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## LAW AND SOCIAL CHANGE

*Jupi Gogoi\**

## I INTRODUCTION

SOCIETY KEEPS changing, and its needs change too. The changing needs in society demand new laws or changes in the law those were not previously prevalent. The role of the Supreme Court in catering to the needs of the changing dimensions of society is pivotal. The year 2024 saw the Supreme Court giving judgments that impacted the Indian society deeply, be it on securing women's rights, providing 'reasonable accommodation' to specially-abled people or taking a strict view when it comes to protecting children from child marriage or paedophiles or protecting the rights of people from the LGBT community. Further, the Supreme Court this year also gave important judgments on various aspects of fundamental rights. The court recognised the right to food as one of the rights under Article 21 of the Constitution of India, recognised different aspects of the right to freedom of speech and expression, such as the right to critique the government or freely express an art form; the right to health, right to equality, etc. The court also gave leading decisions on many constitutional rights, such as the right to property and electoral rights. The cases for this survey were carefully picked. Only those judgments that brought a significant change in Indian society were included in this survey.

## II RIGHT TO FOOD

In the case of *Anun Dhawan v. Union of India*,<sup>1</sup> the Supreme Court discussed on the right to food as a fundamental right. The petitioners have prayed before the court to give directions to the States and the Union territories for the establishment of community kitchens to provide for an adequate quantity of quality food to combat hunger, starvation and malnutrition, which causes deaths. They also sought directions to form the National Food Grid, which shall function beyond the scope of public distribution schemes already running across the country.<sup>2</sup> The court whilst citing the responses/affidavits filed by various states detailing about the adoption and enforcement of schemes ensuring food security held that there are numerous programmes and schemes running efficiently across the nation both the Central and state government which cater to food requirements of the different

\* Assistant Professor (Selection Grade), Faculty of Law, University of Delhi.

1 2024 SCC OnLine SC 179

2 *Ibid.*

sections of the society namely, the senior citizens, migrant workers, school children, pregnant women etc. These schemes also follow the advisories to enhance nutritional levels and include millets to raise the nutritional standards. With the enactment of the National Food Security Act, 2013<sup>3</sup> there is a paradigm shift in ensuring food security in India. This act has made food security a right rather than a welfare act. The objective of the act is to provide food and nutritional security by ensuring adequate quantities and quality of food at affordable prices for people. Along with this act, the Cash Transfer of Food Subsidy Rules, 2015<sup>4</sup> have also been implemented in various states with the approval of the Central Government. These rules provide a subsidy in cash directly into the account of eligible households to purchase food grains directly from the open market. These rules also provide for issuing ration cards to the eldest woman in eligible households, thereby also providing women with well-substantiated food security. These rules provide for expeditious and effective redressal of grievances both at the district and state levels in matters relating to the distribution of food grains or meals. The court also reiterated that, though the right to food is not expressly mentioned among the rights under article 21, it is a fundamental right under the right to live with dignity and to basic necessities. Along with this, the court also mentioned Article 47 of the Constitution, which declares that “the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties....” which means that the state shall ensure improvement in nutrition and the well-being of its people. This principle is also enshrined in the United Nations Sustainable Development Goals<sup>5</sup> to ensure zero hunger across states. Therefore, it is both an international obligation and a constitutional mandate to provide people with food and protect their right to food.

### III RIGHT TO INFORMATION

In *Association for Democratic Reforms v. Union of India*,<sup>6</sup> the issue was regarding the electoral bond scheme violating the voters’ right to information. The court opined that the information about the funding of a political party is important information for the voter. The Supreme Court held that the electoral bond scheme and the impugned provisions to the extent that they infringe upon the right to information of the voter by anonymising contributions through electoral bonds are violative of Article 19(1)(a) of the Constitution.<sup>7</sup> As per the amendments made by the Finance Act 2017, the “political parties were exempted from disclosing the details of the financial contributions received through electoral bonds. It does not mandate the political parties to maintain the record of the contributions received

3 National Food Security Act, 2013 (Act No. 20 of 2013).

4 Cash Transfer of Food Subsidy Rules, 2015.

5 "What are the Sustainable Development Goals?", available at: <https://www.undp.org/sustainable-development-goals> (last visited on July 31, 2024).

6 Writ Petition (C) No. 880 of 2017.

7 *Ibid.*

through electoral bonds.<sup>8</sup> Also, the companies are also exempted from disclosing all the details of contributions made by them to the political parties.<sup>9</sup> A voter has a right to information about the candidates contesting elections, and so is the information regarding the political parties. Such information is essential for voters in educating themselves on the various socio-cultural and political issues. In the case of *PUCL v. Union of India*<sup>10</sup>, the court has explained the “principle of electoral democracy in India. According to the court, it is premised on the principle of political equality, which the constitution guarantees in two ways: first by guaranteeing the principle of “one person one vote”<sup>11</sup> and second by ensuring that socio-economic inequality does not perpetuate political inequality. The constitution fosters political equality in two ways: “equality in representation and equality in influence over political decisions. The information is necessary for the smooth operation of participatory democracy, as it would enable the voters to cast their votes rationally and intelligently.”<sup>12</sup> Access to information that can materially shape citizens’ choices is necessary for voters to make informed choices. This right to know is crucial for free and fair elections in a democracy.

#### IV RIGHT TO BE INVOLVED IN POLITICS

In the case of *Karikho Kri v. NuneyTayang*,<sup>13</sup> a petition was filed to declare an election to the Arunachal Pradesh Legislative Assembly from Tezu (ST) Assembly Constituency as void on violation of the grounds under sections 100(1)(b), 100(1)(d)(i) and 100(1)(d)(iv) of the Representation of the People Act, 1951 (‘the Act of 1951’). The high court had previously declared the election as void, but rejected the prayer of the other party to declare him duly elected. In a set of two civil appeals<sup>14</sup> filed before the Supreme Court, the court held that non-disclosure of every asset does not amount to fraud and does not constitute crucial information for a voter to make a rational decision on their voting choice. The Supreme Court stated that, “mere failure to get registered the name of the new owner of an already registered vehicle does not mean that the sale/gift transaction would stand invalidated and such a vehicle, despite being physically handed over to the new owner, cannot, by any stretch of imagination, be treated as still being in the possession and control of the former owner.”<sup>15</sup> Karikho Kri had declared “the value of the movable assets of his dependent family members and himself and the value of the three vehicles in question, by comparison, would be a mere miniscule of this figure.” In any event, the court said, “suppression of the value of these three vehicles would have no impact on the declaration of wealth by Karikho Kri

8 S.13A of the Income Tax Act, 2000 (Act 32 of 2000).

9 Amendment to section 182 of the Companies Act, 2013 (Act 18 of 2013).

10 (2003) 4 SCC 399.

11 The Constitution of India, art. 81(2)(b).

12 *Association for Democratic Reforms v. Union of India*, (2024) 5 SCC 1, para 101.

13 2024 SCC OnLine SC 519.

14 *Id.*, para 4.

