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## LAW AND SOCIAL CHANGE

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## I INTRODUCTION

THE NEED for a law emerges from the need to tackle or address certain social needs. The main intention of law is to ensure welfare to the people and provide justice to them. Thus, laws are made to guarantee and protect rights of individual. The rights protected by the state aims towards providing a sense of equality, freedom and empowerment. Laws are also made to adjudicate disputes among people cohabiting in the society and while resolving the dispute to ensure that justice has been served.

With changing times, the needs of the society changes. To keep abreast of the changing needs of the society, it is required that the law adapts itself. If a law becomes static and resists change, the law becomes ineffective and loses its significance. Thus, it is important to understand that the importance of law lies in the fact that it is an instrument of social change that makes the society better, egalitarian, inclusive and removes evil, inhuman practises that prevails in the society.

The attempt in this survey is to study and analyse important judgements that has been delivered by the apex court in India which had made a significant impact in the society. The judgments included in the survey have been diligently picked up. Only those judgments that have given a new perspective to an already existing right or judgments which have recognised rights which were lacking in the society have been included. Also, judgments providing important directions for effective implementation of certain laws which has a deep impact on society and individuals living in the society has been included.

This survey, thus, includes leading judgements protecting women and children rights, rights of marginalised and vulnerable communities, be it LGBT, SC and STs, HIV + patients. Leading judgments on eradication of manual scavenging, protection of animal rights etc. have also been included. Lastly, the social concerns that bother us all, that is, leading cases on environmental matters in 2023 have also been included in the survey.

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## II WOMEN RIGHTS

**Women and right to health**

In the case of *Narendra Gupta v. Union of India*,<sup>1</sup> a public interest litigation was filed regarding “unnecessary hysterectomies” which were performed on women under various government schemes,<sup>2</sup> particularly on those women who came from marginalized communities. The petitioner highlighted systemic malpractice in Bihar, Rajasthan and Chhattisgarh where women underwent unwarranted surgical procedures that could have been avoided with alternative treatments thereby posing serious threats to their health. The Supreme Court found substance in the allegations and found that ‘there has been a serious violation of the fundamental rights of the women who underwent unnecessary hysterectomies.’ The court while giving the judgment noted that:<sup>3</sup> “Guidelines which have been adopted by MoHFW to prevent unnecessary hysterectomies must be adopted by all the States and Union Territories. MoHFW shall engage with all the States and Union Territories to ensure that the Guidelines are adopted expeditiously. Further, the court directed that, “a. All States and Union Territories shall adopt the Guidelines within three months and report compliance to MoHFW; b. All the States and Union Territories shall implement the Guidelines without delay and report compliance to MoHFW; and c. All the States and Union Territories shall ensure that all public and private hospitals within their territories are made aware of the existence and importance of the Guidelines.”<sup>4</sup>

The court also stated that, “States and Union Territories must take stringent action for blacklisting hospitals once it is detected that any unnecessary hysterectomy was carried out or that the procedure was taken recourse to without the informed consent of the patient.”<sup>5</sup> It further directed that necessary action be taken in accordance with law. The court agreed the suggestions put forward by the appellants, including “requiring certifications by multiple doctors for hysterectomies regardless of the woman’s age and blacklisting hospitals performing unnecessary procedures without informed consent.”<sup>6</sup>

The judgment reinforced women’s right to informed and ethical healthcare while urging stringent action against erring medical establishments. It also underscored the importance of safeguarding the rights of underprivileged women, who are disproportionately affected by such practices.

**Sexual harassment of women in workplace**

In the case of *Union of India v. Dilip Paul*,<sup>7</sup> allegations were made against the respondent who was a retired Deputy Inspector General (DIG) of the Service

1 Writ Petition (Civil) No. 131 of 2013.

2 Rashtriya Swasthya Bima Yojana

3 *Supra* note 1 at para 13.

4 *Ibid.*

5 *Ibid.*

6 *Supra* note 1 at para 14, 15 and 18.

7 Civil Appeal No. 6190 of 2023.

Selection Board (SSB). The initial complaint that was filed against him was by a female employee serving as a Field Assistant in the SSB alleging multiple instances of sexual harassment between 2011 and 2012. The fact-finding inquiry and a Frontier Complaints Committee inquiry did not substantiate the allegations but the Ministry of Home Affairs constituted the Central Complaints Committee (CCC) which found him guilty of sexual harassment. Thus, a penalty was imposed, withholding 50% of his pension indefinitely. Aggrieved, an appeal was made in the High Court of Gauhati, which set aside the disciplinary authority's order. On appeal, the Supreme Court while disagreeing with the judgment of the high court agreed with decision of the disciplinary committee and held that although procedural rules are important but minor deviations cannot make the disciplinary proceedings invalid. Also, the court quoting many leading judgments including the *Apparel Export Promotion Council v. A.K. Chopra*,<sup>8</sup> held that, "...inquiries in respect of sexual harassment must be examined on broader probabilities keeping in mind the entire background of the case. Thus, in a disciplinary inquiry, the standard of proof is preponderance of probabilities and the courts must only interfere where the findings are either perverse or based on no evidence at all."<sup>9</sup>

This is a landmark judgment as it establishes the 'Standard of Proof for Complainants Committees which inquire into Sexual Harassment Cases.'

In the case of *Aureliano Fernandes v. State of Goa*,<sup>10</sup> another sexual harassment case was decided by the Supreme Court. In this case, the petitioner was a lecturer at Goa University who challenged his dismissal from his position. Many complaints of sexual harassment were registered against him by multiple students. A disciplinary committee was appointed which conducted an inquiry and recommended his termination. The termination was accepted by the executive council of the university and later upheld by the Governor as the appellate authority. A challenge was made against his dismissal in the high court which dismissed his petition. Against this order of the high court an appeal was made to the Supreme Court that his dismissal was illegal as the disciplinary committee which found him guilty was unfair and bias. He also stated that the procedure followed by the committee were not proper and natural justice principle of *audi alteram partem* was not followed. Thus, he alleged that 'the procedural norms under the Central Civil Services (Classification, Control, and Appeal) Rules, 1965 (CCS (CCA) Rules)<sup>11</sup> were not strictly followed.'

The Supreme Court examined the procedural and substantive aspects of the inquiry. It reviewed the 'interplay of Articles 309, 310, and 311<sup>12</sup> of the Constitution, emphasizing the importance of natural justice, impartiality, and procedural fairness in disciplinary proceedings.' The court in this case found that natural justice

8 AIR 1999 SC 625.

9 *Supra* note 7 at para 93.

