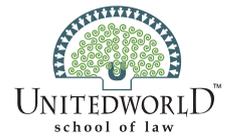


SEPTEMBER 2020



Sitting on the roof top and musing about my future plans, the eyes gazed at amazing sight of sky, and as hand goes to find the camera for capturing the moment of miracle where the sky paints itself

- By Shreya Patel, Sem 3, Batch 2019-24, UWSL

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# PREAMBLE AND THE CONSTITUTIONAL VISION

- By Dr. Ayaz Ahmad, Associate Professor, UWSL

According to Justice R.C. Lahoti, the Preamble to the Indian Constitution constitutes its spirit and backbone. The Preamble promises a commitment by the people of India to secure to all Indian citizens the laudable objectives of liberty, justice, equality and fraternity. Though on a primary reading, this may look like an exercise in rhetoric, on deeper examination, a sense of purpose and direction is evident from the Preamble and its wording. Social, economic and political justice are arranged in that very order with a clear purpose: Economic justice is a hollow promise without the attainment of social justice, and only the joint assurance to an individual, of both these kinds of justice, can result in guaranteeing political justice. Similarly, the unity and integrity of the nation can be secured only through the guarantee of individual dignity. Without equality of status, equality of opportunity is an unattainable goal. This insightful vision enshrined in the Preamble must have influenced Chandrachud, C.J., in *Minerva Mills v. Union of India* (1980), to express the view that “the edifice of our Constitution has been built upon the concepts crystallized in the Preamble.”

The Indian Constitution, like any other guiding document, certainly envisages the attainment of certain goals, which can be collectively referred to as the constitutional vision. At the same time, it is less certain whether the Constitution prescribes any doctrinaire means for the fulfillment of this vision. Ultimately, whether it is higher education or land reforms, the economic and social ideologies perpetrated and implemented by the power-holders in each epoch of India’s national evolution have probably kept changing according to political necessities.

The constitutional vision, however, has always been the attainment of the noble goals enshrined in the Preamble, the Fundamental Rights & the Directive Principles of State Policy, and several other constitutional provisions. A cursory glance at these foundational provisions of the Constitution would make it evident that the ideals of social and economic justice, and equality of opportunity, form an integral part of the constitutional vision. This is further confirmed by the guarantee of equality as a fundamental right under Article 14 of the Constitution, and the desirable guidelines for policy-making as expressed through the Directive Principles of State Policy. From this perspective, public policies aimed at achieving substantive equality must attempt to obliterate existing markers of inequality like, caste, gender, region, language and so on. However, such public policies have to survive active resistance from the beneficiaries of existing social, economic and political order. It is by no means an easy task as the beneficiaries’ unequal order also happen to be the most powerful social block. Therefore, it is imperative to transmit constitutional vision among masses through a common education system which can expose people to the inherent beauty of an egalitarian society. A beautiful nation can be built only on the foundation of a beautiful society. Realizing the constitutional vision of liberty, equality and fraternity rests on the shoulders of an informed citizenry raised under a system of common education.



# GRATEFUL TO THE DOCTORS

- By Nishtha Agrawal, Assistant Professor of Law, UWSL

Respect the white coat that all doctors wear;  
Respect the stethoscope with which they hear;  
Respect the prescriptions they write and tear;  
Respect all doctors for they truly care!

To treat diseases, some doctors do dare;  
They try their best for all patients to fare;  
Some of them are dozens, pioneers rare;  
Some do miraculous feats, at which all stare!

Wish doctors all, 'A Happy Doctors Day! '  
Thank them for their hard work and pray today;  
Remember, they keep diseases at bay;  
Most doctors do their jobs in a humane way!

'Happy Doctor's Day



# PAKISTAN PUTS CURBS ON TERRORISTS TO AVOID FATF BLACKLISTING

- By Amit Bhaskar, Associate Professor, UWSL

The recent action of the Pakistani Government to take stern action against global terrorists like Hafiz Saeed, Dawood Abraham and others like Maulana Masood Azhar can be understood in the light of the anticipated Financial Action Task Force crackdown on Pakistan and put it into black list under FATF Rules. The FATF is a powerful UN Body to prevent the act of money laundering and financial of terrorism through banks and financial institutions all across the world. The Financial Action Task Force downgrading of the Pakistan from grey list to black list will have serious consequences for the financial institutions including banks operating in the Pakistan. It will also put restriction on international financial institutions and trade bodies and nations to deal with financial transactions in Pakistan. It will impose number of restrictions on the financial transactions with Pakistan and as a result most of the international bodies will desist from having financial transactions with Pakistan. This has worried the Pakistani establishment the most. As a result of which the Pakistani establishment is taking action against terrorist organizations. This is not the new issue for Pakistan. Since its formation in 1947, the Pakistan has always promoted and sponsored and provided breeding grounds to the terrorist organizations operating from the soil of the Pakistan.

