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UWSL commemorates National Legal Services Day with Awareness Campaign



On 9th November 2019, to commemorate National Legal Services Day, Unitedworld School of Law, Karnavati University took out a free legal aid awareness campaign in Uvarsad village in Gandhinagar district with support from District Legal Services Authorities Gandhinagar.

UWSL had been requested by DLSA Gandhinagar to carry out an awareness

campaign on the occasion of legal services day on 9th November.

UWSL is the only law college affiliated to Gandhinagar DLSA and it successfully carried on the awareness campaign in Uvarsad village, where the college is based. The Panchayat Pradhan and Taluka Mantri also joined team from UWSL and flagged off the rally.

Forty three students of UWSL's Legal Aid Cell participated in the awareness campaign. Prof (Dr) Debarati Halder, Dr. Sanjay Pandey, Mr. Niteesh Nanavati along with Mr. Markand Trivedi led the group of students of UWSL Legal Aid Cell in this regard.

The team spread awareness about the right to free legal aid, right to life, right to education, right to information etc.





UWSL organizes Nukkad Natak on Children's Day

On the occasion of Children's Day on 14th November 2019, UWSL Center for Women and Children's Rights organized for a 'Nukkad Natak' on different themes of child right including right to opinion, right to education, right to health, right to information, right to love and be loved irrespective gender and gender orientation. Another student volunteer, Yanshi, of Center for women and children's right narrated a beautiful poem on child right for this occasion.



Gender imbalance in lower judiciary

- By Prof. Nishtha Agrawal

UWSL



The question of judicial diversity has long featured in global discourse, encompassing demographic characteristics such as gender, race, ethnicity, religion, socio-economic background etc. as well as professional background. Arguments in favour of prioritizing judicial diversity emphasize that it provides decision-making power to previously disenfranchised sections of society, and that a diverse bench is an essential component of a fair and impartial judiciary. Additionally, it has also been contended that a diversity of viewpoints on the bench enhances the courts' representativeness and democratic legitimacy.

But in the Indian context, popular discourse on courts tends to exclusively focus on case

delay, ignoring other systemic problems that are equally important for maintaining public confidence in the judiciary, and for ensuring that the courts function in a just and equitable manner. Media reports will occasionally highlight the predominance of upper-caste male judges in the Indian judiciary. But the issue rarely, if ever, receives the sustained and in-depth coverage it needs to be adequately studied and addressed. In an attempt to encourage such coverage, I am trying to highlight the state of gender representation in the Indian judiciary. Caste, religion, socioeconomic background etc. are as indubitably central to efforts to improve judicial diversity in India, but are beyond the scope of the present Briefing.

Addressing gender diversity in particular, as several scholars have pointed out, the presence of women judges signals equality of opportunity for women in the legal profession and an appointments process that is merit-based, fair, and non-discriminatory; and the inclusion of women judges provides active mentoring for other women who wish to pursue careers in law and the judiciary. Some of these arguments, of course, are more controversial than others. For instance, there is little agreement on the effects of greater women judges on adjudication, the courtroom experiences of women litigants and witnesses, and other positive externalities. But regardless, at the most basic level, equality of opportunity for women should be a given in an institution tasked with upholding these values in a democratic setup.

The under-representation of women in judicial office has led to calls for greater female representation based on an argument that women offer a different voice from that of men. This argument has largely foundered, and a more recent rationale rests on the need for diversity in the judiciary. However, the disadvantage experienced by women applicants to judicial office is rooted in deeply entrenched structural discrimination and exclusion, imbricated in the constitution of the judge, judging, and judicial authority as male, masculine, white, heterosexual, able-bodied, and class-privileged. Arguments for wider representation in judicial office need to address more effectively how the judge, judging, and judicial authority are constituted. A survey of women holders of judicial office in Northern Ireland confirms this exclusion. While few respondents in the survey support the concept of a different voice, many identify distinctive approaches which can potentially

enrich notions of judging and judicial authority.