10 Civil Appeal No. 2482 of 2014.

11 Central Civil Services (Classification, Control and Appeal) Rules, 1965.

12 The Constitution of India, arts. 309, 310, 311.

principle was not followed and held that, “There is no doubt that matters of this nature are sensitive and have to be handled with care. The respondents had received as many as seventeen complaints from students levelling serious allegations of sexual harassment against the appellant. But that would not be a ground to give a complete go by to the procedural fairness of the inquiry required to be conducted, more so when the inquiry could lead to imposition of major penalty proceedings.”<sup>13</sup>

The Supreme Court emphasised that “Rule 14(2) of the CCS (CCA) Rules, which enjoins the Complaints Committee to hold an inquiry into the complaint of sexual harassment, as far as practicable, in accordance with the procedure laid down in the Rules”<sup>14</sup> was important and observed that “the proceedings conducted by the Committee with effect from the month of May, 2009, fell short of the as far as practicable norm prescribed in the relevant Rules. The discretion vested in the Committee for conducting the inquiry has been exercised improperly, defying the principles of natural justice.”<sup>15</sup> Thus, the Supreme Court sent the matter back to the disciplinary committee to hold the proceeding as per norms.

This case is very important as it also issues directions<sup>16</sup> to fulfil the promises made by the PoSH Act. It also directed that the Union Government and the state

13 *Supra* note 10, para 72 of case.

14 *Id.*, para 24.

15 *Id.*, para 73.

16 (i) The Union of India, all State Governments and Union Territories are directed to undertake a timebound exercise to verify as to whether all the concerned Ministries, Departments, Government organizations, authorities, Public Sector Undertakings, institutions, bodies, etc. have constituted ICCs/LCs/ICs, as the case may be and that the composition of the said Committees are strictly in terms of the provisions of the PoSH Act.

(ii) It shall be ensured that necessary information regarding the constitution and composition of the ICCs/LCs/ICs, details of the e-mail IDs and contact numbers of the designated person(s), the procedure prescribed for submitting an online complaint, as also the relevant rules, regulations and internal policies are made readily available on the website of the concerned Authority/Functionary/ Organisation/Institution/Body, as the case may be. The information furnished shall also be updated from time to time.

(iii) A similar exercise shall be undertaken by all the Statutory bodies of professionals at the apex level and the State level (including those regulating doctors, lawyers, architects, chartered accountants, cost accountants, engineers, bankers and other professionals), by Universities, colleges, Training Centres and educational institutions and by government and private hospitals/nursing homes.

(iv) Immediate and effective steps shall be taken by the authorities/ managements/ employers to familiarize members of the ICCs/LCs/ICs with their duties and the manner in which an inquiry ought to be conducted on receiving a complaint of sexual harassment at the workplace, from the point when the complaint is received, till the inquiry is finally concluded and the Report submitted.

(v) The authorities/management/employers shall regularly conduct orientation programmes, workshops, seminars and awareness programmes to upskill members of the ICCs/LCs/ICs and to educate women employees and women’s groups about the provisions of the Act, the Rules and relevant regulations.

governments take affirmative action and make sure that the altruistic object behind enacting the PoSH Act is achieved in real terms.

### **Women and maternity benefits**

In the case of *Kavita Yadav v. The Secretary, Ministry of Health and Family Welfare*,<sup>17</sup> the issue before the Supreme Court was whether the benefit under the Maternity Benefit Act can be extended to a contractual employee beyond the employment duration. It addresses the issue on the applicability of the Maternity Benefit Act, 1961,<sup>18</sup> to a contractual employee whose term of employment ended during the period of maternity leave. The judgment focuses on whether maternity benefits under the Act extend beyond the duration of employment. The appellant was appointed as a senior resident in a super specialty hospital under a contractual employment. Her appointment letter specifically mentioned that her employment was “purely temporary and as per the residency scheme, such appointment was initially to be for a period of one year, extendable on yearly basis upto a maximum

(vi) The National Legal Services Authority (NALSA) and the State Legal Services Authorities (SLSAs) shall develop modules to conduct workshops and organize awareness programmes to sensitize authorities/managements/employers, employees and adolescent groups with the provisions of the Act, which shall be included in their annual calendar.

(vii) The National Judicial Academy and the State Judicial Academies shall include in their annual calendars, orientation programmes, seminars and workshops for capacity building of members of the ICCs/LCs/ICs established in the High Courts and District Courts and for drafting Standard Operating Procedures (SOPs) to conduct an inquiry under the Act and Rules.

(viii) A copy of this judgment shall be transmitted to the Secretaries of all the Ministries, Government of India who shall ensure implementation of the directions by all the concerned Departments, Statutory Authorities, Institutions, Organisations *etc.* under the control of the respective Ministries. A copy of the judgment shall also be transmitted to the Chief Secretaries of all the States and Union Territories who shall ensure strict compliance of these directions by all the concerned Departments. It shall be the responsibility of the Secretaries of the Ministries, Government of India and the Chief Secretaries of every State/Union Territory to ensure implementation of the directions issued.

(ix) The Registry of the Supreme Court of India shall transmit a copy of this judgment to the Director, National Judicial Academy, Member Secretary, NALSA, Chairperson, Bar Council of India and the Registrar Generals of all the High Courts. The Registry shall also transmit a copy of this judgment to the Medical Council of India, Council of Architecture, Institute of Chartered Accountants, Institute of Company Secretaries and the Engineering Council of India for implementing the directions issued.

(x) Member-Secretary, NALSA is requested to transmit a copy of this judgment to the Member Secretaries of all the State Legal Services Authorities. Similarly, the Registrar Generals of the State High Courts shall transmit a copy of this judgment to the Directors of the State Judicial Academies and the Principal District Judges/District Judges of their respective States.

(xi) The Chairperson, Bar Council of India and the Apex Bodies mentioned in sub-para (ix) above, shall in turn, transmit a copy of this judgment to all the State Bar Councils and the State Level Councils, as the case may be.

<sup>17</sup> Civil Appeal No. 5010/2023.

