years:

Provided that the Court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is under the age of sixteen years or is a woman or is sick or infirm:

Provided further that the Court may also direct

¹³ AIR 1971 Raj 10

¹⁴ AIR 2003 SC 3331,

contributing to the pursuit of gender justice and the empowerment of women in various spheres of public life.

The case of *Mrs. Mary Roy v. State of Kerala and Ors*¹⁵ marks a significant turning point regarding gender equality in personal laws related to family property. The Supreme Court addressed the long-standing discrimination faced by women in the Syrian Christian community of Kerala, where traditional patriarchal customs limited women's inheritance rights under the outdated "Travancore Syrian Christian Succession Act of 1916" and the "Cochin Succession Act of 1921." Mrs. Roy bravely contested these practices, arguing that they violated the fundamental rights guaranteed by the Indian Constitution, particularly concerning gender equality and women's rights. In this case the Supreme Court declared these historical acts unconstitutional, and reaffirmed the Indian Succession Act of 1925, which provides for equal inheritance rights regardless of gender. The court's deliberations that the Travancore Act, despite its intentions to address succession rights among Indian Christians, inherently perpetuated discriminatory practices against women, particularly in terms of property rights and succession, thus invoking considerations regarding its constitutional validity under Article 14, which guarantees equality before the law.¹⁶ The Supreme Court concluded that the Indian Succession Act, 1925 superseded the Travancore Act as of April 1, 1951, thereby governing all matters of intestate succession for Christians in the specified region and effectively repealing the Travancore legislation.

This decision effectively made the petitioners' claims about the constitutionality of specific provisions of the Travancore Act irrelevant since the court established that the Travancore Act does not align with the Indian Succession Act, thereby affirming the latter's superiority in matters of property succession. This judgment not only reinforced the core principles of equality and non-discrimination embedded in the Indian legal system but also addressed the historical injustices faced by women in the community. By upholding women's legal rights, the decision represents a notable advancement in the quest for gender equality and contributes to the broader movement for women's empowerment in India. The lasting influence of this ruling highlights the judiciary's essential role in addressing outdated legal frameworks that support gender discrimination and emphasizes the ongoing need for advocacy for women's

¹⁵ 1986 AIR 1011

¹⁶ Ibid

rights.

In *Bai Tahira vs. Ali Hussain*¹⁷, the Supreme Court clarified important principles regarding the relationship between divorce, maintenance, and a husband's responsibilities toward his wife. The Court emphasized that "divorce" refers to a scenario where a husband unilaterally instructs his wife to leave their shared home, making any arguments against a wife's right to maintenance—based on a lack of mutual consent to separate—deeply flawed. Upon examining the details of the case, the Court identified a significant failure on the part of the husband to fulfill his duty to provide maintenance, noting that the minimal mehr amount—although legally required as a form of bridal wealth—is insufficient for the wife's livelihood in the urban setting where she lived. The Court concluded that a fair maintenance amount should be determined, referencing Section 127(3)(b), which discusses mehr and can include various assets like money, household goods, or jewelry specified in the marriage contract. Importantly, the Court pointed out that while paying mehr is a customary obligation, it cannot replace the need for maintenance unless it is adequate. The nature of maintenance, as outlined by the Court, is rooted in social welfare principles, indicating that a husband cannot evade his maintenance responsibilities under Section 125 unless he proves he has paid an amount that meets or exceeds the legal maintenance requirements.¹⁸ This judgement enhances women's rights in the context of divorce and sets an important legal precedent regarding maintenance and mehr, underlining the necessity of sufficient financial support to ensure individuals' social welfare after divorce.

In the case of *Mohd. Ahmed Khan vs. Shah Bano Begum and Others*¹⁹ the Supreme Court, highlights and solved the conflict between personal law and statutory provisions regarding the rights of divorced women in India. The Court held that a divorced woman's right to maintenance from her ex-husband depends on her ability to support herself. The husband's financial obligations do not last on completion of the Iddat period, i.e. the waiting period following a divorce. If the woman is unable to sustain herself after this period, she can claim maintenance under Section 125 of the Criminal Procedure Code (Cr. PC), which applies universally regardless of religious background. Traditionally, Muslim Personal Law only provides maintenance for divorced women during the iddat period, leaving them to depend on family or community support afterward. However, the Court further held that denying a

¹⁷ (1979) 2 SCR 75

¹⁸ Ibid

¹⁹ AIR 1985 SC 945

Muslim woman from the protection of Section 125 of the Cr.PC solely because of personal laws would violate the equality principles outlined in Article 14 of the Indian Constitution. Thus, the judiciary's decision in favor of Shah Bano, despite conflicting with personal law, represents a crucial affirmation of women's rights, emphasizing that legal protections should transcend religious boundaries to ensure justice and fairness in India's socio-legal framework.

