



Glass ceilings

Kanan Dhru, the founder of the Research Foundation for Governance, writes candidly about her experience of nepotism in the judiciary

A few years ago, I was in court waiting for a case I was working on to be called out. An older lady, who was also a litigator in the court, walked over and sat next to me. “What’s your name?” she asked.

“Kanan,” I replied.

“Married?” she continued.

“No.” What I really wanted to say was “it’s none of your business”, but this is India and sometimes you just have to go with the flow.

“Are you here till you get married as a time-pass,” the lady asked, “or are you actually serious about litigation?”

This question baffled me. For it’s one thing to ask nosy personal questions, but quite another to question someone’s professional integrity. I responded with a terse: “I’m interested in litigation and that’s why I am here.”

“Do you have a father or brother in litigation then?”

“No. Does that matter?”

Then came the advice I was to hear over and over again: “If you are serious about litigation, then you should marry a lawyer or marry into a family of lawyers. I know you might feel bad to hear these frank words, but I am telling you from my own experience. I really don’t want any girl to suffer the way I have suffered in this profession without a family background.”

In time, I realized that the lady was correct. In the court that I was practising in, almost every successful female lawyer had family connections within the litigating community. There were exceptions, of course, but they were few and far between, and all of the female litigators who did not have family connections seemed to endure a never-ending struggle.

In the days that followed, such encounters become less startling. Some “helpful” acquaintances even started playing matchmaker between me and the sons of judges or established lawyers. “If she is serious about litigation”, they would tell my parents, “then it would be better if she got married into a family of lawyers.” It felt like I did not have the required license to fit in.

Having studied and worked in organizations where all that counted was merit and caliber, I was confused and frustrated. I was also somewhat surprised at my naivety and ignorance of how things worked in reality.

Being a female lawyer is difficult, but even for a bright young male lawyer, it is extremely hard to break into the litigation profession without the right connections. It is vital that you can fit yourself into one of the right boxes, be it caste, community or family background.

The fraternity shows amazing harmony and solidarity in

public, but behind the scenes there are clearly drawn lines. These undercurrents play a vital role in any case that is being argued before a court. Yet, they are not apparent to the ordinary observer.

Within the litigation community, classic cases of nepotism are treated as matters of pride. Stories about lawyers having the highest number of cases as a result of being a son or daughter of a prominent judge, or about ex-judges calling up their friends in the judiciary to “take care” of their offspring, are frequently recounted.

On one occasion, I attended a ceremony where a retired judge was being felicitated by the lawyer-community for his outstanding contribution to the profession. When the judge was called upon to receive a large gift as a memento, I looked across the stage and realized that every person present was related to him. His son, sons-in-law, nephews, and even his in-laws were part of the fraternity. “And now a family photograph,” the photographer called out, elated at being present at this momentous occasion, yet unaware of the potency of his comment. It’s all in the family, after all.

When I have tried speaking to other lawyers and judges about this, many have refused to acknowledge the phenomenon. Some even believe that favouring a relative is not immoral. Everything stays within a small clique. So, any voice against the status quo is not tolerated and is ultimately crushed. And sadly, what ultimately suffers is the entire justice-delivery system of the country.

During my time at the courts, I have seen how poor people have to wait decades for justice. The common man in India is frustrated with the legal system and has almost given up. Little do they realize that nepotism in the system is a major cause of this problem.

Bright youngsters without the right family backgrounds are prevented from succeeding by senior colleagues who fear that their shares of the “judicial pie” would become smaller as a result. But what I fail to understand, is how the pie can get any smaller for practising lawyers when there are 350 years of cases pending before the country’s courts.

It is high-time that the litigating fraternity in India opens itself up to bright lawyers without family backgrounds and ultimately to newer ways of ensuring speedy justice to the common men and women of India. ■

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