<sup>18</sup> The Maternity Benefit Act, 1961 (Act 53 of 1961).

of three years. Her date of joining was June 12, 2014. Her services were extended twice, for one year period each, on June 12, 2015 and June 12, 2016. Her last extension was for the period of one year June 12, 2016 to June 11, 2017. On May 24, 2017, she had applied for maternity benefits from June 1, 2017, in terms of Section 5 of the Maternity Benefit Act, 1961 (“the 1961 Act”). The employer, however, informed her that only 11 days of maternity benefits could be granted since, as per the residency scheme, her tenure came to an end on June 11, 2017 and no further extension was allowed/permissible under the applicable rules.”<sup>19</sup>

The appellant approached the Supreme Court since her removal from employment was upheld both by the Central Administrative Tribunal (CAT) and the High Court of Delhi. Both the forums upheld the employer’s stance, reasoning that maternity benefits could not extend beyond the contractual term. The primary legal issue was “whether the maternity benefits, as contemplated in the 1961 Act, would apply to a lady employee appointed on contract if the period for which she claims such benefits overshoots the contractual period.”<sup>20</sup>

The court in this case referred to the two judge bench decision in *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*,<sup>21</sup> where maternity benefits were extended to daily-wage workers despite their temporary employment status. The court emphasised on section 5(2) of the Maternity Benefit Act which states that, “No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit for a period of not less than one hundred and sixty days in the twelve months immediately preceding the date of her expected delivery.”<sup>22</sup> Further the court also looked into other provisions of the Act and mentioned that,<sup>23</sup> “Section 5(3) lays down the maximum period for which such benefits could be granted. The last proviso to section 5(3) makes the benefits applicable even in a case where the applicant woman dies after delivery of the child, for the entire period she would have been otherwise entitled to. Further, there is an embargo on the employer from dismissing or discharging a woman who absents herself from work in accordance with the provisions of the Act during her absence. This embargo has been imposed under Section 12(2)(a)<sup>24</sup> of the Act.” Thus, the Supreme Court set aside the judgments of the high court and the CAT, holding that:<sup>25</sup> “.....a combined reading

19 *Supra* note 17, para 1 of case.

20 *Id.*, para 5 of case.

21 AIR 2000 SC 1274.

22 S. 5(2) of the Maternity Benefit Act.

23 *Supra* note 21, para 9.

24 S. 12(2)(a) reads: The discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus referred to in section 8, shall not have the effect of depriving her of the maternity benefit or medical bonus: Provided that where the dismissal is for any prescribed gross misconduct the employer may, by order in writing communicated to the woman, deprive her of the maternity benefit or medical bonus or both

25 *Supra* note 21, para 10.

of these provisions in the factual context of this case would lead to the conclusion that once the appellant fulfilled the entitlement criteria specified in Section 5(2) of the Act, she would be eligible for full maternity benefits even if such benefits exceed the duration of her contract. Any attempt to enforce the contract duration term within such period by the employer would constitute “discharge” and attract the embargo specified in Section 12(2)(a) of the 1961 Act.” The court further held that “law creates a fiction in such a case by treating her to be in employment for the sole purpose of availing maternity benefits under the 1961 Act.”

The court directed the employer to grant full maternity benefits to the appellant for the stipulated period, deducting any amounts already paid. The judgment reinforces the principle that maternity benefits must transcend contractual limitations to ensure equality and protection for women in the workforce.

#### **Social prejudice against women**

The case of *Indrakunwar v. The State of Chhattisgarh*<sup>26</sup> highlights critical issues surrounding privacy, gender biases, and evidentiary standards in criminal cases. In this case, the woman (appellant) was accused of murdering her newborn child and discarding the body in a ‘dabri (small water body- pond)’ and was convicted under Section 302 of IPC <sup>27</sup> by the trial court. The Supreme Court observed that the conviction was on circumstantial evidence and the trial court’s conviction was upheld by the high court. The circumstantial evidence included claims such as she was living alone being deserted by her husband, had an affair with a co-villager, got pregnant and delivered a child shortly before the incident. The Supreme Court re-examined the evidence, noting significant gaps and inconsistencies. None of the witnesses could conclusively link the appellant to the crime. The medical evidence was inconclusive about whether the child’s death occurred before or after birth, and there was no direct proof that the deceased child was hers. Deciding on the two issues that were raised by the supreme court, “1) To what extent does the right to privacy shield the matters concerning the personal life of a woman accused of committing a crime, particularly when the prosecution has failed to discharge its duty? and 2) To what extent are the rights or duties of the accused to explain the incriminating circumstances appearing against them in a statement under Section 313 of the Code of Criminal Procedure?”<sup>28</sup> The court observed if “the convict ought to have disclosed incriminating circumstances and held that the prosecution has failed to discharge its burden of proof.”<sup>29</sup> The court held that “negative inferences cannot be drawn for a question or incriminating circumstance not put to an accused while making a statement under Section 313 Cr.PC. Her statement, nowhere reflects an answer to a question concerning the particulars of the child that she was admittedly carrying

26 AIR 2023 SC 5221.

27 The Indian Penal Code, 1860 (Act 45 of 1860), s. 302.

28 *Supra* note 26, para 1.

29 *Id.*, para 35 and 36.

but denied that the deceased was not the one recovered from the dabri.”<sup>30</sup> The court agreed that in certain cases, “there is a requirement by law to disclose the aspects required to adjudicate in a criminal matter, such duty cannot unreasonably and unwarrantedly step over the fundamental right of privacy.”<sup>31</sup>

The court criticized the fact that the case was decided based on stereotypes and cultural biases to presume guilt. The appellant’s privacy and autonomy over her personal life had been unjustly violated. The court also stated that circumstantial evidence can lead to guilt only when evidentiary chain point exclusively to the accused’s guilt. In this case, the prosecution had failed to establish such a chain, and the conviction was based on presumptions rather than proof beyond a reasonable doubt. The appellant’s denial of guilt and her alternative explanation were not adequately considered.

Consequently, the Supreme Court quashed the conviction and acquitted the appellant, stressing on Right to Privacy and Equality,<sup>32</sup> while ensuring that convictions in serious criminal cases are supported by robust and conclusive evidence. This judgment reinforces the judiciary’s role in dismantling stereotypes and safeguarding individual rights, especially for marginalized and vulnerable individuals.