The Pakistan has sponsored terrorists activities inside India through proxy war since 1990s when the Kashmiri Pandits were thrown out of the Kashmir valley. The Pakistan is habitually known for promoting terrorist activities not only against India but across the world. Some of the terrorists responsible for 9/11 attack in USA had links with Pakistani terrorist organizations. In 26/11 attack in Mumbai, it was Pakistan based terrorist organization called Lashkar e Taiba which conducted the Mumbai attack in close collaboration with Pakistan Inter Service Intelligence and Pakistani Military establishment. The Mumbai attack led to the killing of 166 people in the city of Mumbai whereas in 9/11 attack in United States of America, more than 3,000 people lost their lives. It is precisely because of these reasons that Financial Action Task Force (FATF) has tightened its noose around Pakistan as the history of Pakistan is tainted with financing of terrorism and providing a breeding ground of terrorism. The Pakistani Civil and Military establishment have close nexus with the terrorist organizations operating from the soil of Pakistan. These terrorist organizations are involved in drug trafficking, financing of terrorism, hawala transaction and promoting hatred against other religious groups. The Financial Action Task Force is perfectly right in taking action against Pakistan as Pakistan is responsible for most of the terrorist activities in India, Afghanistan and a host of other nations across the globe. It is hoped that FATF will take stern action against Pakistan.

# MENSTRUATING IS NOT A SIN

- By Kishita Gupta, Batch 2017-22, Student Research Associate, Centre for Women & Children, UWSL

“Stop sacrificing a women’s self – esteem at the Alter of Menstrual Myths”

In this modern era where science has done wonders and where the world talks about women empowerment, yet a woman has to face a lot of socio-cultural taboo attached with a natural process. Menstruation is the natural phenomenon of the reproductive cycle. It is a phenomenon unique to girls. However, there have always existed various taboos and myths that tend to exclude women from many aspects of socio-cultural life. Yet it is depicted by the society as if a woman has done some sin after getting her regular period cycle.

In India, a mere mention of menstruation is considered as a taboo. Taboos are formed and established in a particular civilization by the ever-lasting thoughts and beliefs over a particular era. They become so embedded in our collective psyche that we refuse to let go of them even when the circumstances in which they originated change. An approach from the socio-cultural perspective shows that in the earlier times those taboos had logical reasoning, however, with the growing times, those reasons converted into rules made for a menstruating woman in the name of religion and culture.

There was a time when there were no proper hygienic means and which is why a woman was asked to take rest during the menstrual days and was kept away from the kitchen and the temples. However, now this has been largely misinterpreted by society as we can see from the case of Sabarimala Temple. In some areas, a woman in periods is not allowed to take a bath even now.

Now let’s associate this with logical reasoning, Water is the most common medium of purification. In those times, women used to go directly to the water bodies to take a bath. The key concern was to protect the water bodies, which is considered to be a Hindu Deity, from the pollution generated if a menstruating women bath in it. This highlights the possible reason why menstruating women were not allowed to take a bath especially for the first few days of their menstrual period.

Such taboos related to menstruation present in many societies impact a girl’s and women’s emotional state, mentality, lifestyle and most importantly her health. A report by the NGO, Dasra, published in 2014 suggests that almost 23 million girls drop out of school every year when they start menstruating due to lack of proper facilities such as lack of sanitary napkins, proper functional toilets and low awareness about what menstruation is. Further, a large number of women within rural India generally resort to using ashes, newspapers, dried leaves and husk sand which helps in absorption. Poor protection and inadequate laundry facilities may increase vulnerability to infection. Stigmas around menstruations can have significant implications for their mental health.

While menstruation has been made a ‘taboo’ and is called dirty, I feel that it is a great blessing. Nature has blessed us women with the chance to honour our emotional, sexual, physical and mental needs every month. So it’s time to remove all the superstitions attached with a natural process and honour the women in her periods rather than discarding her socially, culturally and religiously.



# WHAT STYLE MEANS TO ME...

- By Rajvi Vibhani, Sem- 7 (Batch 2017-22), UWSL

From the minute I wake up till the minute I sleep my dressing sense is all that matters to me as I believe in what someone said, “Style is a way to say who you are without speaking.” I remember in one of my summer breaks during my school days reading Marc Jacobs quote “clothes mean nothing until you live in them”. Since then my dressing sense and appearance have been a priority for me.