15 *Id.*, para 29.

and such non-disclosure could not be said to amount to 'undue influence' and non-disclosure of such information does not warrant misleading of voters."<sup>16</sup>

#### V RIGHT TO PROCREATE

The Supreme Court in the case of *A v. State of Maharashtra*, held that the right to procreate lies with the woman. The case concerned a fourteen-year-old minor, "X," who became pregnant following an alleged sexual assault. The pregnancy came to light later, by which time she was about 25 weeks pregnant. X was medically examined and referred to the hospital, where the medical board opined that she was fit for termination of pregnancy, subject to High Court approval. Later, without re-examination, the same board clarified that she was not fit for termination of her pregnancy as the foetus was about 27-28 weeks old, and the high court dismissed the petition for termination of pregnancy, stating that it had exceeded the statutory period of 24 weeks. The appellant moved to the Supreme Court, seeking the termination of the pregnancy. The court allowed "X to terminate her pregnancy, citing the importance of bodily autonomy of the pregnant person. The opinion of pregnant person must be given primacy, the choice to continue the pregnancy belongs to the individual alone."<sup>17</sup> This "right to choose forms the reproductive freedom and is a fundamental right under Article 21 of the Constitution of India, even in the case of difference in opinion of the pregnant person and her guardian, the court must give importance to the thoughts of the pregnant person, thereby ensuring reproductive autonomy and freedom."<sup>18</sup>

This right to procreate is not absolute; this must be intra vires the constitution of India. This was reiterated in *Ramji Lal Jat v. State of Rajasthan*,<sup>19</sup> where the court held that "the classification of disqualification of candidates having more than two children is justified as it promotes family planning."<sup>20</sup> The court relied on *Javed v. State of Haryana*,<sup>21</sup> where the disqualification based on the number of children was held to be non-discriminatory.

#### VI FREEDOM OF SPEECH AND EXPRESSION

In an appeal filed before the Supreme Court of India in the case of *Javed Ahmad Hajam v. State of Maharashtra*,<sup>22</sup> the appellant who is a permanent resident of the state of Jammu and Kashmir and was serving as a Professor at a college in the State of Maharashtra had posted two messages in WhatsApp group which said three distinct statements, "August 5 – Black Day Jammu and Kashmir", "14th August – Happy Independence Day Pakistan"; and "article 370 was abrogated, we are not happy."<sup>23</sup> In response, an FIR was filed alleging an offence under

16 *Karikho Kri v. Nuney Tayang*, 2024 SCC OnLine SC 64.

17 *A v. State of Maharashtra* (2024) 6 SCC 327 para 35.

18 *Ibid.*

19 2024 SCC OnLine SC 217.

20 *Id.*, para 4.

21 *Javed v. State of Haryana*, (2003) 8 SCC 369.

22 2024 SCC OnLine SC 249.

23 *Javed Ahmad Hajam v. State of Maharashtra*, (2024) 4 SCC 156.

section 153-A of the IPC.<sup>24</sup> The court, framing its analysis around the language and scope of section 153-A of the IPC, held that the case does not attract the offence under that section. It relied on the rationale laid down in the case of *Manzar Sayeed Khan v. State of Maharashtra*<sup>25</sup> which states that “the intention to cause disorder or incite violence was an indispensable ingredient of an offence under section 153-A, and that the intention must be discerned from the language used and the surrounding circumstances.”<sup>26</sup> The court further reiterated that free speech under article 19(1)(a)<sup>27</sup> was a fundamental right, subject only to reasonable restrictions under article 19(2). Section 153-A, as a speech crime, required “proof of intention to incite disorder, violence, or public unrest. The gist of the offence lies in the promotion of enmity or hatred between classes, where *mens rea* is essential.”<sup>28</sup> The court held, “these expressions did not target any religion, race, place of birth, residence, language, caste, or community. It was simply a political protest against a governmental action; such a protest fell squarely within the scope of article 19(1)(a) and was protected unless it crossed the boundaries of permissible dissent.”<sup>29</sup> Every citizen, the court emphasised, “retained the right to criticise State action, including the abrogation of article 370, and to express dissent in a legitimate manner.”<sup>30</sup> The court states that, “right to dissent in a legitimate and lawful manner is an integral part of the rights guaranteed under article 19 of the constitution of India. Every individual must protect the right of dissent of others.”<sup>31</sup> If “every act of protest against government decisions were criminalised under section 153-A, the Court warned democracy itself would be imperilled.”<sup>32</sup> The “impact of words must be judged from the perspective of reasonable members of society, not from that of weak or hypersensitive minds.”<sup>33</sup> The court finally stated that, “The test is of the general impact of the utterances on reasonable people who are significant in numbers. Merely because a few individuals may develop hatred or ill will, it will not be sufficient to section 153-A(1)(a) of the Indian Penal Code.”<sup>34</sup>

In another case, *Apoorva Arora v. State (Govt. of NCT of Delhi)*,<sup>35</sup> the court discussed the scope and meaning of vulgarity and obscenity in art forms. The appellants were investigated and prosecuted for production, transmission, and online publication of obscene and sexually-explicit material under sections 67 and 67A of the Information Technology Act, 2000. The issue in this case was “whether the use of expletives and profane language in the titles and content of the episodes

24 Section 153-A, Indian Penal Code (Act No. 45 of 1860).

25 *Manzar Sayeed Khan v State of Maharashtra* (2007) 5 SCC 1.

26 *Supra* note 24 at para 9.

27 *Ibid.*

28 *Id.*, para 9.

29 *Ibid.*

30 *Ibid.*

31 *Id.*, para 10.

32 *Ibid.*

33 *Ibid.*

34 *Id.*, para 11.

35 (2024) 6 SCC 181.

of the web-series 'College Romance' constitutes an offence of publication and transmission of obscene and sexually explicit content which is in violation of article 19 of the Constitution of India?"<sup>36</sup> The court held that "the words maybe vulgar and might create a feeling of disgust and revulsion, and may also create a feeling of shock to the reader, but this does not necessarily constitute obscenity which is a corrupt and deprave act..... It must be judged on societal and national standards."<sup>37</sup> The court further held that "nudity per se is not obscene, where there is a mix of art and obscenity, it must be viewed from a perspective of a creative mind, where the merit of the work must not supersede the vulgarity, making the art form trivial. Such work must propagate ideas, opinion, information, or any other social purpose to be constitutionally protected as "free *speech*" under article 19."<sup>38</sup> The standard of determination is the standard of the average adult human being, not that of a hyper-sensitive individual; therefore, the freedom of speech and expression has not exceeded the limitations as enshrined under the article, and it is within the constitutional principles of speech and expression. The court decided that section 67 and 67A of the IT Act are not attracted in this case.

In a writ petition *Indian Medical Association v. Union of India*<sup>39</sup> filed by the Indian Medical Association ('IMA') against Patanjali, its Managing Director Acharya Balkrishna and its primary proponent, Baba Ramdev stating that they have been indulging in a campaign of "misinformation and disparagement against the modern system of medicine in an orchestrated and systematic manner resulting in misleading of information crucial for human lives."<sup>40</sup> The court held that "misleading advertisement issued by such companies who are involved in the manufacturing of FMGCs and pharmaceutical products, taking public at large, adversely affect the health and well-being of all individuals, sick and infirm, who consume such products."<sup>41</sup> The "advertisement of such products is done with little or no accountability of the information being circulated through these kinds of advertisement constitute abuse of drugs and cosmetics."<sup>42</sup> Therefore, such an expression is not protected under the Constitution of India; there is a reasonable restriction on the flow of information through advertisements.