### III RIGHTS OF CHILDREN

#### Right to ‘quality’ primary education

In the case of *Devesh Sharma v. Union of India*,<sup>33</sup> the dispute before the Supreme Court was a “notice issued by the National Council for Teacher Education (hereafter ‘NCTE’), making B.Ed. degree holders eligible for appointment to the post of primary school teachers made in exercise of its powers.”<sup>34</sup> However, in spite of the above notification, the state secondary education board of Rajasthan while advertising post for primary school teachers excluded the B.Ed. degree holder which was challenged before the high court by the petitioner who had a B.Ed. degree praying that the aforementioned advertisement be quashed as it was in violation of the NCTE notification. Section 23(1) of the RTE Act provides that “Any person possessing such minimum qualifications, as laid down by an academic authority, authorised by the Central Government, by notification, shall be eligible for appointment as a teacher.” The ‘academic authority’ under Section 23(1) of the Act is the National Council for Teachers Education (NCTE). The previous NCTE notifications (before June 28, 2018) laying down the necessary qualifications for teachers, both at primary, as well as upper primary level provided the eligibility as: “a) He must have passed higher secondary level. b) He must have a Diploma in elementary education (D.El.Ed.), by whatever name it was called in that State. c) He

30 *Id.*, para 36.

31 *Ibid.*

32 The Constitution of India, arts. 21 and 14.

33 2023 INSC 704. Civil Appeal No. 5068 OF 2023 (Arising Out Of Special Leave Petition (C) No.20743 of 2021).

34 S. 23(1) of the Right to Education Act, 2009.



should then pass an examination to be conducted by the State known as Teachers Eligibility Test or TET.” It was only in June, 2018 notification that B.Ed. was introduced. The court observed that, “A person who has a B.Ed. qualification has been trained to impart teaching to secondary and higher secondary level of students. He is not expected to impart training to primary level students.”<sup>35</sup> The court held that,<sup>36</sup> “we are unable to comprehend as to what was the pressing need to include B.Ed. candidates, who are admittedly not fully trained to take up Primary Classes! Consequently, the decision of the NCTE to include B.Ed. as a qualification for teachers in a primary school seems arbitrary, unreasonable and in fact has no nexus with the object sought to be achieved by the Act *i.e.* Right to Education Act, which is to give to children not only free and compulsory but also ‘quality’ education.”

Hence, the court decided that NCTE was not justified in including B.Ed. as a qualification for appointment to the post of primary school teacher and it was intentionally kept out. Thus, in this case the court went on to correctly observe that though B.Ed degree was considered to be a qualification by NCTE as per the policy decision of the Central Government and normally policy of government should not be interfered. However, the court insisted that, “A policy decision which is totally arbitrary; contrary to the law, or a decision which has been taken without proper application of mind, or in total disregard of relevant factors is liable to be interfered with, as that also is the mandate of law and the Constitution.”<sup>37</sup>

Primary education is very vital for children. Thus, only those teachers who are specially trained to cater to the needs of the children of this strata should be engaged in educating them.

#### **Coparcenary rights of children born out of null or void marriages**

In the case of *Revanasiddappa v. Mallikarjun*,<sup>38</sup> the Supreme Court held that the Hindu Marriage Act (HMA) grants children born out of null or void marriage statutory legitimacy. Moreover, under section 16(2), “where a voidable marriage has been annulled by a decree of nullity under Section 12, a child begotten or conceived before the decree has been made, is deemed to be their legitimate child notwithstanding the decree, if the child would have been legitimate to the parties to the marriage if a decree of dissolution had been passed instead of a decree of nullity.” However, it is further provided that, “While conferring legitimacy in terms of sub-section (1) on a child born from a void marriage and under sub-section (2) to a child born from a voidable marriage which has been annulled, the legislature has stipulated in sub- section (3) of Section 16 that such a child will have rights to or in the property of the parents and not in the property of any other person.”

<sup>35</sup> *Supra* note 33, para 25.

<sup>36</sup> *Id.*, para 32 and 33.

<sup>37</sup> *Id.*, para 36.

<sup>38</sup> Civil Appeal No 2844 of 2011.

The Supreme Court framed two issues in this case, “whether the legislative intent is to confer legitimacy on a child covered by Section 16 in a manner that makes them coparceners, and thus entitled to initiate or get a share in the partition - actual or notional; second, at what point does a specific property transition into becoming the property of the parent.” The Supreme Court noted that the Hindu Succession Act, 1956 (HSA) recognises Joint Family Property and the concept of coparcener. Thus, while harmonising the provisions of the HMA and HSA, the court held that the children who are granted statutory legitimacy under section 16 of the HMA are not *ipso facto* coparcener by birth. The court noted that, “on the partition of ancestral property, the property falling to the share of the parents of such children is regarded as their self-acquired and absolute property, and there is no reason why such children will have no share in such property since such children are equated under the amended law with legitimate offspring of a valid marriage.”<sup>39</sup> The only limitation is that during the lifetime of their parents such children cannot ask for partition but they can exercise this right only after the death of the parent.”<sup>40</sup>

Further the court also observed that in order to ascertain shares of a coparcener the law mandates to refer to the state immediately prior to the demise of the coparcener and once such share is ascertained, the children including ‘the children who have been conferred with legitimacy under section 16 of the HMA 1955’ will be entitled to their share which would be conferred to the deceased on ‘notional partition’ if that had taken place.<sup>41</sup> This case is important as the court has clarified the position of ‘devolution of joint family property on children of null and void marriages.’

#### IV RIGHT TO DIE: PASSIVE EUTHANASIA GUIDELINES

In a petition<sup>42</sup> filed relating to passive euthanasia, a five-judge bench of the Supreme Court modified the, “2018 Euthanasia Guidelines to ease the process of granting passive euthanasia to terminally ill patients.” Passive euthanasia involves withholding treatment or artificial life-support for a terminally ill patient until the remainder of their life. In 2018, a constitutional bench of the Supreme Court had recognised “passive euthanasia and the right to die with dignity as a fundamental right under Article 21.”<sup>43</sup> The court held that “passive euthanasia could be carried out using Advance Medical Directives instructions to withdraw life-supporting treatment when patients are in a state where they cannot communicate their wishes.”<sup>44</sup> Further, the judgment requires that “the treating physician to determine

39 *Id.*, para 52 (ix).

40 *Ibid.*

41 *Supra* note 38, para 54 (ix).

42 Miscellaneous Application No. 1699 OF 2019 in Writ Petition (Civil) No. 215 OF 2005 (decided by a five judge bench of the Supreme Court on Jan 24, 2023). *Also available at:* <https://www.scobserver.in/journal/supreme-court-review-2023-right-to-life/>

43 *Common Cause v. Union of India*, AIR 2018 SC 1665.