To start off regarding my “look” the first thing I’d draw attention towards are my blonde highlights. The shade sets in perfectly with my skin tone and gives my feathers a shiny and bouncy visual appeal. I’d like to suggest that whenever you get your highlights done always go for the colour that your hair can carry better.

My sunscreen lotion from Body Shop protects me from the scorching heat and helps me to maintain my skin tone avoiding tan and spots and gives me flawless beautiful hands, to add on to that my nude shade nail paints from Nykaa and Colorbar gives me a professional look and my hands a neat finishing till the tip of my nail. As perfection is all that matters to me when it comes to style.

Poofs and smudgy eyeliners and mascaras are not just what make your makeup look perfect. Sometimes wearing makeup can also go wrong if not worn the correct way, so for my daily routine a long-lasting strong scented perfume, a tinge of matte lipstick and a bit of colossal eye pencil under the eye is perfectly enough for me. At times keeping things simple and short look much better and appealing.

My hair is the most precious thing I carry daily and they are the most I care about so for my hair care routine all I do is visit the salon and get my spa done once in a month and apply a mix of coconut oil and vitamin E daily before going to bed and rinse them every three days.

One must keep in mind that when it comes to going to a party or a formal occasion a few hours in the salon won’t just make everything up, daily care and time need to be devoted to yourselves for a good result. In the end, to sum it all up I’d like to tell all of my college mates that don’t wear what you feel, but feel what you wear instead.



# INTERNSHIP EXPERIENCE

- By Riya Chelani, 4th year, UWSL

**Name of the organisation-** Ansari Solicitor Firm, Ahmedabad

**Address-** 1201-1202, Sivanta One Business Park, Ashram Rd, opp. Nalli Saree, Pritam Nagar, Paldi, Ahmedabad, Gujarat 380006

**Duration of internship-** 20th December 2018- 21st January 2019

**Application process-** I had applied one month in advance via an email to ansarisolicitorfirm@gmail.com and I received a confirmation a week before the start of the internship through email.

**First day formalities, infrastructure and first impression-**

On my first day, I was introduced to all the staff, interns which was followed by our introduction specifying our name, college name and other details. Everyone was quite approachable, there were no formalities as such. We got our task for the day in the morning itself and everyone was really helpful. We used to visit high court every morning.

**Main task-** I was given case files to study and find authorities. Legal research was a very important component of my internship. Other than that, when we went to court every morning, I was given work such as filing of documents, obtaining certified copies and such other tasks which helped a lot in understanding the working of a court. I also assisted my seniors in every way possible.

**The Good Side:**

1- The environment in the office was very good. There were a lot of people around working on different things which helps in learning.

2- The communication is not very formal here. The environment is one that allows an intern to feel comfortable and ask questions that one might feel uncomfortable in asking.

3- Our Supervisor, Advocate Ansari Sir is a very learned advocate, and more importantly, he is very forthcoming for interns, in giving tasks and giving feedback on the work done. He is very friendly.

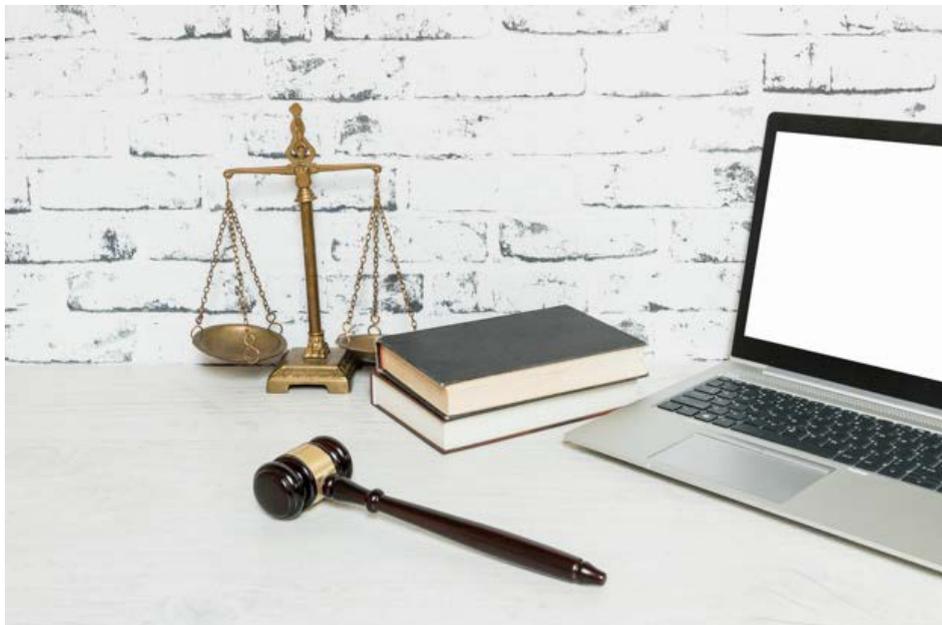
**The Not-so-Good side:**

If you do not have a vehicle, then it can be a little difficult to commute to the High Court every morning.