#### VII Right of Women

In the case of *Manisha Ravindra Panpatil v. State of Maharashtra*,<sup>43</sup> the appellant was elected as the Sarpanch of Gram Panchayat Vichkheda, Jalgaon district, in February 2021. Subsequently, private respondents sought her disqualification, alleging "she resided with her mother-in-law in a house built on

36 *Id.*, para 12

37 *Id.*, para 23

38 The Constitution of India, art. 19.

39 (2024) 8 SCC 57 : 2024 SCC OnLine SC 1540.

40 *Id.*, para 5.

41 *Id.*, para 5.

42 *Id.*, para 4.

43 *Manisha Ravindra Panpatil v. State of Maharashtra*, (2024) SCC OnLine SC 2690.

government land. Panpatil denied this, asserting that she lived separately with her husband and children in rented accommodation, while the disputed structure was dilapidated and uninhabitable.”<sup>44</sup> Despite these clarifications, “the Collector disqualified her from the post based solely on unverified statements. This decision was upheld by the Divisional Commissioner. Her writ petition before the High Court was also dismissed on technical grounds, thereby confirming her removal.”<sup>45</sup> The Supreme Court criticised the sequence of actions, observing that the respondent’s challenge was driven primarily by discriminatory motives, reflecting resistance to a woman’s election as Sarpanch. The court held that these efforts were orchestrated to oust her in the absence of any professional misconduct. It further emphasised that “authorities acted in a mechanical and careless manner, failing to conduct proper fact-finding. No objection regarding encroachment was ever raised during her nomination, highlighting the lack of credible evidence.”<sup>46</sup> The judgment noted the “broader systemic concern of gender bias and prejudicial treatment faced by women representatives, especially those elected under reservation quotas in rural governance. The court warned that casual removal of such representatives undermines progress toward gender parity and empowerment.”<sup>47</sup> Concluding that there was no convincing material to prove the allegations and that her disqualification was highly disproportionate, the Supreme Court allowed the appeal. It set aside the high court’s order restoring the position of the appellant.

In the case of *Mohd. Abdul Samad v. State of Telangana*,<sup>48</sup> the Supreme Court examined whether a divorced Muslim woman can claim maintenance under Section 125 of the Code of Criminal Procedure, 1973 (CrPC), despite the existence of the Muslim Women (Protection of Rights on Divorce) Act, 1986. The appellant-husband argued that “after pronouncing triple talaq and obtaining a divorce certificate, his former wife’s remedy lay exclusively under section 5 of the 1986 Act.”<sup>49</sup> He contended that “section 125 CrPC, being a general provision, was overridden by the special law of 1986, which limited a husband’s obligation to maintenance during the *iddat* period and other entitlements specified therein.”<sup>50</sup> Reliance was placed on earlier precedents holding that special law prevails over general law. The amicus curiae opposed this contention, submitting that Section 125 CrPC is a secular and independent remedy available to all women, including divorced Muslim women, to prevent destitution. He relied on *Danial Latifi v. Union of India*,<sup>51</sup> *Shabana Bano v. Imran Khan*<sup>52</sup> and subsequent judgments, which clarified that the 1986 Act did not foreclose the remedy under section 125

44 *Id.*, para 3.

45 *Id.*, para 4.

46 *Id.*, para 7.

47 *Id.*, para 10.

48 (2024 INSC 506).

49 Muslim Women (Protection of Rights on Divorce) Act, 1986 (Act 25 of 1986); sec. 5.

50 *Supra* note 48, para 6.

51 *Danial Latifi v. Union of India*, (2001) 7 SCC 740.

52 *Shabana Bano v. Imran Khan*, (2010) 1 SCC 666.

CrPC. The amicus stressed that denial of this right would violate Articles 14, 15, and 21 of the Constitution. The court traced the legislative history of section 125 CrPC as a measure of social justice to prevent vagrancy and protect women irrespective of religion. It reaffirmed the ratio in *Shah Bano*<sup>53</sup> and *Danial Latifi*,<sup>54</sup> holding that the 1986 Act must be interpreted harmoniously and does not extinguish the right under section 125 CrPC. Both statutes operate in distinct domains: while section 3 of the 1986 Act ensures a fair and reasonable provision at divorce, section 125 CrPC enables a wife, including a divorced woman who has not remarried, to claim maintenance if unable to maintain herself. The Court also clarified that section 127(3)(b) CrPC prevents “double benefit”. If the husband has already made fair provision under the 1986 Act to ensure her livelihood, the order under section 125 CrPC can be modified or cancelled. Ultimately, the Court upheld the Telangana High Court’s order reducing but sustaining interim maintenance under section 125 CrPC, affirming that divorced Muslim women retain the right to claim maintenance under this provision.

#### VIII ENVIRONMENT

In the case of *State of Telangana v. Mohd. Abdul Qasim*,<sup>55</sup> the Supreme Court had fined the Government of Telangana, which had failed in its duty to preserve and protect the forest. In 1960, “the State surveyed a piece of land and declared it a reserved forest.”<sup>56</sup> In 1971, vide a notification, the disputed land was declared as a reserved forest. The plaintiff in this case filed “an application seeking rectification of the survey conducted at the village, which declared the land as a reserved forest in the year 1971, claiming ownership of the land. His application was rejected in the year 1975; however, the joint collector allowed the plaintiff’s application.”<sup>57</sup> The plaintiff claimed title over the piece of land the State declared as a reserved forest and sought a declaration from the court that he is the owner of the lands and a permanent injunction to restrain the State “from interfering with his possession”. In 2018, “the High Court found that the plaintiff failed to show his title to the property and that the concerned piece of land was indeed a forest and dismissed the suit.”<sup>58</sup> Subsequently, in 2019, the State, which had until then found this piece of land to be a protected forest, reversed its stance, citing an improperly conducted survey back in 1959. Based on this “new” information, the plaintiff invoked the high court’s “review” jurisdiction. In 2021, the high court reversed its earlier findings regarding the nature of the land based on the “improperly conducted survey.”<sup>59</sup> The matter was then taken to the Supreme Court where the court held that “article 48-A imposes a clear duty through directive principles upon the State to improve the natural environment, including forests

53 *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556.

54 *Supra* note 53.

55 (2024) 6 SCC 461.

56 *Id.*, para 71.

57 *Id.*, para 72.

58 *Id.*, para 77.

