

The Impact and Legacy of Justice Rohinton Fali Nariman in the Indian Judiciary

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Abstract: This article explores the significant contributions of Justice Rohinton Fali Nariman to the Indian judiciary. It highlights his key judgments, his approach to law, and his impact on legal practices and principles. The article also discusses his career trajectory, from his early days in law to his tenure as a Supreme Court judge.

Keywords: Justice, Rohinton Fali Nariman, Judiciary

1. Introduction

Justice Rohinton Fali Nariman

Justice Rohinton Fali Nariman, who is well known for his multifaceted contribution towards society, recently bid adieu to his tenure as a judge in the Supreme Court. Through the myriad felicitations by the members of the bar and the bench, his magnificent journey as a judge can be seen as one of the admirable journeys of all times. The stellar career of the Hon'ble judge embarked an end to the stereotypical opinions prevailing in society. Upholding the rich legacy of Justice Fali Nariman, Justice R. F. Nariman established his personal legacy by averting the deep - rooted stigmas attached to the traditional jurisprudence and initiated the much - needed affirmative regime.

The persona that Justice Nariman upheld was justified through the words of the Chief justice of India N V Ramana, "We are losing one of the lions that guarded the judicial institution and one of the strong pillars of the contemporary judicial system." [1] Being the fifth senior lawyer to be elevated from the bar to the bench, the rhetoric verdicts delivered by the judge brought nothing but glory to the institution. Being an erudite constitutionalist throughout his tenure, his contribution to the evolving legal domain will be commemorated by the human fraternity.

Under the looming apprehensions of people regarding the illustrious career of his father, Justice Fali Nariman, and his undying legacy, Justice R. F. Nariman aimed to be distinctive, holding an individual identity distinguished from that of his father. He started his career by enrolling himself in the Bar in the year 1979 after obtaining his LL. M. degree from Harvard Law School and a brief stint in New York at a Maritime Law firm for a year.

Justice Fali Nariman's stature was enlightened by his obsessive attention to the minutest details and his remarkable grasp of the complicated facts and the underlying legal issues. This quality elevated him to the designation of a senior advocate of the Supreme Court in 1993 when he was merely 37 years of age, intriguingly, the then Chief Justice of India, M. N Venkatachaliah, amended the rules and reduced the minimum age for appointment as a senior advocate of the Supreme Court from 45 years to

designate Justice Nariman as a senior advocate. [2] Having expertise in cases related to Comparative Constitutional Law and Civil Law, his career underwent diversified legal ambit paving way for a wholesome achievement.

His tremendous contribution in the legal field was colossal which resulted in his appointment as a Solicitor General of India in the year 2011 on the recommendation of the late G. E Vahanvati, the then Attorney General of India. However, after 18 months, Justice Nariman resigned his post as a Solicitor General due to the demands of the then Union Law Minister, Ashwani Kumar.

Considering the judicial aptitude and the fierce independence of the legal doyen, Justice Nariman was elevated as a judge of the Supreme Court of India on 7th July 2014. During his tenure, Justice Nariman was also appointed as Chairman of the Supreme Court Legal Services Committee. He was among the 5 members who were directly appointed from the Bar to be a judge of the Supreme Court. In his 7 years of tenure, he disposed of around 13, 500 cases and delivered several notable judgments that had a profound effect on the development of law

Nariman J: Judgments in Which He Shaped the Law

Justice Rohinton Fali Nariman, during his tenure as a Supreme Court judge, has been involved in several landmark judgments on privacy, right to life, freedom of speech, and equality. Here is an overview of some of his key judgments:

1) **Supervising the National Registry of Citizens in Assam:** Justice Nariman, along with Justice Gogoi, heard the case of *Assam Sanmilita Mahasangha v Union of India* in 2014. The case challenged the compromise reached through the Assam Accord of 1985, which granted citizenship to illegal immigrants until 1971. While the constitutional validity of the law was referred to a larger bench, the two - judge Bench instructed the detection and deportation of illegal immigrants. Subsequently, the Bench oversaw the process of updating the National Registry of Citizens in Assam. [3]

2) **Freedom of Speech on Digital Platforms:** In *Shreya Singhal v Union of India (2015)*, Justice Nariman authored the judgment that struck down Section 66A of the Information Technology Act, 2000. The provision penalized individuals for sharing offensive, annoying, or inconvenient

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messages. The Court held that the provision was arbitrary and violated the right to freedom of speech as it lacked clear definitions and had a chilling effect on free expression. [4]

3) **Designation of Senior Advocates Must Pass a High Threshold:** In 2017, Justice Nariman, along with Justices Gogoi and Sinha, laid down guidelines for the designation of senior advocates in the Supreme Court. The Bench ordered the formation of a selection committee to choose senior advocates based on a point system, emphasizing the need for diversity and adopting a high level of scrutiny in the selection process. [5]

4) **Right to Privacy an Inherent Human Right:** In the landmark judgment of Justice *K. S. Puttaswamy v Union of India (2017)*, a nine - judge Bench unanimously recognized the right to privacy as an inherent human right in India. While other judges located the right to privacy in Article 21 of the Constitution, Justice Nariman located it as inherent in every individual, extending beyond constitutional rights. His judgment emphasized individual choice, autonomy, and the right to privacy in all spheres of life. [6]

5) **Voter's Right to Know:** Justice Nariman was part of a five - judge Constitution Bench that heard a petition regarding the disqualification of electoral candidates with serious criminal charges. Although the Bench refused to disqualify candidates through judicial intervention, they urged Parliament to pass a law in this regard. The Bench also directed political parties to publish criminal charges against their candidates, upholding the electorate's right to know. [7]

6) **Right to Religion is Subject to the Rights to Equality, Non - Discrimination, and Health:** Justice Nariman, in various judgments, highlighted the importance of the rights to equality and non - discrimination in relation to the right to religion. In cases such as triple talaq and entry of women into the Sabarimala Temple, he held that practices violating these rights were unconstitutional. He emphasized that the right to equality and non - discrimination took precedence over religious practices based solely on sex. [8]

7) **Criminal Law and the Rights to Equality and Dignity:** Justice Nariman played a significant role in decriminalizing homosexuality in India through the *Navtej Singh Johar case (2018)*. He stressed that homosexuality was not a mental illness and ordered sensitization programs for officials. He also struck down the provision criminalizing adultery in the *Joseph Shine case* [9] (2018), noting that it violated several constitutional rights. [10]

8) **Reservations: Promotion and Reassessing 'Creamy Layer':** Justice Nariman's judgment in *Jarnail Singh v Lacchmi Narain Gupta (2018)* clarified that the State need not prove backwardness to grant reservations in promotions for.

2. Conclusion

Justice Rohinton Fali Narimans contributions to the Indian judiciary have been significant and transformative. His legal acumen and dedication have left an indelible mark on the

Indian legal system, inspiring future generations. His legacy is a testament to his unwavering commitment to upholding the principles of law.

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