Suo Moto Intervention and the Indian Judiciary

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Abstract

Legal systems are hierarchical constructions, some taller and deeper, some shallower, and commonly portrayed as an orderly pyramid. Sometimes an incident in this hierarchic landscape reminds us that, as in a game of snakes and ladders, there may be startling and unexpected connections (and disconnects) between different locations in the system. We propose to talk about the practice of the constitutional courts in India to use the device of acting “suo moto” (or alternatively spelled, suo motu)—i.e., on its own initiative, without being petitioned by a claimant or party—to address what the court regards as a situation requiring extraordinary intervention on the part of the court. In Section 2, we describe a recent intervention initiated by the Supreme Court, in response to a newspaper report of a gang-rape in a village a thousand miles away. In Section 3, we assemble the available data about the incidence of this practice of suo motu intervention, its frequency, form, and results. In Section 5, we attempt to explain why the Indian higher courts engage in this practice; in section 6 we speculate about the effects of this practice, on the courts and on Indian social and political life.