Accommodation, commuting to the office-

I stayed at a hostel. But there were many PGs near office as many other interns used to stay at PG. There were a lot of cafes near the office as well as the high court where sir used to take us for lunch sometimes which also led to informal interactions between co-interns and employees.

In a nutshell, the overall experience of this internship was full of knowledge and fun.



# SUITS BY OR AGAINST MINORS AND PERSONS OF UNSOUND MIND – ORDER 32 AND SEC 147

- By Dr. Ram Niwas Sharma, Associate Professor, UWSL

Suit by or against minors

Under the Indian Majority Act, a minor is a person who has not completed the age of 18.

In the case of a minor of whose person or property, a guardian has been appointed by the court or whose property is under a court of wards, the age of majority attained is on completion of 21 years.

R1 – Every suit by a minor is to be instituted in his name by a person who in such suit is to be called the next friend of the minor.

The reason why no proceeding can be taken by a minor without a next friend is on account of his supposed want of discretion and his inability to bind himself and make himself liable for costs. It is, therefore, necessary that his interest should be protected by an adult. But neither the next friend nor the guardian ad litem (i.e guardian for the suit) is a party to the suit.

If a minor is properly represented by the next friend, and there is no fraud or collusion or gross negligence on his part, the decree passed in the suit is binding on the minor as on an adult, and will operate as res judicata.

Rule 2 then lays down that if a suit is instituted by or on behalf of a minor without a next friend, the defendant may apply to have the plaint taken off the file with costs to be paid by the person by whom it was presented. On such an application, the Court may make such order as it deems fit, after giving notice to the other side and after considering the objections. if any.

It is to be noted that the provisions for taking the plaint off the file applies when the majority of the plaintiff is apparent on the face of the plaint and there is no next friend. The plaint should also be taken off the file when the question of minority is raised, and it is found on enquiry that the suit was filed mala fide with the knowledge that the plaintiff was a minor, but if the suit brought bonafide without such knowledge, reasonable time should be given to have he minor represented by a next friend.

Under Rule 2A, the Court may, in a suit filed on behalf of a minor, order the next friend to give security for the costs incurred, or likely to be incurred, by the defendant in such a suit.

R3 – As regards suits AGAINST minors, R3 provides that, on being satisfied of the minority of the defendant, the court must appoint a proper person to be the guardian of such minor for the suit (guardian ad litem).

Such an order can be passed on an application either on behalf of the minor or the plaintiff in the suit.

The appointment of such a person as a guardian ad litem continues throughout all proceedings arising out of the suit UNLESS such appointment is terminated by the removal of the guardian or by his death or retirement.

From what has been stated above, it will be sent that three conditions are necessary for the appointment of a guardian ad litem, namely—

(a) the defendant should be a minor;

(b) an application should be made for the appointment of a guardian, supported by an affidavit that the proposed guardian is a fit person and has no adverse interest; and

(c) notice should be served upon any guardian of the minor appointed by an authority (if any) ,or upon the natural guardian of the minor (if any) or upon the person in whose care the minor is.

Under Rule 4, any person can be appointed as the next friend or guardian ad litem of a minor , provided-

(a) he is of sound mind;

(b) he is himself not a minor;

(c) his interest is not adverse to that of the minor;

(d) he is not the opposite party, i.e. a defendant in the case of a next friend, or a plaintiff in the case of guardian.

(e) no other person has already been appointed as the guardian of such a minor by a competent authority, unless the Court feels, for reasons to be recorded by it, that the minor's welfare demands that another person be appointed;

(f) in the case of a guardian ad litem – the guardian has consented to act as such in writing.

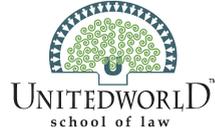
In case there is no person who is fit and willing to act as a guardian ad litem, the Court can appoint any of its officer to be such guardian.

It is then provided that without the Court's leave, a next friend or guardian cannot receive any money or other movable property on the minor's behalf-

- (a) by way of compromise before decree or order; or
- (b) under a decree or order in favour of the minor.

While giving such leave, the Court may also require the next friend or guardian to give sufficient security to protect and ensure its proper application, especially when such a person had not been appointed as the guardian of the minor by a competent authority. Such security may, however, be dispensed with when such next friend or guardian-

- (a) is the manager of a Hindu undivided family, and the decree or order relates to the property or business of the family, or
- (b) is the parent of the minor.



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