59 *Id.*, para 79.

and wildlife. Similarly, there is a duty upon the citizens also to protect and conserve the forest.”<sup>60</sup> The court expressly stated that “Part III and Part IV of the Constitution are like two wheels of a chariot, complementing each other in their commitment to a social change and development. They form the core of nation building and a progressive society.”<sup>61</sup> The court gave emphasis on the precedent by the case of *Pradeep Kishen v. Union of India*,<sup>62</sup> where the court has stated that “the Constitution oblige the State to safeguard the wildlife of the country and this message is loud and clear under the article 48-A of the constitution of India.”<sup>63</sup> The court also reiterated the principle set in the case of *Sachidanand Pandey v. State of W.B*<sup>64</sup> which states that “whenever there is an issue before the court involving the problem of ecology and environment, the court must always investigate article 48-A of the constitution and examine the state’s priority in protecting the forest and wildlife.”<sup>65</sup> The court whilst imposing penalty on the State of Telangana, held that “there is a need to shift the approach from anthropocentric to ecocentric towards safeguarding forests.”<sup>66</sup> It further explained that “Man being an enlightened species, is expected to act as a trustee of the Earth. It is his duty to ensure the preservation of the ecosystem and to continuously endeavour towards the protection of air, water and land. It is not his right to destroy the habitat of other species, but his duty to protect them from further peril. A right to enjoy cannot be restricted to any specific group, nor can it be restricted to human beings. The time has come for mankind to live sustainably and respect the rights of rivers, lakes, beaches, estuaries, ridges, trees, mountains, seas and air”<sup>67</sup>. Thus, there duty of the state to protect the forest was upheld. The court reversed the high court’s decision and said that, “it is indeed very strange that the high court which is expected to act within the statutory limitation went beyond and graciously gifted the forest land to a private person who could not prove his title.”<sup>68</sup>

In another case, the SC has also held the duty of the State to protect the forest and wildlife. In the case of *M K Ranjitsinh v. Union of India*<sup>69</sup>, the concern was to protect the Great Indian Bastard, a species of bird declared to be critically endangered and found in parts of Rajasthan and Gujarat. The main concern was “the high-tension wires, which were the major cause of the death of the birds, causing a major decline in their population.” The court discussed, whilst explaining the “principle of sustainable development, “that a balance between protection of rare species and transmission of electricity through wires must be considered

60 *Id.*, para 62.

61 *State of Telangana v. Mohd. Abdul Qasim*, (2024) 6 SCC 461 : (2024) 3 SCC (Civ) 186 : 2024 SCC OnLine SC 548 at page 485.

62 (1996) 8 SCC 599.

63 *Pradeep Krishen v. Union of India*, (1996) 8 SCC 599.

64 (1987) 2 SCC 295.

65 *Ibid.*

66 *Supra* note 64, para 49.

67 *Ibid.*

68 *Supra* note 64, para 86.

69 2024 SCC OnLine SC 570.

efficiently.”<sup>70</sup> The court here also discussed “the approach from anthropocentric to ecocentric, that must be adopted to preserve and protect wildlife. It means the approach must be taken from being human-centric to nature-centric, where both the parts, human and non-human, have an intrinsic value.”<sup>71</sup> The Supreme Court provided many guidelines in order to protect these endangered birds in the case. Further, the court also discussed different aspects of the environment and climate change in this case. The court recognised “right against the adverse effect of climate change”. The right to life cannot be fully enjoyed without a clean environment, free from the drastic effects of climate change. “Forest dwellers, tribal communities, and indigenous communities are at risk of losing both their lives and their culture since it is deeply rooted in the places where they live and the natural resources around them. Destruction of forests and wildlife also causes displacement and permanent loss to their identity as well.”<sup>72</sup> The court expressly stated that the “right to equality under article 14 and the right to life under article 21 must be appreciated in the context of the the actions and commitments of the state on the national and international level, and scientific consensus on climate change and its adverse effects”<sup>73</sup> The other kinds of allied rights associated with it such as right against displacement and rights of disabled people, rights of people of indigenous communities, rights of migrants and children must also be considered. The state has an obligation to protect citizens from the adverse effects of climate change and to provide for a clean and healthy environment.

#### IX RIGHT TO PROPERTY

In the case of *Kolkata Municipal Corporation v. Bimal Kumar Shah*,<sup>74</sup> where the dispute concerned property at Narikeldanga North Road, Kolkata, owned by Birinchi Bihari Shah and later represented by his executor. Despite acknowledging his ownership and collecting property taxes, the Kolkata Municipal Corporation (KMC) in 2010 “deleted Shah’s name from records and inserted its own, claiming acquisition under section 352 of the Kolkata Municipal Corporation Act, 1980.”<sup>75</sup> Birinchi Shah challenged this in the High Court of Calcutta, which found KMC’s action invalid. The Single Judge ruled that “section 352 does not confer the power of compulsory acquisition, and this was affirmed by the Division Bench.”<sup>76</sup> On appeal, the division bench of the high court agreed with the single bench and directed that “the acquisition could only proceed under sections 536 or 537 of the Kolkata Municipal Corporation Act, 1980, failing which the owner’s name must be restored.”<sup>77</sup>

<sup>70</sup> *Id.*, para 66(e).

<sup>71</sup> *M.K. Ranjitsinh v. Union of India*, (2021) 15 SCC 1 para 4 and 5.

<sup>72</sup> *M K Ranjitsinh v. Union of India*, 2024 SCC OnLine SC 570 para 26.

<sup>73</sup> *Id.*, para 27.

<sup>74</sup> (2024) 10 SCC 533.

<sup>75</sup> *Id.*, para 7.

<sup>76</sup> *Id.*, para 2.

<sup>77</sup> *Id.*, para 12.

Before the Supreme Court, KMC argued that “section 352 empowered it to compulsorily acquire land for public purposes like parks, with section 363 providing for compensation.”<sup>78</sup> The court rejected this argument, holding that section 352 only “empowers identification of land for public use, but actual acquisition must follow the procedure under section 537 involving State intervention under the Land Acquisition Act, 1894.”<sup>79</sup> Section 363, the court clarified, applies to agreed acquisitions, not compulsory ones. The court further analysed article 300A of the Constitution, emphasising that “deprivation of property must follow due process. Compensation alone is insufficient; valid acquisition requires adherence to seven sub-rights: notice, hearing, reasoned decision, acquisition for public purpose, restitution/compensation, efficient process, and proper conclusion with vesting.”<sup>80</sup> Section 352 lacks these procedural safeguards and thus cannot serve as the basis for compulsory acquisition.

#### X HEALTH

In the case of *Gene Campaign v. Union of India*,<sup>81</sup> a writ petition was filed before the Supreme Court to issue mandamus to the authorities to bring rules for the manufacture, use, import, export and storage of hazardous micro-organisms. The petitioners posed a question to the government to allow commercial use of ‘genetically modified mustard.’ The petitioners contended that the contemporary rules in force are inadequate to deal with the modern problems. India is being the “dumping ground for test experimental crop varieties that have not been sufficiently studied, which affects the biodiversity of the country and adversely affects the health of humans as well.”<sup>82</sup>

The court whilst deciding upon the risk imposed by the ‘genetically modified crops’ on the health relied upon the rule laid down in the case of *State of the Netherlands (Ministry of Economic Affairs and Climate Policy) v. Stichting Urgenda*,<sup>83</sup> which held that when there is any scientific certainty about the efficacy of the state must take due care and caution in introducing anything new into the environment. It stated that the “state is obligated to take measures and provide a remedy where serious contamination of the environment is a threat because it adversely affects the lives of the people.”<sup>84</sup> The “unanticipated environmental release of the genetically modified crop imposes a serious threat on the right to a safe and healthy environment.”<sup>85</sup> The court further held that “the intergenerational equity is infringed due to the omission of assessing the environmental and health impact, as it potentially endangers the ability of future citizens to enjoy the highest attainable standard of health.”<sup>86</sup> The court held that “with the release of genetically

78 *Id.*, para 14.

