

BLOGS

Key Constitutional Law Developments in February for CLAT (Part 1/2)

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The following article in continuation of our series of articles on the [key constitutional developments](#) since September, 2021. It discusses some of the key developments in the field of Constitutional Law in the month of February, 2022. Prospective CLAT UG and PG aspirants might find the updates useful in course of their preparation for the test.

1. Italian Constitution Amended to Include Mandatory Protection of the Environment, Biodiversity and Ecosystem

On 8th February 2022, the Italian Chamber of Deputies (lower House of Italian Parliament) [voted for an Amendment](#) to the [Italian Constitution](#) to provide for the environment as a fundamental principle of the Constitution. The Constitutional Reform Amendment now includes environment, health and animal protection among the fundamental principles enshrined in the Italian Constitution.

The amended [Article 9](#) now mandates that “the law of the State shall regulate the ways and forms of protection of animals”. Additionally, the law amends [Article 41](#) which governs safeguards of private entrepreneurship by adding “health” and environment” as limits of private enterprises.

The amended Article shall now read that any private activities “cannot be carried out in contrast with social utility or in such a way as to damage security, freedom, human dignity, *health* and *environment*.”

During the passage of the amendment, Minister of Ecological Transition, [Roberto Cingolani stated in Parliament](#) that:

“I think it is an epochal day.... It is right that the protection of the environment, biodiversity and ecosystems become a founding value of our Republic, it is an essential step for a country like Italy which is facing its own ecological transition.”

Cingolani also clarified that the amendment has paved the path for rules-based protection of the planet to save the environment for future generations and that several rules will be promulgated in light of the amendments. The move saw Italy receive [international appreciation](#) from various bodies.

This is a significant step forward for the Italian legal system because it assures clear constitutional support of environmental preservation, as well as sustainability in general. Furthermore, the Italian Constitution will expressly recognise for the first time the right and responsibility of the State to safeguard future generations' interests.

The notion of "animal protection" has also been established through the creation of a state law reserve that will define the methods and modes of protection. This addition, which was made in response to heightened public awareness, affirms the dignity of animals.

Further Reading:

1. Modification of Italian Constitution: Environment Elevated to Protected Primary Value: This article comprehensively discusses the amendments to the Italian Constitution's Articles 9 and 41. The article also discusses the prior position of the Constitution and existing laws on the subject and how the recent amendment is expected to bring about a policy change.
2. Sustainable Italy: Climate Inaction Brings Italy To Court For Last Judgement: This article discusses a case brought up in Italy to highlight the country's inaction concerning climate change. The case was brought last year in 2021, months before the Italian Constitution was amended along similar lines.
3. A Five-Year Effort Comes to Fruition: Italy Enshrines Animal Protection in Constitution: This article discusses the timeline of the activism which sought the protection of animals through legal safeguards. The article has discussed how various European and National organisations contributed to the efforts of bringing about such a reform through dialogue and also highlights how the protection of animals is rooted in the culture of Italy.
4. Panama brings in new law granting nature the 'right to exist': Another nation, Panama, in the month of February voted for a similar law as Italy to protect the environment by allowing nature 'the right to exist'. The article discusses the passage of the amendment in the National Assembly of Panama, and how will the new law gain practical application to protect the environment. The article also discusses internationally similar legislation that have been

ordained with the object of protecting the environment.

2. Biden Nominates the First Black Woman to the Supreme Court of the United States

On 25th February 2022, US President Joe Biden [nominated Ketanji Brown Jackson](#) as the first black woman to serve as an Associate Justice of the U.S. Supreme Court. Brown Jackson, who is an American attorney and jurist, has served on the United States Court of Appeals for the District of Columbia Circuit as a federal judge since 2021. Prior to her stint in the Court of Appeals, Jackson served as Judge of the United States District Court for the District of Columbia from 2014-21.

While nominating Brown Jackson, Biden described her as a “proven consensus builder” who has “a pragmatic understanding that the law must work for the American people.” In nominating Jackson, Biden has upheld one of his campaign’s promises which he gave during his Presidential run in 2020.

Biden, in his campaign, had promised the nomination of a black woman and highlighted that such a nomination would be historic as the US Supreme Court has only witnessed 2 black Justices in its history; with Jackson being the third black judge, and the only black woman judge to ever hold the seat. Jackson will fill in the seat of Justice Stephen Breyer who is due to retire soon.

Her nomination would be subject to the US Senate confirming the same, which rests on a fine balance as of now with a 50-50 split between Conservatives and Democrats. In case of a tie of the vote following a vote along party lines, Vice President Kamala Harris would have the authority to cast the determining vote.

The lack of gender and racial representation is an issue that has flagged many jurisdictions across the globe including the US, as well as India. It is notable that the South African Constitution has established a Judicial Service Commission, which is made up of representatives of the judiciary, government, and legislature. [Section 174 \(2\) of the Constitution of the Republic of South Africa, 1996](#) requires that the racial and gender composition of society be considered when appointing judges.

Herein, the SA Constitution expressly states that the judiciary shall reflect the country’s ethnic and gender diversity. This has led to a significant shift in the composition of South Africa’s

judiciary. The number of women in the judiciary climbed from 9 to 61 between 1994 and 2011. Although [the racial and gender diversity among the judicial officers of South Africa](#) has since improved significantly, many believe they still have a long way to go.

Further Reading:

1. Biden nominates Ketanji Brown Jackson, first Black woman, to U.S. Supreme Court: This article discusses the appointment of Ketanji Brown Jackson to the U.S. Supreme Court and how the appointment of Brown follows one of the promises which the present US President Joe Biden made during his Presidential run in 2020.
2. Racial and Gender Diversity Sorely Lacking in America's Courts: This article explores how the lack of gender and racial diversity in US State and Federal Courts prompted citizens from the States of Alabama, and Texas to sue their respective States.
3. Is Gender Now a Criteria For Appointing SC Judges?: In the backdrop of the elevation of 3 female judges to the Apex Court of India in 2021, this article explores the arguments which advocate that besides seniority, which has been a dominant criterion for appointment and elevation of judges to the Apex Court, the present times are also witnessing calls for consideration of gender as an additional criterion to improve the representation and diversity in the Supreme Court of the country.
4. The Higher Judiciary's Gender Representation Problem: In this op-ed piece, the author has argued that a more representative gender jurisprudence in India would not only result in more women in courts, but it would also enhance women's general willingness to seek justice and produce judgements that better reflect the diversity of Indian lives.
5. The Rise of Women in the Lower Judiciary, Breaking through the Old Boys' Club: The article is a comprehensive summary of the Indian Judiciary's history in the appointment and the role of women judges in the various Courts of the country.

Stay tuned for part 2 of the series which will discuss the Key National Constitutional Law Developments for the month of February 2022.