In India, however, the state of women representation in the judiciary is abysmal. Compiling basic data on the gender composition of the judiciary is the first step in addressing issues with it, serving as a key indicator of potential problems with judicial appointments and promotions. These statistics in and of themselves cannot yield appropriate reform suggestions, but are necessary before other required forms of analysis can be undertaken. The lack of systematic, regularly collected metrics on gender diversity also contributes to the relatively low attention it receives in discourse on issues facing the Indian judiciary. Reasons for the gender imbalance in the judiciary include the disproportionately low number of women lawyers and the challenges they face on entering litigation. Several prominent women lawyers, ranging from Indira Jaising to Meenakshi Arora, have spoken up about discrimination that women litigators encounter and an entrenched 'old boys' club mentality' that makes it harder for women to lobby for judicial posts. Such instances range from judges accepting certain arguments from male advocates only to clients not trusting women advocates with high-stake cases. Consequently, women's litigation careers suffer, and very few successful women lawyers can be found at the bar. Sexual harassment and the lack of supportive infrastructure, from toilets to maternity leave, also contribute to a high attrition rate amongst women lawyers, with many preferring to join the corporate sector instead. All these factors come together to result in disproportionately low women bar appointees to the bench.

One concern is the need to regularly collect and publish statistics on the social composition of the judiciary. While responding to a question in Parliament concerning women representation in the judiciary, the Union Law Minister stated that since High Courts had administrative control over lower court judges, the Union Law Ministry did not maintain statistics on the appointment of women judges in states. Further, the Law Minister stated that since there was no reservation in the higher judiciary, the Ministry did not maintain caste- or class-wise data on judges either. These justifications, however, are inadequate. As elaborated in the introduction, the regular collection of data on diversity is a prerequisite to diagnosing exclusion of social groups in the judiciary and designing appropriate interventions. The appropriate governmental authority, whether this be the Union Law Ministry or the concerned High Court, thus must monitor and make data on diversity in the lower judiciary publicly available.

Mainstream discourse tends to focus on

judicial appointments either in the context of the tussle between the judiciary and executive, or vacancies and delay. There is an urgent need to expand this discourse so it can also accommodate concerns over diversity and equitable social composition. This need is highlighted by several instances where key stakeholders have failed to adequately address such concerns. In 2015, during hearings related to the National Judicial Appointments Commission, the Supreme Court Women Lawyers Association ('SCWA') presented statistics regarding the poor representation of women in the higher judiciary to the Supreme Court. It also submitted suggestions to the Court to consider meritorious women for adequate representation in higher judicial appointments.. SCWLA pointed out that the latter would be an inappropriate benchmark, since women face a lot of problems in practicing in court. As is evident from the reasons outlined above, the very factors that cause women to drop out of litigation arguably affect the gender imbalance in the judiciary.



ROAD ACCIDENTS, GOVERNMENT RESPONSIBILITIES, AND ANIMAL RIGHTS IN INDIA

- By Abhiraj Vaghela

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India is the fastest growing country in terms of population and according to the reports of UN; India is projected to surpass China as the world's most populous country in the next eight years. In India roads are the most dominant mode of transportation and with increased population the demand for vehicles and transportation will increase gradually. With road transportation comes the road accidents which are increasing. In India more than 1,50,000 people are killed every year in traffic accidents that's about 400 fatalities a day out of which many accidents are caused due to stray animals such as dogs, cattle, cats etc which are usually caused more in night times due to decrease in vision clarity. As per the reports the number of accidents involving stray animals has increased by 23% in the last six years. The major reasons for accidents during night time are lack of street lights, no proper designing of road dividers, and cars going on high beam at night which cause night blindness for some seconds enough to cause a major accident. The same case happened with me in past when I was on a way back to home from college on a two wheeler at night on a highway where there was no street light

and no proper barriers on the dividers which can block the lights from other cars coming from the opposite side which led me to an accident with a black cow in dark night sitting on the middle of the road. The chances of happening of such accidents increases in season of monsoon as at that time roads are the best place which are hygiene, without mud, water and insects and at that time cows like to sit on the middle of the roads because the moving fast traffic hushes off the flies and insects away of the animal's body but they don't know that they can cause an injury to others as well as themselves. As road safety issue becomes more sensitive during night driving due to high beams perils as every vehicle at night goes with headlights on at high beam especially on highway impose certain responsibilities on the government to take special care on this subject. In order to reduce accidents government can put solar street lights on the roads which run on the heat produced by sun during day time and it also requires less maintenance than conventional street lights. Solar street lights are also environment friendly as it eliminates carbon footprints contribution and are solely dependent on the sun.