44 *Id.*, para 95 (x).

if the AMD is genuine before withdrawing treatment. The hospital must then form a medical board comprising the head of the treatment department and at least three experts with over 20 years of experience in various fields mentioned. If the medical board certifies then the District Collector is charged with creating a second medical board including the Chief Medical Officer of the district. After visiting the patient, this medical board will decide on the AMD.”<sup>45</sup>

In this petition which seeks modification of the 2018 directives, the Indian Society for Critical Care (ISCC) requested the removal of second medical board. The court did not agree but decided to streamline the measures, “doctors only require five years of experience to be a part of the re-christened ‘Primary’ and ‘Secondary’ medical boards. The secondary board will no longer include the Chief Medical Officer. Instead, the Chief Medical Officer will nominate a member to take their place. The minimum number of board members has been reduced to three for both the boards. And both boards were instructed to arrive at a decision preferably within 48 hours.”<sup>46</sup> Moreover, the role of the Judicial Magistrate is limited now, “AMD is required to be signed in the presence of two witnesses, but can be attested before a notary or a Gazetted Officer instead of a Judicial Magistrate First Class who can confirm that the document was executed voluntarily.”<sup>47</sup> Further, the JM does not have to keep a copy of the document and forward to the ‘District Court Registry, family members and family physician.’ The duty to inform the family is instead given to the executor of the AMD, the patients themselves.

JM’s role now is that, “if the Primary and Secondary medical boards decide to withdraw medical treatment, the hospital must communicate this decision to the Judicial Magistrate along with the consent of the close relative or guardian named in the AMD.”<sup>48</sup>

These are positive guidelines provided by the Supreme Court that will make passive euthanasia process easier for the patients and their family.

#### V LGBT RIGHTS

The main issue in the case of *Supriyo v. Union of India*,<sup>49</sup> before the Supreme Court of India was about granting of ‘right to marry’ for members of the LGBTQIA+ community under the existing Special Marriage Act (SMA)<sup>50</sup> and the Foreign Marriage Act (FMA).<sup>51</sup> The petitioners argued that excluding LGBTQIA+ people from marrying under the existing laws was violation of fundamental rights under Part III of the constitution of India. The right given to only heterosexual couples to marry was unequal and arbitrary. The petitioners highlighted the judgments

45 *Id.* para 191 (c) (iv).

46 Misc Case. *Supra* note 42 at para 198.4.4.

47 *Id.*, para 198.3.1.

48 *Id.*, para 198.4.7.

49 AIR 2023 SC 5283.

50 The Special Marriage Act, 1954 (Act 43 of 1954).

51 The Foreign Marriage Act, 1969 (Act 33 of 1969).

given by the supreme court in *Navtej Singh Johar v. Union of India*<sup>52</sup>, which ‘decriminalized consensual same-sex relationships under Section 377 of the Indian Penal Code’<sup>53</sup> and *NALSA v. Union of India*<sup>54</sup> which recognized the ‘rights of transgender individuals.’ The court delved into ‘constitutional morality, emphasizing the need to uphold principles of equality, non-discrimination, and inclusiveness.’ The court also did a comparative study on the same sex relationships in other jurisdictions where same-sex unions have been legally recognized.

The court recognized that the right to marry and form intimate associations is central to human dignity and autonomy. It noted that marriage, as a socio-legal institution, has evolved over time and is not bound by rigid or static definitions. However, the judges noted that “An entitlement to legal recognition of the right to union - akin to marriage or civil union, or conferring legal status upon the parties to the relationship can be only through enacted law.”<sup>55</sup> The court also acknowledged its institutional limitations in legislating on matters deeply intertwined with societal structures and public policy. It held that while the judiciary has the power to enforce fundamental rights, the creation of a legal framework for recognizing same-sex marriages falls primarily within the domain of the legislature. It emphasized that any such framework must respect constitutional values and address the needs of marginalized communities.

The judges noted that since same sex union was recognised and protected the court stated that,<sup>56</sup> “the State shall ensure consistent with the previous judgment of this court in *K.S. Puttaswamy, Navtej Johar, Shakti Vahini and Shafin Jahan* that the choice exercised by queer and LGBTQ couples to cohabit was not interfered with and they do not face any threat of violence or coercion. All necessary steps and measures in this regard shall be taken. The Respondents shall take suitable steps to ensure that queer couples and transgender persons were not subjected to any involuntary medical or surgical treatment.”

While the court did not extend immediate legal recognition to same-sex marriages, it urged the legislature to consider the matter with urgency and sensitivity. This decision reaffirms the judiciary’s role as a guardian of constitutional principles while also underscoring the collaborative nature of social change, requiring both judicial and legislative action. It reflects the ongoing journey toward a more inclusive legal and social framework for LGBTQIA+ individuals in India. Sanjay Krishan Kaul, J. stated that, “Our Constitution contemplates a holistic understanding of equality, which applies to all spheres of life. The practice of equality necessitates acceptance and protection of individual choices. The capacity of non-heterosexual couples for love, commitment and responsibility is no less

52 AIR 2018 SC 4321.

53 The Indian Penal Code, 1860 (Act 45 of 1860), s. 377.

54 AIR 2014 SC 1863.

55 *Id.*, para 149 (ii).

56 *Id.*, para 524 (ix).

worthy of regard than heterosexual couples. Let preserve this autonomy, so long as it does not infringe on the rights of others. After all, it's my life."<sup>57</sup>

#### VI HUMAN RIGHTS: MANUAL SCAVENGING

In the case of *Balram Singh v. Union of India*,<sup>58</sup> the issue was relating to eradication of manual scavenging which was an inhuman practise. Though the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act was brought in 2013,<sup>59</sup> yet there was a lack of implementation. Most of the time manual scavenging is done by people who are from marginalized communities.

The petitioner claimed that the implementation of the 2013 Act had been ineffective in eradicating manual scavenging. Even though the law prohibited manual scavenging and imposed penalties but the reality is that the practise is still continuing. Many people still do the work without any protective equipment leading to serious health issues and death. individuals continued to engage in the hazardous task, often without proper protective equipment, leading to fatalities and health issues.

