

LEGAL PROCESS ASSIGNMENT

INTRODUCTION

It is sometimes argued that diversity in the judiciary is of little importance (UWSTD, 2022). Judges have significant authority to make decisions that affect both the constitution and the lives of ordinary people (Supreme Court, 2022). This essay in particular will evaluate with regard to Supreme Court Justices, to what extent that diversity is of little importance?

Firstly, the appointment follows diversity and inclusion. In line with the basic constitutional provisions of the Constitutional Dispute Act of 1701, the Supreme Court is composed of independent judges outside the political spheres of government, namely, the Legislature and the Executive, which includes the Honorable Director and Minister (Maican, 2013). Even though it is a government agency, the Court is distinct from the other two legislative and executive bodies (Skold, 2006). Members of the Court are independent in the sense that they are obligated by the norms of the jurisdiction in order to decide cases before the Court and to render legal justice to all people without fear or favor, love or hatred, as required by the oath of office (Maican, 2013). Judges are appointed by the Queen on the recommendation of the Prime Minister and with the approval of the Lord Chancellor until they reach the age of 70, after which they can only be removed from

office by the Master by an address of the Legislature for misbehavior or incapacity (Ministry of Justice, 2021).

Secondly, diversity is of major importance due to the balance it creates. The Presiding Judge is also a member of the Tribunal, but he or she ceases to function at the age of 65 and may only be removed from office by the Regulator if unable to perform his or her duties or is guilty of misconduct (Supreme Court of United Kingdom, 2022). Members of the Court are not government employees. Members of the public are a common source of opposition. The process of becoming a Solicitor is quite complicated therefore only a limited number of people attain the height of being successful. The eligibility of one being appointed a supreme court judge is that the individual must have held a judiciary office for at least two years (Supreme Court of United Kingdom, 2022). Also, there is condition that the person must also have been a practitioner for at least 15 years. This makes it a limitation for those who have not attained the years of practicing as a solicitor or advocate (Supreme Court of United Kingdom, 2022).

Again, In order to maintain public confidence in the system, there is a need for the legal framework for appointments to reflect both the extent to which the executive should be involved in individual appointments and the reality of that involvement (Supreme Court of UK, 2022). We agree that the power to request reconsideration or reject nominations should be transferred from the Lord Chancellor to the Lord

Chief Justice in relation to appointments below the High Court. This will promote the independence of the judiciary and increase public confidence in the system. The diversity in the Supreme Court judges is due to the focus on merit (Ministry of Justice, 2022). The merit is based on intellectual abilities and this brings about discrimination.

Again, justice, fairness, and equality are central values required of the law and must be seen in the judiciary especially the Supreme Court Justices. The judges are seen as apart from the parliament and executive council yet, they must not be exempted from the society in which they adjudicate (Ministry of Justice, 2022). The public must have confidence in the judges since they interpret the laws of the land to them and their rule affects their daily lives. This is not likely to happen if the Justices in the Supreme Court are people from a particular race. People who seek the services of the court for redress must trust the Judges of the court to make fair decisions. The level of trust in the public towards the justices will increase if they see that the appointment is based on diversity and the people will feel there is cross-sectional society. A diverse Justice in the Supreme Court will not undermine the quality of the Judges but rather increase trust and confidence.

Diversity by age which indicates incorporation of young solicitors into the Justices is lacking which is not fair. It has been seen that the traditional system of appointment of Judges came by choosing those from the Bar which is predominantly

dominated by men of white privileged social background. Few Judges from the underrepresented background were appointed about 40 years ago in Britain (Thomas, 2010). The reason stated was the lack of educational opportunities, workplace discrimination, and formal recruitment criteria for the legal profession (Constitution, 2022). The constitution (2022) report indicates that the civil service has over the years adhered to diversity. Many diversity issues have been tackled by improving the performance of women and young individuals into the senior civil servant position (Constitution, 2022). Also, lots of women and young individuals are studying law and entering into the solicitors' profession in the past 20 years. Yet, the diversity which is greater in young lawyers being underrepresented which might have increased to ensure a more diverse Justice system in the Supreme Court has still failed (Parliament UK, 2022). This has made it difficult for the young individuals to have confidence in the Justices in the Supreme Court since they have no feeling of how they are perceiving issues and the punishment rendered the young ones becomes intensive (Thomas, 2010).

Furthermore, diversity in gender is of major importance. There is a significant reduction rate of women in the Judges position due to the barriers to climb the ladder further. The Equality and Human Rights Commission (2010) indicates that many women do not reach the level of being able to become a judge (Constitution, 2022) due to the Bar Council and the law societies inability to ensure that the brightest and

best lawyers from all backgrounds progress to the position of being appointed Judges. This is the reason for the underrepresentation of women in the Justices of the Supreme Court. Currently, the Justices of the Supreme Court constitute 11 males and 1 female (Supreme Court UK, 2022) which is not fair enough for public confidence.

The application process of the Supreme Court justices needs to incorporate diversity. People in the underrepresented group contemplate whether to apply because, they have a myth about the old model where senior judges and certain types of lawyers were encouraged to apply whilst Solicitors were not given same opportunity (Parliament UK, 2022). The constitutional reforms act (2005) sets out guidelines to alleviate this discrimination by coming up with a more open application system. Meanwhile, the old system made it possible for people from the underrepresented group to be able to apply and it was less likely to be rejected. The Judiciary Association Committee under the section 64 of the CRA has specifically developed an application process (Constitutional Reforms Act, 2005). Yet, the widening of the pool demands that outreach is organized, the myth about the selection and appointment process is clarified, and educating the applicants about the process and confidence is improved. The senior judges are not recognizing, encouraging, and promoting the talented underrepresented groups to apply which makes the

applications from this group few. This is the reason for underrepresentation of BAME, young, and women justices in the Supreme Court panel.

To conclude, the Supreme courts power delegation requires a more diverse workforce to ensure the public trust and have confidence in their activities and judgement. The representation of each diverse group such as age, gender, and race will improve upon the confidence level of the public. Also, the reforms and encouragement of lawyers and solicitors with best talent to improve upon their portfolio and position them to be appointed to the Justice position will bring about balance. Therefore, diversity is of major importance in the Supreme Court Judges.

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