79 *Id.*, para 25.

80 *Id.*, para 29 and 30.

81 2024 INSC 545: MANU/SC/0743/2024.

82 *Id.*, para 7.3.

83 Dutch Supreme Court decision. ECLI:NL:HR:2019:2006.

84 *Supra* note 53 2024 INSC 545: MANU/SC/0743/2024, para 43.1.

85 *Ibid.*

86 *Id.*, para 44.3

modified mustard without taking the necessary safeguards before releasing them into environment is a serious violation of right to health under article 21 of the Constitution.”<sup>87</sup>

#### XI RIGHTS OF DISABLED PEOPLE

In the case of *Nipun Malhotra v. Sony Pictures Films India*,<sup>88</sup> the appellant highlighted that wrong and derogatory terms were used for persons with disabilities (PwD). These included “(a) misrepresentation of the condition of night blindness; and (b) derogatory references to (i) a person with Alzheimer’s as bhulakkadbaap, (ii) a hearing-impaired person as a soundproof system and (iii) a character with speech impairment as an atki hui cassette.”<sup>89</sup> The court reflected on its judgment given in the *Vikash Kumar v. Union Public Service Commission*<sup>90</sup> which stated that, “while not specifically mentioned in the Constitution, persons with disabilities are equally entitled to the rights enumerated therein”<sup>91</sup> and noted that section 3 of the RPwD Act casts “an affirmative obligation on the government to enable the exercise of rights including the right to equality and dignity, which vest in persons with disabilities with equal rigour as others”<sup>92</sup> and put positive obligation on “State and private parties to support PwD to facilitate their full and effective participation in society.”

Coming to films, the court said that if a film justifies disrespectful language against PwD, it cannot be subject to restraints beyond article 19(2) of the constitution of India but “language that disparages persons with disabilities, marginalises them further and supplements the disabling barriers in their social participation, without the redeeming quality of the overall message of such portrayal must be approached with caution.”<sup>93</sup>

In this case, the court made some important observations on PwD and said that “words for PwD should be used wisely. Certain terms, such as cultivate institutional”, ‘cripple and spastic’, should be avoided. It is also important, as per the court, to have a correct portrayal of the medical conditions of PwD. The media portrayal should not be based on myths around PwD. The court highlighted with an example that “the notion that visually impaired persons have enhanced spatial senses may not apply to everyone uniformly. It also implies that those who do not have such enhanced superpowers to compensate for the visual impairment are somehow less than ideal.”<sup>94</sup> Further, the court highlighted the importance of awareness and thus observed that “training and sensitisation programs should be implemented for individuals involved in creating visual media content, including writers, directors, producers, and actors. These programs should emphasise the

87 *Id.* 44.5

88 2024 SCC OnLine SC 1639,

89 *Id.*, para 7.

90 2021 SCC OnLine SC 84

91 *Id.*, para 32.

92 *Id.*, para 33.

93 *Supra* note 60 at para 74.

94 *Ibid.*

impact of their portrayals on public perceptions and the lived experiences of persons with disabilities.”<sup>95</sup>

In *Om Rathod v. Director General of Health Services*,<sup>96</sup> the appellant was denied admission in the MBBS course at AIIMS, Nagpur, in spite of securing an “all India PwD rank of 84 and a State PwD rank of 4 in NEET UG Examination 2024.”<sup>97</sup> Due to his lower limb myopathy, a locomotor disability, holding that “the appellant was 88% disabled, which was higher than the maximum permissible disability fixed by the regulation governing admission in the PwD category for the MBBS course,”<sup>98</sup> he was denied admission. Against this, a writ petition was filed in the high court, which was dismissed. Against the high court decision, this appeal is made to the Supreme Court.

While allowing the appeal, the Supreme Court noted that, “the Appellant was subjected to protracted and mentally exhausting assessments that failed to apply the correct standards, leading to a declaration of ineligibility.”<sup>99</sup> Supreme Court further stated that, “disability Assessment Boards must comply with the rule of law.... The Boards must further elaborate on the reasons for their assessment outcome, in particular when they opine that the candidate is ineligible. The Disability Assessment Boards must focus on the functional competence of persons with disabilities and not merely quantify the disability.”<sup>100</sup> In the final decision, the Supreme Court ordered a seat to be created at AIIMS, Nagpur, for the appellant. Further, the court gave a few directions that may be made “for admitting persons with disabilities into medical courses. The committee formulating the guidelines must include experts with disability or persons who have worked on disability justice.”<sup>101</sup> Also, the court directed that the “conduct of the Disability Assessment Boards shall be fair, transparent and in compliance with principles of the rule of law.”<sup>102</sup> Harping on the importance of ‘reasonable accommodation’. The court stated that “non-availability of reasonable accommodation amounts to discrimination and violates substantive equality of persons with disabilities.”<sup>103</sup> Furthering the rights of PwD, Supreme Court noted that “the inclusion of persons with disability in the medical profession would enhance the quality of healthcare and meet the preambular virtue of fraternity and the guarantees in articles 21, 19, 14 and 15 of the Constitution.”<sup>104</sup> The Supreme court asked stated that the “applicants to the NEET examination must be informed about the compliance of accessibility norms and provisions of reasonable accommodation available at

95 *Ibid.*

96 2024 INSC 836: MANU/SC/1172/2024.

97 *Id.*, para 2.

98 *Id.*, para 7.

99 *Id.*, para 32.

100 *Id.*, para 34.

101 *Id.*, para 53.

102 *Id.*, para 60.

103 *Ibid.*

104 *Ibid.*

colleges and a database be created on accessibility and reasonable accommodation.”<sup>105</sup>

In *Omkar Ramchandra Gond v. Union of India*,<sup>106</sup> the petitioner appeared for the medical entrance examination. The application form he submitted had “a disclaimer Clause which stated that the eligibility under the PwD Category was purely provisional and was to be governed as per the National Medical Commission (NMC) guidelines regarding admission of students with “specified disabilities” under the RPwD Act.”<sup>107</sup> The issue before the court was whether the appellant should be disqualified from admission just because his disability is quantified at 44%/45?

The court pointing that the Constitution of India states that, “the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.”<sup>108</sup> The court emphasised on the importance of reasonable accommodation and referred to its decision in the *Vikash Kumar v. UPSC*,<sup>109</sup> which held that “the principle of reasonable accommodation captures the positive obligation of the State and private parties to provide additional support to persons with disabilities to facilitate their full and effective participation in society.”<sup>110</sup> The reasonable accommodation concept puts a duty on the state and others “to provide additional support to persons with disabilities to facilitate their full and effective participation in society.”<sup>111</sup>

As per the Supreme Court, if the needs of the disabled people are not met, it will be a violation of ‘reasonable accommodation.’ Discussing the concept of inclusive education, the Supreme Court held that “inclusive education is important for universal and non-discriminatory right to education.”<sup>112</sup> Keeping in mind the definition of ‘inclusive education’ in the RPwD Act, 2016 which stated that “inclusive education means a system of education wherein students with and without disability learn together and the system of teaching and learning is suitably adapted to meet the learning needs of different types of students with disabilities.”<sup>113</sup> The Supreme Court while deciding the case held that “mere existence of benchmark disability of 40% or above (or such other prescribed percentages depending on the disability) will not disqualify a candidate from being eligible for the course applied for.”<sup>114</sup> The Disability Assessment Boards, which assess candidates, must clearly state

105 *Ibid.*

106 MANU/SC/1110/2024: 2024 INSC 775

107 *Id.*, para 4.