The Supreme Court acknowledged that manual scavenging is a violation of human rights particular of people form the vulnerable communities. The court stated that the law was good but the implementation was not effective. The court gave important directions to stop this inhuman practice<sup>60</sup> and framed following guidelines, "the Union should take appropriate measures and frame policies and issue directions, to all statutory bodies."<sup>61</sup> Further, "the state government and union territories has to ensure that the guidelines are followed in their respective territories."<sup>62</sup> Moreover, the guidelines included "rehabilitation measures for sewage workers, increase in compensation for sewer deaths, compensation in the case of sewer victims suffering disabilities, depending upon the severity of disabilities, scholarships for dependants of victims"<sup>63</sup> The Supreme Court discussed about "accountability and asked Union government to devise model contracts to be followed by agencies, corporations which mandates the standards as given in

<sup>57</sup> *Id.*, para 375.

<sup>58</sup> Writ Petition (Civil) No(S). 324 Of 2020. 2023 INSC 950.

<sup>59</sup> The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013, No. 11 of 2013, Government of India.

<sup>60</sup> *Supra* note 58 at para 96.

<sup>61</sup> The court asked Union Government to take measures and issue directions to all statutory bodies, including corporations, railways, cantonments, as well as agencies under its control, to ensure that manual sewer cleaning is completely eradicated in a phased manner, and also issue such guidelines and directions as are essential, that any sewer cleaning work outsourced, or required to be discharged, by or through contractors or agencies, do not require individuals to enter sewers, for any purpose whatsoever;

<sup>62</sup> All States and Union Territories are likewise, directed to ensure that all departments, agencies, corporations and other agencies (by whatever name called) ensure that guidelines and directions framed by the Union are embodied in their own guidelines and directions; the states are specifically directed to ensure that such directions are applicable to all municipalities, and local bodies functioning within their territories;

<sup>63</sup> Guidelines (3), (4), (5) and (10).

Contract Labour (Prohibition and Regulation Act), 1970, or any other law”<sup>64</sup> Moreover, the guidelines directed conduct of a national survey by the “The NCSK, NCSC, NCST and the Secretary, Union Ministry of Social Justice and Empowerment.”<sup>65</sup> Further, the NCSK, NCSC NCST and Union Government were asked to prepare training and education modules as per 2013 Act. The Union, State and Union Territories were also directed to “ensure co-ordination with all the commissions (NCSK, NCSC, NCST) for setting up of state level, district level committees and commissions, in a time bound manner.”<sup>66</sup> Moreover the court directed that “a portal and a dashboard, containing all relevant information, including the information relating to sewer deaths, and victims, and the status of compensation disbursement, as well as rehabilitation measures taken, and existing and available rehabilitation policies shall be developed and launched at an early date.”<sup>67</sup>

In conclusion, this is an important judgment towards eradication of manual scavenging and protecting the rights of vulnerable communities, particularly those from the SC/ST categories. The Supreme Court’s ruling highlighted that though laws exist, they are insufficient to eradicate the problem and hence went on to issue directives to ensure that exploitation can be stopped and accountability be held.

#### VII ANIMAL RIGHTS

The case of *Animal Welfare Board of India v. Union of India* (2023) dealt with a challenge to the constitutional validity of amendments to the Prevention of Cruelty to Animals Act, 1960.<sup>68</sup> These amendments, introduced by several state governments, permitted the continuation of bull-taming sports like Jallikattu, Kambala, and bullock cart races, which had previously been banned by the Supreme Court due to concerns over animal cruelty. The case centered on finding a balance between the cultural significance of these practices and the legal obligation to protect animals from cruelty.

The facts of the case reveal that the Supreme Court had earlier issued rulings that banned bull-taming events due to the cruel treatment of animals involved. However, in response “to intense local and cultural sentiments in states such as Tamil Nadu, Maharashtra, and Karnataka, the respective state legislatures amended laws to permit these practices under regulated conditions. These amendments introduced specific regulations aimed at mitigating animal cruelty during these events, such as requiring veterinary checks, proper safety measures, and monitoring during the events.”<sup>69</sup> The Animal Welfare Board of India (AWBI) and various

<sup>64</sup> Guidelines (6) and (7).

<sup>65</sup> Guidelines (8).

<sup>66</sup> Guidelines 12

<sup>67</sup> Guidelines (14).

<sup>68</sup> Prevention of Cruelty to Animals Act, 1960, Act No. 59 of 1960, Government of India.

<sup>69</sup> Writ Petition (Civi) No. 23 of 2016.

animal rights organizations opposed these amendments, arguing that the events still posed a significant risk of harm to the animals and should remain banned.

The Supreme Court, after considering all arguments, upheld the constitutionality of the state amendments, allowing these traditional practices to continue. The court acknowledged that “the practices involved some level of cruelty in their previous form but noted that the new regulations significantly reduced the harm to animals. The court emphasized that these regulations were designed to minimize suffering, such as by enforcing veterinary checks before and during the events and ensuring safety standards for the animals. The court also highlighted the importance of cultural heritage and traditions but made it clear that these could not come at the cost of undue cruelty to animals.”

In its judgment, the court suggested that while allowing these events to continue, state governments must strictly monitor and enforce regulations to prevent cruelty. It recommended that state authorities take all necessary steps to ensure the humane treatment of animals, including setting up monitoring committees and creating awareness among organizers and participants about the importance of animal welfare. The judgment reiterated the need for a careful balance between preserving cultural practices and safeguarding animal rights.

Overall, while the Supreme Court’s ruling was a victory for the proponents of these traditional events, it also stressed the importance of implementing strict safeguards to minimize the cruelty faced by animals. The judgment remains a significant point of contention, as animal welfare activists continue to argue that the regulations do not fully eliminate the inherent cruelty in such practices.

#### VIII HIV PATIENTS

*CPL Ashish Kumar Chauhan Retd v. Commanding Officer*<sup>70</sup> is a judgment on the implementation of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 (HIV Act) and it imposes several obligations upon various authorities to take specific measures to ease and mitigate the hardships of HIV patients.

In this case, the appellant was detected with HIV and he could trace the same to a blood transfusion that happened at a military hospital. The first medical board was constituted and “as per the findings of the Medical Board, the infection with HIV was made non-attributable to service.”<sup>71</sup> Being dissatisfied, the appellant asked for copies of documents relating to the transfusion but the same was denied to him.<sup>72</sup> The appellant was dismissed from service. Later Court of Inquiry (CoI) was held to investigate the matter and found no negligence or lapse on the part of the facility. Finding no relief, eventually the appellant reached the Supreme Court.<sup>73</sup> The Supreme Court held that, “while accountability of one or some individuals was not possible, nevertheless the systemic failure in ensuring a safe transfusion of blood to the Appellant, is the only irresistible inference. These facts establish

<sup>70</sup> MANU/SC/1057/2023.