In *Danial Latifi v. Union of India*²⁰ (2001), the Supreme Court of India looked into the validity of the Muslim Women (Protection of Rights on Divorce) Act, 1986. This law was created to protect the rights of divorced Muslim women regarding their needs after divorce. The court thoroughly reviewed the principles of equality and dignity found in the Indian Constitution, especially focusing on women's rights. It highlighted that the Act should align with the broader goals of gender justice and social fairness as stated in Articles 14 (equality before the law) and 21 (protection of life and personal liberty). The judgment made it clear that the Act goes beyond just providing maintenance; it aims to ensure that divorced Muslim women have a decent standard of living, which includes maintenance for a certain period and support for their well-being after divorce. The court pointed out that the law is important for maintaining the dignity and social status of Muslim women, ensuring their rights are respected and their voices are heard.²¹ The Supreme Court emphasized the need for laws that promote gender equality and address the unfair treatment that women often face in divorce situations. This ruling reinforced the idea that personal laws must meet constitutional standards to ensure justice in a diverse society.

A revolutionary approach of Supreme Court may be seen in the case of *Shayara Bano v. Union of India*²² in 2017, with respect to the practice of instant triple talaq, commonly referred to as "talaq-e-bid'ah," by declare it unconstitutional, thereby underscoring the imperative of gender justice for Muslim women within the Indian legal framework. The petition filed by Shayara Bano, along with several other Muslim women, challenged the validity of this archaic practice, which permitted a husband to unilaterally and irrevocably divorce his wife by pronouncing "talaq" three times, often without any prior notice or justification. The Court's deliberation centered around the principles of equality, non-discrimination, and the fundamental rights enshrined in the Indian Constitution, particularly Articles 14 and 15, which

²⁰ AIR 2001 SC 3958,

²¹ Ibid

²² AIR 2018 SC (CIVIL) 1169

advocate for equality before the law and prohibit discrimination on the grounds of religion.²³ The Supreme Court not only emphasized the necessity of upholding women's rights but also sought to promote reform within personal laws, thereby ensuring that Muslim women are afforded the same legal protections and social dignity as their counterparts in other religious communities. This judgement was step towards dismantling patriarchal norms embedded within certain interpretative frameworks of Islamic law, paving the way for a more equitable discourse on women's rights in the socio-legal landscape of India. In so doing, it illuminated the need for a comprehensive dialogue on reformative measures that align religious practices with contemporary notions of justice and equality, thereby reaffirming the Court's role as a guardian of constitutional values and an advocate for women's empowerment.

The Supreme Court of India in the case of *Yousuf Abdul Aziz v. State of Bombay*,²⁴ upheld the constitutionality of Section 497 of the Indian Penal Code (IPC), which imposes penalties solely on men involved in adultery, while exempting women from similar repercussions. This judgment was based on the interpretation of Article 15(3) of the Indian Constitution, which permits special provisions for women and children, thus justifying the unequal legal treatment implied by this section. In a related case, *Sowmithri Vishnu v. Union of India*²⁵, the court discussed societal views that often portray men as the aggressors when it comes to seduction, further entrenching the idea that women are seen as victims rather than offenders in adultery cases due to their assumed lesser inclination towards such behavior. The judiciary expressed that "the wife is a victim and not the author of the crime," reinforcing a patriarchal viewpoint that places women in a subordinate legal position and reflects wider societal perceptions of gender relations. These rulings provoke important discussions about the consequences of maintaining discriminatory legal standards and their alignment with contemporary ideals of gender equality and justice.