108 The Constitution of India, art. 41.

109 (2021) 5 SCC 370. *Supra* note 58.

110 *Id.*, para 44.

111 *Id.*, para 32.

112 *Ibid.*

113 S. 2(m).

114 *Supra* note 109, para 48.

whether the disability will be a hindrance to continuing the course and cite the exact reason for the ineligibility. Thus, the candidate was allowed to pursue the course.

#### XII RIGHT OF CHILDREN

In the case of *Society for Enlightenment and Voluntary Action v. Union of India*,<sup>115</sup> the petitioner, an NGO working against child marriage, was aggrieved by the fact that, in spite of having legislation, child marriage still continues unabated in India. The Petitioner “sought stronger enforcement mechanisms, awareness programs, the appointment of Child Marriage Prohibition Officers, and comprehensive support systems for child brides, including education, healthcare, and compensation, to ensure the protection and welfare of vulnerable minors. Accordingly, the petitioner prays for the issuance of effective guidelines.”<sup>116</sup> The Supreme Court, acknowledging this concern, went on to formulate certain guidelines. The first guideline was on “CMPOs and that they should not be burdened with additional responsibilities. Each State and UT is directed to upload quarterly reports from CMPOs on their official websites. These reports should detail the steps taken to prevent child marriages and the outcomes of investigations.”<sup>117</sup> The other guidelines related to ‘quarterly reviews of CMPOs will be done by the Ministry.’<sup>118</sup> In addition to CMPOs, the SC gives responsibility to Collectors and SPs in each district of India to be responsible for the establishment of a Specialised Police Unit (the viability of integrating the Special Juvenile Police Unit into the child marriage prevention framework), The court also gave directions for certain judicial measures such as “vesting Magistrates with authority under Prohibition of Child Marriage Act, 2006, to take proactive measures, to prevent the solemnization of child marriages.”<sup>119</sup> The Supreme Court directed “the central government to assess the feasibility of establishing special fast-track courts exclusively to handle cases under the PCMA.”<sup>120</sup> Also, the court stated that “strict disciplinary and legal action be taken against any public servant found to be in deliberate neglect of duty concerning child marriage cases within their jurisdiction.”<sup>121</sup> Also provision for “awareness targeting CMPOs, Gram Panchayat or Municipality office holders, government officials, school principals and teachers, representatives of non-governmental organisations, local representatives, and

115 2024 INSC 790: MANU/SC/1126/2024

116 *Id.*, para 1.

117 *Id.*, para 76.

118 *Id.*, para 211 (1) (1).

119 *Id.*, 1.3

120 *Id.*, B. Judicial Measures (2).

121 As stipulated under Section 199(C) of the Bharatiya Nagarik Suraksha Sanhita (BNS), 2023, public officials who fail to act in child marriage cases, particularly those with knowledge of imminent marriages, shall be subject to stringent punishment. This direction is aimed at reinforcing accountability among public officials and ensuring child marriage cases receive immediate and appropriate action at all administrative and enforcement levels.

Para Legal Volunteers (PLVs), fostering a collaborative approach to child marriage prevention.”<sup>122</sup>

The Ministry of Women and Child Development was also directed to have programmes for girl children at risk, and provide incentives to families to better their economy. The National Legal Services Authority is directed “to formulate a Standard Operating Procedure that provides comprehensive guidelines for legal support and rehabilitation plans. Special emphasis shall be placed on these responsibilities during critical periods and other wedding seasons.”<sup>123</sup>

Further, the Supreme Court directed the National Commission for Protection of Child Rights to expedite the process of drafting an SOP to establish accountability for the “non-reporting of child marriages, provide rehabilitation for minor survivors, and initiate prosecution procedures.”<sup>124</sup> The Supreme Court discussed the roles of Panchayat and Local Leaders, who have to undergo training to prevent child marriages and report such matters within a specified time. Further, Supreme Court said that, “State authorities must develop and implement Individual Care Plans (ICP) for at-risk girl children, ensuring compliance with section 10 of the JJ Act, which mandates individualised care and rehabilitation for children in need of care and protection.”<sup>125</sup>

The Supreme Court emphasised Technology-Driven Initiatives for Reporting Child Marriage by “Creation of a Centralised Reporting Portal for online reporting of child marriages. This portal will include features for anonymous reporting, allowing victims and concerned citizens to easily lodge complaints and access support services. Further, MWCD could, with the state government, look into school attendance among school-going girls by monitoring using technological tools.

In the case of *Just Rights for Children Alliance v S. Harish*,<sup>126</sup> an FIR was registered against the respondent under the IT Act and POCSO as he had downloaded certain pornographic materials involving children. During investigation, “two videos containing child pornography was seized and sent to the Forensic Science Laboratory for analysis and the report stated that the mobile phone did contain child pornography.”<sup>127</sup> Thus, a charge sheet was filed against

122 *Supra* note 86 at 211D.

123 *Id.* 211G. Monitoring and Accountability.

124 *Id.* 211 H. Technology-Driven Initiatives for Reporting Child Marriage.

125 Immediate access to educational resources tailored to the child’s needs; 3.1.2. Regular psychological support sessions, including counselling and therapy, as necessary; 3.1.3. Establishment of peer support groups to help at-risk girls connect with one another and share experiences; 3.1.4. Monitoring by Child Welfare Officers/District Child Protection Unit (DCPU) should occur every month for the first year post-intervention to ensure successful reintegration into education and community life; and 3.1.5. Follow-up assessments should be conducted every three months to evaluate the effectiveness of the ICP, adjusting support services as needed to address any emerging challenges faced by the child.

126 2024 INSC 716: MANU/SC/1041/2024

127 Two video files relating to child pornography depicting two underage boys involved in sexual activity with an adult woman.

the respondent for the offences punishable under section 67B of the IT Act and 15(1) of the POCSO. The Respondent approached the High Court for quashing the order and got a favourable order on the ground that “mere possession or storage of any pornographic material is not an offence under the POCSO.”<sup>128</sup> It was held that “section 67B of the IT Act only makes the act of transmission, publication or creation of material depicting children in a sexually explicit manner an offence. Mere watching or downloading of child pornography in private domain was not punishable.”<sup>129</sup> The Supreme Court applying the doctrine of ‘constructive possession on appeal clarified that section 15 of the POCSO Act clearly recognised that any activity such as “viewing, distributing or displaying etc. pertaining to child pornographic material without actually possessing or storing it in any device or in any form or manner, such act would still tantamount to possession.”<sup>130</sup> This will be applicable if the person exercised an invariable degree of control over such material.