<sup>71</sup> *Id.*, para 5.



medical negligence, and therefore, vicarious liability on the part of the IAF and the Indian Army. The former was the Appellant's immediate employer, the latter was the organization controlling and in charge of hospital."<sup>74</sup> The appellant was in a pitiable condition owing to "breach of care" by the two hospitals. The court held that, "the necessary foundational facts, to hold that the application of *res ipsa loquitur* was warranted, were proved in all detail. The Respondents failed to discharge the onus which fell upon them, to establish that due care was in fact exercised and all necessary care standards, applicable at the time, were complied with. As a result, it was held that the Respondents were liable to compensate the Appellant for the injuries suffered by him, that were to be reckoned in monetary terms."<sup>75</sup> Thus, the court held that the appellant was entitled towards compensation for medical negligence.

The court in this case<sup>76</sup> finally proceeded to give directions for proper enforcement of the HIV Act. Some of the important directions entails, "The Central Government shall issue necessary guidelines in respect of protocols for HIV and AIDS relating to diagnostic facilities, Anti-retroviral therapy and opportunistic Infection Management applicable to all persons and shall ensure their wide dissemination at the earliest. These measures and guidelines shall be issued within three months, and widely disseminated, in the electronic media, print media and all popularly accessed public websites."<sup>77</sup> Also, the Supreme Court directed the Central and the state government to "protect the property of children affected by HIV or AIDS. The parents or guardians of children affected by HIV and AIDS, or any person acting for protecting their interest, or a child affected by HIV and AIDS may approach the Child Welfare Committee for the safe keeping and deposit of documents related to the property rights of such child or to make complaints relating to such child being dispossessed or actual dispossession or trespass into such child's house."<sup>78</sup>

The Supreme Court also gave many directions for awareness creation relating to HIV and AIDS as per age and gender which are based on non-discrimination and are not stigmatising. Also, support and treatment for children infected with the disease and pregnancy information to women will be provided. Further, there are directions given to organisations where there is risk of exposure to HIV to create a safe working space. With regard to establishments, where there are 100 persons or more, the HIV Act will be applicable and there has to be a complaints officer who shall deal with HIV Act related matters. The judgment highlighted the pitiable condition of HIV patients who contracts the disease due to lack of proper standard but has to run from pillar to post to get compensation. The guidelines are

<sup>72</sup> *Id.*, para 16.

<sup>73</sup> *Ibid.*

<sup>74</sup> *Supra* note, para 70.

<sup>75</sup> *Id.*, para 73.

<sup>76</sup> *Supra* note 70.

<sup>77</sup> *Id.*, para 93(2).

<sup>78</sup> *Id.*, para 93(4).



positive as it emphasises need on creating awareness, accountability of establishments and responsibility of government to protect their rights.

#### IX INHERITANCE AND SUCCESSION: FIDUCIARY ROLE OF NOMINEES

In the case of *Shakti Yezdani v. Jayanand Jayant Salgaonkar*,<sup>79</sup> The Supreme Court of India pronounced a significant judgment on December 14, 2023, addressing the legal distinction between the rights of nominees and legal heirs in the context of succession. This case centred around “the ownership of shares left by a deceased shareholder and raised fundamental questions about the fiduciary role of nominees under the Companies Act, 2013.”<sup>80</sup>

The appellants contended that “the nomination of shares made in favour of one party confers absolute ownership rights to the nominee upon the death of the shareholder.”<sup>81</sup> However, the respondents argued that, “a nominee acts only as a custodian of the shares, and the rightful ownership is governed by the law of succession.”<sup>82</sup>

The Supreme Court, in its judgment, clarified that the act of nomination under Section 72 of the Companies Act, 2013 does not override the legal heirs’ rights under succession laws. It was emphasized that “a nominee is merely a trustee or custodian who holds the shares on behalf of the legal heirs. The rightful ownership of the property is determined based on the deceased’s personal succession laws, whether under the Hindu Succession Act, Muslim Personal Law, or other applicable statutes.”<sup>83</sup>

This judgment aligns with the principle that ‘nominations serve administrative purposes but cannot supersede substantive inheritance rights.’ It reinforces the protection of legal heirs property rights and ensures that succession laws remain paramount in determining ownership.

This ruling is a milestone in succession law, offering critical guidance on the fiduciary role of nominees and safeguarding the inheritance rights of legal heirs. The court also noted that public should be made aware of the restrictions on the nominees so that the disputes relating to the same can be reduced significantly in future.

#### X ENVIRONMENT CONCERNS

In this case *Tamil Nadu and Puducherry Paper Cup Manufactures Association v. State of Tamil Nadu*,<sup>84</sup> the petitioners who are ‘an association representing manufacturing units involved in the manufacture of ‘reinforced’ paper cups, and a manufacturer of non-woven plastic bags’ challenged the Tamil Nadu government order which banned ‘manufacture, storage, supply, transport, sale,

79 (2023 SC 3696).

80 The Companies Act, 2013 (Act No. 18 of 2013), India Code.

81 *Supra* note 75 at para 15.

82 *Id.*, para 16.2

83 *Id.* para 46.

84 MANU/SC/1180/2023: 2023 INSC 952.

distribution, and use of one time use and throwaway plastics' before the High Court of Madras. Since the High Court of Madras dismissed the petition, they finally approached the Supreme Court. The main arguments on behalf of the appellant/petitioner were that, "firstly that there was no scientific basis for the ban, which created an arbitrary classification; and secondly, that there was non-compliance with the Environment (Protection) Rules, 1986 (1986 Rules), which mandate publishing of draft Rules and inviting objections, before passing an order such as the impugned notification."<sup>85</sup> The court observed that there is no doubt that use of single use plastic cups is environmentally hazardous. They are 'non-biodegradable' and very difficult to be recycled. Also, it requires very specific collection and very accurate segregation. The court upheld the ban on single use plastic cup held that "the Appellant's right Under Article 19(1)(g) has, without a doubt, been restricted; but in the larger interest of the general public to enjoy a pollution free environment the restriction was reasonable as per Article 19(6) of the Constitution of India, and is therefore, upheld."<sup>86</sup>