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Further if due to cost effectiveness and high maintenance of street lights if government is unable to set street lights on every single road the other most important thing than street light is putting of natural barriers which give numerous advantages than artificial barriers. The natural barriers can help in pollution control and also using this method can reduce economical cost of divider by 51%. We can put tulusi shrubs on the divider which acts as a barrier and will also be a translucent green material. These tulusi plants can be planted on outskirts of cities i.e. on National Highways and State Highways etc. Whereas in the city area plants like chafa, bougainvillea etc. can be planted. The tulusi plants on the dividers will reduce the pollution by emitting oxygen for 20hrs, ozone for 4hrs, and nascent oxygen which helps to reduce the pollution on the road. By applying these measures one cause of the road accident can be minimized. Further one can file a lawsuit against a government under employee or agency negligence on accidents caused by unsafe or dangerous road conditions but it is hard to prove liability of government as the drivers must also use utmost care while travelling and should never expect road conditions to be perfect. Although there shall be harsh rules on government's responsibility to maintain unsafe road accidents and should not be immune from their liability. The High Court of Kerala gave a path breaking decision relating to State's liability to indemnify in motor

vehicles accident claim cases and held that the government is under a welfare State liability to compensate for the death or injury caused to a vehicle owner during an accident as the road tax is levied by the government. This case is related to a motor vehicle accident claim where the claimants are legal heirs of the deceased pillion rider. In this case the court made significant observations that the government is responsible to pay compensation to the deceased or the victim's dependent or the owner of the harmed vehicle as the roads on which the vehicle run are provided and maintained by the government. Considering the increase number of accidents beyond limit the court pointed out that since motor vehicle act does not consider the personal injury claim hence under this circumstances, there will be welfare state liability on the government which will partially eclipse the maxim volunti non fit injuria and fault liability theory. Partially allowing the appeal with cost, the Court stated that the liability of the government being limited, it can be enforced in cases of accidents occurring on public roads where road tax is levied by the government. Such compensation can be paid by the government either directly or assign the burden to the insurance companies by statutorily making the company liable. (L. Mini v. Gireeshkumar, 2016 SCC OnLine Ker 16781, decided on September 2, 2016)



Further while considering the animal rights, India has one of the most comprehensive set of animal protection laws in the world. Enshrined in the Indian constitution, Article 51 (G) states the following:

"It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures."

The Punjab and Haryana High Court has opined in one of its judgments that "The entire animal Kingdom, including avian and aquatic, are declared Legal entities having a distinct persona with corresponding rights, duties and liabilities of a living person. (Karnail Singh v. State of Haryana, 2019 SCC OnLine P&H 704, decided on 31-05-2019)

In order to prevent accidents with stray animal's reflective collars can be used which are used nowadays by many animal rights activists. This will help the drivers in avoiding to run into dogs and cattle's at night. This type of concept is currently used in some cities like Chennai.

In order to ensure road safety Supreme Court gave number of directions, some of them are as follows:- (Dr. S. Rajasekaran (II) v. Union of India, 2017 SCC OnLine SC 1392, decided on 30.11.2017).

- (1) Framing of 'Road Safety Policy' by State Governments and constitution of State Road Safety Council.
- (2) Improvement in the design of roads to make them safe.
- (3) GPS or location tracking devices must be fitted in all public service vehicles.
- (4) Road Safety Audits as an audit of road safety is essential to reduce the possibility of road accidents through corrective measures.
- (5) Road Safety Equipments including acquisition of cameras and surveillance equipments in detecting traffic and identifying violators, setting up of special patrol force along the National Highways and State Highways.

Emergency Medical Care should be established and at least one Trauma Care Centre should be set up in every district with necessary facilities and an ambulance.

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