

## BEYOND THE GLASS CEILING

Relevant for: Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

Justice Ruth Bader Ginsburg was once asked how many of the nine judges of the U.S. Supreme Court should be women.

“Nine,” she said.

She believed that if nine men could adorn the Bench of the Supreme Court, nine women would do equally well. If 48 men can be Chief Justices of India, Justice B.V. Nagarathna, scheduled to be sworn in as a Supreme Court judge and poised to be Chief Justice of India in 2027, will historically interrupt the unbroken line of male Chief Justices.

As Chief Justice, Justice Nagarathna, if appointments follow the seniority norm, may have a tenure of little over a month. Her ascendancy cannot be cynically viewed as a token gesture to hush the gender talk linked to the highest judicial office. It has to be seen as a signal fire lit from the court’s watchtower for women to aspire for the pinnacle.

The entry of Justice Nagarathna, a vocal champion of women’s rights, into the Supreme Court coincides with the rise in crimes against women. In her farewell speech at the Karnataka High Court, Justice Nagarathna urged women to have faith in themselves and stride ahead.

The Bar knows her as a tough judge. In 2009, shortly after being unlawfully detained by agitating lawyers, she retorted with a public statement, “we cannot be cowed down like this. We have taken the oath of the Constitution”. That day, she was hailed as the spokesperson for an independent and strong judiciary.

Rather than live and practise as a lawyer out of the government accommodation of her father, former Chief Justice of India E.S. Venkataramiah, she chose to leave Delhi for Bengaluru. After three decades, Justice Nagarathna returns to the Capital where she had read Law at the Campus Law Center.

Born in 1962, Justice Nagarathna started practice in 1987. She was elevated as judge in 2008. Her legal practice covered a wide variety of law from arbitration to land acquisition, constitutional law, family cases and commercial disputes, among others.

### Landmark decisions

Justice Nagarathna’s administrative calibre matches her judicial work. As the Administrative Judge of the City Civil Court Bangalore, she approved the establishment of a crèche in the City Civil Court complex. In her role as chairperson of High Court Buildings Committee, Justice Nagarathna authorised the installation of sanitary pad vending machines in the High Court premises. She was the architect of a training module for trial judges on gender and the law during her tenure as the president of the Karnataka Judicial Academy.

During the pandemic, when civil liberties and human rights were in distress, Justice Nagarathna was part of the Karnataka High Court Bench led by Chief Justice A.S. Oka, which ensured that migrants were provided food and transport. The Bench rejected a State government proposal to withdraw mid-day meals in COVID-affected areas, saying “students cannot study on a hungry stomach”.

It coaxed the government to bridge the digital divide to ensure that children have access to online classes and directed teachers and non-teaching staff to be treated as frontline workers. The Bench issued directions to protect journalists covering COVID-19 while observing that freedom of speech and free press was a vital pillar of democracy. The Bench directed stores supplying essentials to be opened up and ordered the setting up of helplines to report domestic violence, for mental health counselling and brought relief for transgenders.

Her decisions range from upholding the timely consideration of representations made by persons under preventive detention. She held that delay would not entitle a POCSO accused to bail and issued directions to set up special courts for POCSO cases. In the field of family law, Justice Nagarathna rendered a decision elucidating the concept of shared parenting of children whose parents had separated.

Speaking on the occasion of Justice Indu Malhotra's retirement from the Supreme Court, Justice D.Y. Chandrachud flagged the need to diversify the Bench. He said there was only one woman judge left in the Supreme Court was a "deeply worrying fact".

"As an institution whose decisions shape and impact lives of everyday Indians, we must do better," Justice Chandrachud said. This time, they did better.

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