Finally Section 497 of the Indian Penal Code (IPC) and Section 198(2) of the Criminal Procedure Code (CrPC), were invalidated by the Supreme Court in the landmark ruling of *Joseph Shine v. Union of India*²⁶. It is essential to recognize that, historically, the offense of adultery was perceived primarily through the prism of property rights belonging to the husband rather than as a matter pertaining to the sanctity of the marital union itself. This archaic

²³ *Ibid*

²⁴ AIR 1954 SC 321

²⁵ AIR 1985 SC 1618

²⁶ AIR 2018 SC 4898

viewpoint not only underscores a significant legal bias but also reveals a fundamental inequity embedded in the legal framework, whereby women were entirely exempt from culpability under these provisions, thus treating them effectively as chattel rather than autonomous beings entitled to agency and dignity. The Supreme Court's decision to strike down these sections was predicated on their violation of core constitutional principles enshrined in Articles 14 (right to equality), 15(1) i.e. prohibition of discrimination, and 21 i.e. right to life and personal liberty, thereby highlighting the arbitrary and discriminatory nature of requiring only the husband to initiate legal proceedings for adultery, an exclusion that denied women equal access to legal recourse. Moreover, the judgment poignantly illuminated how prevailing sexual norms, reinforced by such statutes, inadequately reflect the nuanced and multifaceted realities of marital relationships where the act of adultery may often signify deeper relational dysfunctions rather than mere moral transgressions. The historical context surrounding Section 497 serves as a stark reminder of the patriarchal framework that has historically governed matrimonial laws, wherein the rights of women were severely curtailed and relegated to an ownership status under their husbands. Furthermore, it is noteworthy that, in alignment with global trends, the criminalization of adultery has been increasingly reconsidered, with numerous nations gravitating towards its recognition predominantly within civil jurisdictions, such as divorce proceedings, which signals a broader movement towards ensuring equitable treatment in matters of marital fidelity.

The case of *Air India v. Nargesh Meerza*²⁷ supreme court overlooked employment law and constitutional rights in India, particularly regarding gender equality and workplace discrimination. The Court examined the legitimacy of certain Air India regulations that set the retirement age for flight attendants and included a contentious pregnancy bar that hindered the continued employment of air hostesses once they became pregnant. The Court ruled that these regulations were unreasonable, arbitrary, and violated Article 14 of the Indian Constitution, which guarantees equality before the law and prohibits gender-based discrimination. By invalidating these provisions, the Supreme Court emphasized the importance of creating a workplace environment that respects the dignity and rights of all employees, regardless of gender. This decision had significant implications for corporate employment policies and contributed to the broader conversation about women's rights in the workforce, prompting a reconsideration of practices that hinder equality and fairness in professional environments.

²⁷ (1981) 4 SCC 335

In the significant case of *Air India Cabin Crew Association v. Yeshaswinee Merchant*²⁸ the Supreme Court of India clarified important interpretations of Articles 15 and 16 of the Indian Constitution. The Court emphasized that these articles clearly prohibit discrimination based on sex while also allowing for measures that provide preferential or special treatment to women to promote substantive equality. The ruling underscores the importance of acknowledging the socio-economic challenges women face and supports positive actions aimed at addressing these inequalities and creating an environment that empowers women. The judgment affirms that the state not only has the authority but also the responsibility to implement strategies that improve women's representation and participation across various sectors, ensuring their rights and opportunities are protected. Such judicial decisions reinforce the idea that affirmative action should not be viewed as a breach of equal treatment but rather as an essential tool for promoting the principles of justice and equality embedded in the Constitution. This approach contributes to the broader objectives of social reform and the upliftment of historically marginalized groups in society.

In the case of *Bodhisattva Goutam v. Subhra Chakraborty*,²⁹ the Supreme Court clearly expressed the significant legal and moral consequences of rape, framing it not just as a breach of the Penal Code but as a serious violation of a woman's inherent right to live with dignity and exercise personal freedom. The Court highlighted that this crime goes beyond mere criminality, characterizing it as an infringement on fundamental human rights crucial for individuals' existence and well-being in society. This judgment reaffirmed that the horrific act of rape destabilizes the core foundation of a woman's life, particularly violating her right to life as guaranteed by Article 21 of the Constitution. By linking legal definitions of crime to the concepts of human dignity and personal autonomy, the ruling not only stresses the necessity for strong legal protections against sexual offenses but also advocates for a broader societal recognition of each individual's intrinsic value, thus enriching the conversation around women's rights and human rights overall.