In the case of *Col. Ramneesh Pal Singh v. Sugandhi Aggarwal*,<sup>131</sup> which was about a custody battle between parents in relation to their two children, the Supreme Court recognised the concept of Parental Alienation Syndrome (PAS). The respondent’s lawyer stated that “the present case is a classic case of PAS wherein the minor children have been influenced against the Respondent; and accordingly the preference indicated by the Minor Children ought not to be considered representative of the true emotions of the Minor Children.”<sup>132</sup> The court stated that, “it is our considered opinion that Courts must endeavour to identify individual instances of alienating behaviour in order to invoke the principle of parental alienation so as to overcome the preference indicated by the minor children.”<sup>133</sup> The court while allowing the custody to be with the appellant held that minor children did not show any “parental alienation i.e., there was no overt preference expressed by the Minor Children between the parents and thus, the foundation for any claim of parental alienation was clearly absent.”<sup>134</sup>

### XIII LGBT RIGHTS

In *Devu G. Nair v. The State of Kerala*,<sup>135</sup> the Supreme Court laid down certain guidelines to secure the rights and dignity of parties and members of the LGBTQ+ community. In this case, the appellant, claiming to be the intimate partner of ‘X’, both females sought a writ of habeas corpus on the ground that “X was being forcibly kept by her parents in their custody, whereas she wished to remain with the Appellant.”<sup>136</sup> The court gave some important guidelines in this case

128 *Supra* note 95 at para 10.

129 *Ibid.*

130 *Id.*, para 118.

131 2024 INSC 397: MANU/SC/0404/2024

132 *Id.*, para 17.

133 *Id.*, para 22.

134 *Id.*, para 24.

135 2024 INSC 228: MANU/SC/0232/2024.

136 *Id.*, para 3.

while dealing with habeas corpus petitions or petitions for police protection for LGBTQ+ persons such as, “habeas corpus petitions and petitions for protection filed by a partner, friend or a natal family member must be given a priority in listing and hearing before the court and while assessing the locus standi of a partner or friend, the court must not make a roving enquiry into the precise nature of the relationship between the Appellant and the person;”<sup>137</sup> The court further directed that the corpus must be brought before the court and be provided with a “conducive and compassionate environment as well as in camera proceedings should be held.”<sup>138</sup> The age though essential to be ascertained but the petition should not be outrightly rejected due to the age of the minor.<sup>139</sup> Police protection also may be granted. Importantly, the court held that, “the Court shall not pass any directions for counselling or parental care when the corpus is produced before the Court. The role of the Court is limited to ascertaining the will of the person. The Court must not adopt counselling as a means of changing the mind of the Appellant, or the detained/missing person.”<sup>140</sup> Further, the court directed that the judge should not attempt to influence the orientation and gender identity. These according to the court are primary matters of dignity and “no stigma or moral judgment must be imposed when dealing with cases.”<sup>141</sup>

#### XIV RIGHT TO PRIVACY

In the case of *The Re: Right to Privacy of Adolescents*,<sup>142</sup> a 25-year-old man was convicted by a trial court for aggravated penetrative sexual assault and related charges under the Indian Penal Code against a 14-year-old girl. The girl had run away from her home, become pregnant, and eventually gave birth to his child. The High Court of Calcutta reversed the decision on the ground that the girl had willingly eloped, and treated the relationship as consensual. Along with the high court’s reversal, what was also concerning was the court’s remarks: “criticising young girls for lacking self-control and making broad statements about moral responsibility.”<sup>143</sup> The remarks led to public outcry, and the Supreme Court took *suo motu* cognisance of the matter and “flagged parts of it as deeply problematic and potentially violative of fundamental rights.”<sup>144</sup> The West Bengal government too appealed against the high court’s order. The issue before the Supreme Court was “whether a minor’s consent is legally valid given the strict liability principle under the POSCO Act.” Also, the other questions were if the high court was right in quashing a special statute meant to protect a child.”<sup>145</sup>

137 *Id.*, para 16 (a) and (b).

138 *Id.*, para 16 (d) and (f).

139 *Id.*, para 16 (g).

140 *Id.*, para 16 (k).

141 *Id.*, para 16 (l).

142 (2024 Insc 614).

143 *Id.*, para 15.

144 *Id.*, para 18 and 19.

145 *Ibid.*

The Supreme Court reversed the decision of the Calcutta High Court's decision and upheld the original conviction given by the trial court, "that the accused had committed aggravated penetrative sexual assault under the POCSO Act and was guilty of rape under the Indian Penal Code. However, it agreed that the charges related to kidnapping were rightly dismissed, as there was no evidence that the girl had been taken against her will."<sup>146</sup>

The Supreme Court importantly condemned the high court's observations, stating that "it was inappropriate and harmful and that judges should decide matters on legal grounds rather than personal beliefs or social commentary."<sup>147</sup>

The Supreme Court specially took note of the following observations of the high court and critiqued this part where the high court said that, "it is the duty/obligation of every female adolescent to: (i) Protect her right to integrity of her body. (ii) Protect her dignity and self-worth. (iii) Thrive for the overall development of her self-transcending gender barriers. (iv) Control sexual urge/urges, as in the eyes of society, she is the loser when she gives in to enjoy the sexual pleasure for hardly two minutes. (v) Protect her right to autonomy of her body and her privacy."<sup>148</sup> Further, the Supreme Court also condemned the high court for stating that, "it is normal for each adolescent to seek the company of the opposite sex, but it is not normal for them to engage in sex devoid of any commitment and dedication.....Sex shall come automatically to them when they grow self-reliant, economically independent and a person whom they dreamt one day to be."<sup>149</sup> The court disagreed with the high court, which said that it was a case of "nonexploitative consensual sexual relationship between a minor girl and an older adolescent or maybe a young adult."<sup>150</sup> Recognising the broader implications of the case, the court issued directions to all states and union territories to comply with the child protection procedures under the POSCO Act and the Juvenile Justice Act.

#### XV HUMAN RIGHTS: RIGHT TO EQUALITY

In *Sukanya Shantha v. Union of India*,<sup>151</sup> the Petitioner sought directions to repeal the offending provisions in State prison manuals that highlighted caste discrimination in prisons in India. The petitioner argued that the prison manuals violate articles 14, 15, 17, 21, and 23 of the Constitution of India. It was highlighted by the petitioner that discrimination on the basis of caste exists in prisons in India, especially in the case of manual labour. There was segregation of barracks, and discriminated prisoners belonging to 'denotified tribes and habitual offenders.' The Supreme Court allowed the petition and held that "classification for labour for treatment and for conferment of entitlements might be as per reformatory potential of prisons."<sup>152</sup> The classification should be based on objective assessment, and

146 *Id.*, para 42.

147 *Id.* para 18 and 19.

148 *Id.*, para 15. viii.

149 *Id.*, para 15. x.

150 *Id.*, para 15. xii.

151 2024 INSC 753: MANU/SC/1084/2024.