So far as non-woven plastic bags are concerned, the petitioners said that they are different and cannot be on same footing as the single use plastic cups and hence has to be treated separately. They claimed that, "These bags, it appears are reusable in nature to some extent. Their composition/proportion of polypropene and filler used, in the manufacture of these bags, is customizable. Therefore, the appellant contended that the overall ban was disproportionate."<sup>87</sup> The State however said that inspite being reusable to a certain extent, "they are indiscriminately disposed and cause littering, which damage ground water, soil quality, etc., because they do not biodegrade properly, and this therefore, justified the ban."<sup>88</sup> In the decision relating to non woven plastic, the Court held that as per the Plastic Waste Management Rules, 2016 (hereafter '2016 Rules') subsequent amendments since non-woven plastic above 60 GSM is permitted, the ban should not be upheld. It stated that, "..... the Centre has found a way to regulate it, rather than ban it there is some merit in the appellant's contention regarding disproportionality. In light of the developments in terms of the amendment to the 2016 Rules, this court is of the considered opinion that it would be appropriate, and just, to remand the question of including non-woven bags within the single use plastic products ban, back to the TNPCB for consideration."<sup>89</sup>

In another case of *Re: T.N. Godavarman Thirumulpad v. Union of India*,<sup>90</sup> the applicant wanted modification to an order given by the court in 2022 relating to declaration of ESZ in national park and wildlife sanctuary. Some of the important

<sup>85</sup> *Id.*, para 8.

<sup>86</sup> *Id.*, para 46.

<sup>87</sup> *Id.*, para 48.

<sup>88</sup> *Id.*, para 48.

<sup>89</sup> *Id.*, para 53.

<sup>90</sup> 2023 SCC OnLine SC 504. (decision date, Apr 26, 2023), available at: <https://indiankanoon.org/doc/13589118/> (last visited on Jan. 25, 2024).

directions included: “Each protected area must have an eco-sensitive zone of minimum one km measured from the demarcated boundary of such protected area (Direction 1); In the event, eco-sensitive zone is already prescribed as per law that goes beyond the 1 km buffer zone, the wider margin as eco-sensitive zone shall prevail (Direction 2); Mining within the national parks and wildlife sanctuaries shall not be permitted (Direction 3). Further, in the event any activity was already being undertaken within one km or extended buffer zone, as the case may be, of any wildlife sanctuary or national park which does not come within the ambit of prohibited activities as per the Guidelines, such activities may continue with the permission of the Principal Chief Conservator of Forests (PCCF) of each State or Union Territory and the person responsible for such activities in such a situation shall obtain necessary permission within a period of six months (Direction 4).”<sup>91</sup>

The clarification that was sought in the present case by the Union of India was relating to the following directions: “paragraph 56.1 which states that each protected forest, that is, national park or wildlife sanctuary must have an ESZ of minimum one kilometre measured from the demarcated boundary of such protected forest in which the activities proscribed and prescribed in the Guidelines of 9-2-2011 shall be strictly adhered to. For Jamua Ramgarh Wildlife Sanctuary, it shall be 500 m so far as subsisting activities are concerned. ....” Also, the other clarification was pertaining to “paragraph 56.5 which provided that in the event any activity is already being undertaken within the one kilometre or extended buffer zone (ESZ), as the case may be, of any wildlife sanctuary or national park which does not come within the ambit of prohibited activities as per the 9-2-2011 Guidelines, such activities may continue with permission of the Principal Chief Conservator of Forests of each State or Union Territory and the person responsible for such activities in such a situation shall obtain necessary permission within a period of six months.”

The main concern of the government was that ESZs notified already or proposals of which have been received by the Ministry already Ministry of Environment and Forest (MoEF) should be exempted. Also, some exemption should be given to sanctuaries which are along inter-state borders. Additionally, since some of the direction was causing hardship to villagers living in these ESZs, some modification should be granted.

The Supreme Court noting the same modified the directions in context to paragraph 56.1 to mention that, “the directions contained therein would not be applicable to the ESZs in respect of which a draft and final notification has been issued by the MoEF and CC and in respect of the proposals which have been received by the Ministry and also when the National Parks and Sanctuaries are located on inter-State borders and/or share common boundaries.”<sup>92</sup>

91 Writ Petition (Civil) No. 202 of 1995 (Order passed on June 3, 2022). Para 44. Also, see <https://www.scconline.com/blog/post/2023/06/01/mining-in-eco-sensitive-zone-is-prohibited-even-if-its-boundaries-extend-beyond-one-kilometre-supreme-court-clarifies/#:~:text=Introduction,3%2D6%2D2022%20in%20T.N.>

92 *Id.*, para 64.

As to mining, the court stated that, “mining within the National Park and Wildlife Sanctuary and within an area of one kilometre from the boundary of such National Park and Wildlife Sanctuary shall not be permissible.”<sup>93</sup>

As to paragraph 56.5, the court modified it to read thus, “(i) The MoEF & CC and all the State/Union Territory Governments shall strictly follow the provisions in the said Guidelines and while granting Environmental and Forest Clearances for project activities in ESZ and other areas outside the Protected Areas, the Union of India as well as various State/Union Territory Governments shall strictly follow the provisions contained in the Office Memorandum dated 17th May 2022 issued by MoEF & CC.”<sup>94</sup>

This is an important judgment to protect national parks and wildlife sanctuaries located in India which are in danger due to the ‘so-called’ development activities.

#### XI CONCLUSION

To conclude, this survey on law and social change has dealt with important judicial pronouncements delivered by Supreme Court of India which makes a positive impact in the society. The Supreme Court had in 2023 laid down important directions to eradicate manual scavenging in all parts of the country; protecting HIV+ patients from harassment and other types of discrimination. The Supreme Court has recognised women’s right to health by prohibiting unnecessary hysterectomies under government schemes in *Narendra Gupta v. Union of India* which could have an adverse effect on women health. Also, the Supreme Court has also recognised maternity benefits to women in contractual employment in the case of *Kavita Yadav v. The Secretary*. Further, the Supreme Court has also noted the rights of children born out of null and void marriages and clarified the position of the shares of joint family property that such children will be eligible. Also, important decisions on environment laws have been delivered in 2023. Just like in the past in 2023 also, the Supreme Court has been active in delivering judgements as per the changing social needs. In future also, it is hoped that the Supreme Court becomes more proactive and delivers impactful judgments which can serve the interests of vulnerable and marginalised communities.

93 *Id.*, para 65.

94 *Id.*, para 66.