In the landmark case of *State of Maharashtra v. Madhukar Narayan*,³⁰ the Supreme Court of India explicitly upheld the principle that all individuals, regardless of their social status or moral standing, are entitled to the fundamental rights outlined in Article 21 of the Indian

²⁸ 2003 (6) SCC 277

²⁹ AIR 1996 SC 922

³⁰ AIR 1991 SC 207

Constitution, which guarantees the right to life and personal liberty. The Court emphasized that women involved in prostitution, often disparagingly referred to as "women of easy virtue," should not face violence or exploitation because of their chosen profession. By declaring that no one has the right to assault or rape these women, the Supreme Court reinforced the importance of personal dignity and autonomy while also highlighting society's responsibility to protect the fundamental human rights of all women, irrespective of their circumstances. This judicial decision serves as a vital reminder of the need to eliminate systemic biases and advocate for the rights of marginalized individuals, thereby establishing a precedent that affirms the intrinsic value of every human being and the universal principle that justice and protection must be accessible to all, especially those who are frequently silenced in society.

In the landmark judgment of *Chandrima Das v. Chairman, Railway Board*³¹ the Supreme Court offered a significant interpretation of the term 'life' as outlined in the Universal Declaration of Human Rights, emphasizing that its meaning should be consistent with the broader interpretation found in Article 21 of the Indian Constitution. The court highlighted that the definition of life should not be restricted to mere biological survival but should include essential aspects such as personal dignity, bodily integrity, and the right to security. It acknowledged that violating these crucial components seriously undermines an individual's right to live with dignity. In a crucial assertion, the court established that rape is a serious violation not only of a woman's bodily autonomy but also of her fundamental right to life, which encompasses more than just the absence of physical harm it also includes emotional and psychological well-being. As a result, this landmark ruling reaffirms the state's obligation to protect its citizens from violence and uphold the sanctity of their fundamental rights, further solidifying the judiciary's role as a protector of human rights, especially when legislative measures may be insufficient.

The case of *C B Muthamma v. Union of India*³² was another moment in India's journey toward gender equality as stated in the Constitution. The Supreme Court examined certain rules from the Indian Foreign Service (Conduct and Discipline) Rules, 1961, particularly rule 8(2) and rule 18(4), which were challenged for being unfair to women. Rule 8(2) required female officers to get permission from the Government before marrying and allowed the Government to force them to resign if they felt that marriage would interfere with work. Rule 18(4) banned

³¹ AIR 2000 SC 988

³² 1979 (4) SCC 260

married women from being appointed to the service, thus harming their career opportunities. C B Muthamma, the petitioner, expressed her concerns, saying these rules not only caused her personal distress but also created a culture of discrimination during her career, especially from officials in charge of hiring and promotions. In a landmark decision, the Supreme Court ruled that these rules violated the equality principles laid out in Articles 14, 16, and 21 of the Constitution. Justice Krishna Iyer emphasized the neglect of women's rights and the failure to apply the core values of equality and non-discrimination to a significant part of the population. This case highlighted the urgent need for changes in unfair policies and reinforced the importance of ensuring that laws reflect the values of gender equality in India.

III. CONCLUSION

The judiciary serves as a significant source of law, playing an important role in the legal framework of a society. While its primary function is to interpret and apply existing laws, there are instances where the judiciary takes on a more proactive role in the pursuit of justice. In cases where statutory provisions may be ambiguous or inadequate to address specific circumstances, the courts may issue guidelines or establish legal precedents that effectively frame new laws. This judicial creativity not only ensures that justice is served in individual cases but also contributes to the evolution of the legal system, reflecting societal values and addressing emerging issues. Thus, the judiciary not only interprets the law but also actively participates in its development, ensuring that it remains relevant and just in a changing world.

Gender justice in India is a complex issue influenced by various legal, social, economic, and cultural factors. There are still challenges deeply rooted in the patriarchy of society. These include problems with implementing laws effectively, delays in the judicial system, and gaps in the law like the lack of criminalizing marital rape. Social issues include traditional gender roles, gender-based violence, and educational disparities. Economic challenges involve inequality in the job market, limited financial opportunities for women, and the burden of unpaid work at home. Cultural challenges include gender stereotyping in the media, intersections with class and caste, and restrictions on women's rights due to religious practices. It is important to address these issues in order to advance gender justice in India.