152 *Id.*, para 69.

classification on caste “reduces the individual prisoner to a group identity and does not leave room for an objective assessment of their correctional needs.”<sup>153</sup> Thus, the Supreme Court held that, “rules that discriminate among individual prisoners on the basis of their caste specifically or indirectly by referring to proxies of caste identity are violative of article 14 on account of invalid classification and subversion of substantive equality.”<sup>154</sup> Further, the supreme court said that manuals were based on stereotypes and they “demean and stigmatize marginalized communities but also serve to maintain and legitimize a social hierarchy that goes against the constitutional values of equality.”<sup>155</sup> The Supreme court particularly held that by “assigning specific types of work to marginalized castes based on their supposed customary roles, the Manuals perpetuate the stereotype that people from these communities were either incapable of or unfit for more skilled, dignified, or intellectual work.”<sup>156</sup> While holding that the prison manuals violative of article 14, 15, 17, 21 and 23 of the constitution of India, the Supreme court said that these “Prison Manuals restrict the reformation of prisoners from marginalized communities, they violate their right to life.”<sup>157</sup> Also, they “deprive prisoners from marginalized groups of a sense of dignity and the expectation that they should be treated equally.”<sup>158</sup> Further, when prisoners of certain communities are subject to discriminatory practises based on their caste, ‘their inherent dignity was violated.’<sup>159</sup> The government, while directing the state governments to change the manuals, pointed out that “article 23 of the Constitution of India was incorporated into the Constitution to protect the members of oppressed castes from exploitative practices..... However, the prison rules, by exploiting the labour of the oppressed castes, perpetuate the same injustice to guard against which article 23 was inserted into the Constitution.”<sup>160</sup>

In *State of Punjab v. Davinder Singh*,<sup>161</sup> the facts were that the Punjab Government passed a legislation, ‘the Punjab Scheduled Caste and Backward Classes (Reservation in Services) Act, 2006 (the Act)’ and reintroduced “first preference reservation for the Balmikis and Mazhabi Sikhs, half of the total seats reserved for the SC category would be offered first to these two communities before all other SC groups.”<sup>162</sup> The legislation was struck down by the Punjab and Haryana High Court, which was based on the Supreme Court’s decision in *E.V.*

153 *Ibid.*

154 *Id.*, para 70.

155 *Id.*, para 173.

156 *Ibid.*

157 *Id.*, para 188.

158 *Ibid.*

159 *Ibid.*

160 *Id.*, para 195.

161 2024 INSC 562

162 S. 4(5).

*Chinnaiah v. State of Andhra Pradesh*.<sup>163</sup> The Punjab Government argued that *E.V. Chinnaiah* was not in accordance with the Supreme Court's nine-judge bench decision in *Indra Sawhney v. Union of India*, which permitted 'make sub-classifications within the OBC category'. The Punjab Government contended that *E.V. Chinnaiah's* decision was wrongly understood 'to mean that only the OBC category could be sub-classified and not the SC category.' Due to the five-bench decision in *Chinnaiah's* case, the matter was referred to a seven-judge bench. The principal issue before the larger bench was whether sub-classification should be permitted for the SC and ST categories, since it is permitted for the SEBC category. The Supreme Court finally upheld the "validity of sub-classification with the Scheduled Caste and Scheduled Tribe Categories."<sup>164</sup>

#### XVI CONCLUSION

Social change is inevitable, and laws must adapt to the challenges society poses. This survey included articles that introduced a new dimension to important social issues. The Supreme Court gave important judgments on fundamental rights. Though the right to food is not expressly included as a fundamental right in the constitution of India, in the case of *Anun Dhawan v. Union of India*,<sup>165</sup> recognising it as a fundamental right gave directions for community kitchens to provide for an adequate quantity of quality food to combat hunger, starvation and malnutrition, which causes deaths. In the right to equality case of *Sukanya Shantha v. Union of India*, the Supreme Court held that prison manuals discriminate on the basis of caste in the context of manual labour and, accordingly, violate the provisions of equality under the Constitution of India. On the right to freedom of speech and expression, the Supreme Court delivered leading decisions in the case of *Apoorva Arora v. State (Govt. of NCT of Delhi)*,<sup>166</sup> where it recognised the creative freedom of an artist as a fundamental right. Also, in *Javed Ahmad Hajam v. State of Maharashtra*,<sup>167</sup> the Supreme Court stated that this right can be curbed only on grounds of reasonable restrictions provided for in article 19(2) of the Constitution of India. This case involved the invocation of section 153-A of the IPC, which concerns speech crimes. The Supreme Court said that, as a speech crime, it required "proof of intention to incite disorder, violence, or public unrest. The gist of the offence lies in the promotion of enmity or hatred between classes, where *mens rea* is essential."<sup>168</sup> Further, the court has held that the right to health is of paramount

163 The SC's decision in *E.V. Chinnaiah* held that. "First, that state governments cannot categorise any group of people as Scheduled Castes. As per article 341, this power solely belongs to the President. Second, that the Scheduled Caste category as a whole (as determined under article 341) was one "homogenous" group. This meant that any sub-classification within a homogenous group would result in persons from the same class being treated differently thereby violating the right to equality."

164 *Supra* note 134, para 205.

165 2024 SCC OnLine SC 179.

166 (2024) 6 SCC 181.

167 2024 SCC OnLine SC 249.

168 *Patricia Mukhim v. State of Meghalaya*, (2021) 15 SCC 35.

importance. When it comes to GMCs, the court held that, if there is scientific certainty about efficacy, the state must exercise due care and caution before introducing anything new into the environment. In 2024, the apex court also was very proactive in protecting rights of vulnerable communities; be it in the case of children where in the case of *Society for Enlightenment and Voluntary Action v. Union of India*, where the court took a very serious view on child marriages and providing guidelines to state and government and other state machinery to prevent child marriages or in the case of *Just Rights for Children Alliance v. S. Harish*,<sup>169</sup> to prevent child pornography. The Supreme Court gave many important decisions on the rights of specially-abled people in *Omkar Ramchandra Gond v. Union of India*,<sup>170</sup> and *Om Rathod v. Director General of Health Services*,<sup>171</sup> by recognising the education rights of PwD and providing them 'reasonable accommodation' under the RPwD Act. Also, furthering the rights of women in a landmark judgment of *Mohd. Abdul Samad v. State of Telangana* affirmed that divorced Muslim women retain the right to claim maintenance under this provision. In the case of *Manisha Ravindra Panpatil v. State of Maharashtra*,<sup>172</sup> the Supreme Court criticised the general public and state officials for prejudice against women and allowed the appellant to continue as a Sarpanch, stating that the respondent's challenge was driven primarily by discriminatory motives, reflecting resistance to a woman being elected Sarpanch. Further, many decisions were made in 2024 on environmental protection, in the case of *State of Telangana v. Mohd. Abdul Qasim*,<sup>173</sup> the Supreme Court fined the Government of Telangana for failing in its duty to preserve and protect the forest. Further, other leading decisions were also given on the right to information of voters in the case of *Association for Democratic Reforms v. Union of India*,<sup>174</sup> right to property in the case of *Kolkata Municipal Corporation v. Bimal Kumar Shah*,<sup>175</sup> and on right to privacy in an interesting judgment of *The Re: Right to Privacy of Adolescents*.<sup>176</sup> As in the past, the Supreme Court has, in 2024, delivered judgments in line with changing social needs. In the future, it is hoped that the Supreme Court will continue to do the same.

169 2024 INSC 716: MANU/SC/1041/2024.

170 MANU/SC/1110/2024: 2024 INSC 775.

171 2024 INSC 836: MANU/SC/1172/2024.

172 *Manisha Ravindra Panpatil v. State of Maharashtra*, (2024) SCC OnLine SC 2690.

173 (2024) 6 SCC 461.

174 Writ Petition (C) No. 880 of 2017.

175 (2024) 10 SCC 533.

176 2024 INSC 614.