

# Chapter-03

## CHALLENGES FACED BY WOMEN IN LEGAL PROFESSION IN INDIA

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## **ABSTRACT:**

*Legal practice is one of the oldest profession in the world, however it has predominantly remained male centric be it judiciary, law practitioner or academics. With the passage of time more women have started studying law however they face numerous hurdles in this profession. This article would discuss the challenges faced by women in legal profession.*

## **INTRODUCTION:**

It is a well known principle, whenever there is a right there is a remedy. Courts are meant for doing justice. Article 14 of Constitution guarantees equality to all. Lawyers and judges have the responsibility to provide this remedy and do justice. The irony is, if any women's right is violated she comes to court to seek remedy and legal fraternity helps her get justice, however the women in same legal profession, be it in academics or as lawyers or in judiciary are denied equality and face gender discrimination. In Greek Mythology, Themis, is known to be the personification of justice, goddess of wisdom and good counsel, and the interpreter of the gods' will. She is considered as the goddess of justice, wisdom and divine law. Her daughter, Dike is Goddess of justice and the spirit of moral order and fair judgement. In Roman mythology, Lady Justice was Justitia, the goddess of Justice. She is blindfolded and has a scale in one hand and a double edged sword in another that represents reason and justice. In Hinduism, Goddess Saraswati is goddess of learning, wisdom and knowledge. It is ironic where in our religion and mythology females are placed at such high stature and are considered as goddess of justice, order and wisdom, Legal profession is and has been a male dominated profession in most of the countries in the world wherein females have to still struggle and face discrimination and disadvantage in legal profession.

It was not easy for women to enter legal profession. Firstly it was extremely difficult for women to get permission from family to study law, as it was not considered as a suitable course for women. Even if some girls managed to study law, they were not allowed to practice in courts. Calcutta High court in 1916 and Patna high courts in 1922 categorically held that the term legal practitioner will not include a lady lawyer. so, women who were otherwise qualified were refused enrollment as pleader. In Patna high court case, Ms. Hazra who completed LLB from Calcutta University was refused to be enrolled as advocate. She approached Patna High court who refuse any relief to her. Even Cornelia Sorabji, India's first female lawyer needed special permission to read in a library in oxford. Women were not admitted as full members at oxford till 1920. In 1921

Cornelia Sorabji became the first woman to be enrolled as vakil at Allahabad High Court.

It was finally in 1923 that, The Legal Practitioners (Women) Act, was passed which removed the discrimination on basis of gender for enrolment as an advocate. This act provided that no woman would by reason of her sex be denied to be enrolled as legal practitioner. Since then the find that number of women entering legal profession as increased but gender bias still exists. Even Justice Leela Seth, the first chief justice of High Court in India had to face such issue, when she was asked to look at tea arrangements in court. It was perhaps thought since she is a woman she would handle this better.

Earlier studying law was considered as the last resort. There were very few girls studying law, the reason was social mindset. It was thought if a girl becomes a lawyer it would be difficult to get her married. Also parents would not allow their daughters to become lawyers fearing this would make them very bold and independent and they would bring disgrace to the family. However over the years there is a change in trend where students are consciously taking up studying law as first preference. We also find an increase in number of girls taking up legal education. The reason is simple, unlike earlier now admission to law schools is merit based after clearing entrance exams. Girls fare much better in these exams therefore we find more girls studying law now.

In this article we will look at status of women in legal profession in three major streams, as legal practitioners, judges and in academics.

### **Women as legal practitioners:**

There has been a rise in number of females opting to study law, but it has not resulted in significant rise in number of practicing female lawyers. There are only 15.3% female lawyers. Maximum number of female lawyers are enrolled in Meghalaya (59.3%) followed by Manipur (36.3%). One of the largest states in India, Uttar Pradesh has the least number of female lawyers (8.7%). Several factors are responsible for it.

Legal profession is a jealous mistress, it needs a lot of time and effort. Being a legal practitioner is a full time job as one needs to be in court in first half of the day and prepare case for next day in the second half. It requires long hours of work and also odd hours of work. Male lawyers would be working till midnight in offices which would be difficult for females. Women traditionally have the responsibility of taking care of children and household chores, so, it becomes difficult for them to dedicate such amount of time to the profession unless she has enormous family support. Maintaining balance between work and family life becomes difficult because of demanding nature of profession.

Indira Nooyi said women's biological clock is always in conflict with her career clock. Because the best years for child bearing are also the best years for her to grow in her career. These are the crucial years for her trajectory as a lawyer. Lady lawyers generally take long breaks as maternity leave that leaves gap in their practice. To start practice all over again that too with added responsibility of child raising is quite difficult. Once a women lawyer becomes a mother it is believed she will not be able to do justice to her cases, so clients loose confidence in them and prefer to give case to a male lawyer. Maternity leave is not just about some months of leave, but it has a deeper impact on a women's career, where she has to start from scratch.

Security of girls in legal practice is also a big concern as there are several instances of young advocates being exploited by their seniors. So, parents are apprehensive sending their daughters to senior lawyers for practice. However there is no such prejudice in case of male lawyers.

Being a legal practitioner does not guarantee a steady and regular income especially in the beginning of career. It takes time to settle in this profession and make your name. However girls cannot afford to give that much time as they have pressure to marry at a certain age. So, female law graduates prefer jobs in corporate sector or public sector undertaking to practicing law. Number of women practicing in courts is less, but more women are employed in corporate sector or they take job in public sector undertaking because the number of working hours is limited and this enables them to take care of family as well along with work. Male lawyers get more fees than female lawyers as clients wants males to represent them. Also, male practitioners manage to get more business. Lady lawyers are mostly not comfortable in networking for business. Since this field is very competitive it requires one to make contacts and socialize, which many women find difficult to do because for social norms and upbringing. This affects their business prospects.

Additionally, when it comes to being appointed to the positions like ASG, women find it difficult to lobby and get these political appointments. Its only in 2009 that a women was appointed as additional solicitor general. Women are inhibited in lobbying and getting these positions. Being appointed here would give them more exposure and recognition but it is the male lawyers who manage to get these positions almost always due to networking and lobbying.

### **Women as Judges:**

Judiciary, by enlarge is male dominated. It becomes difficult to break the glass ceiling that exists in appointment to high courts or supreme court. As already pointed

out the number of females studying law has increased over the years. Also there is an increase in number of females in lower judiciary as the selection is based on merit after giving competitive exams and interview. Therefore, the increase in number of women in lower judiciary is because girls have proved to be more meritorious than their male counterparts. But this is not a pan India phenomenon because if we compare the total number of females taking admission in law and the number of females in lower judiciary, there still remains a huge gap. Although the trend is encouraging but much more needs to be done.

However when we look at number of female judges in High court and Supreme court, the figures are disappointing, as selection here is not based on exams but other criteria. So, when women are doing exceedingly well when selection is based on exam/merit, why are they not considered for appointment for High court and Supreme court where there is no exam, of course the merit is still there, but there are other factors stopping their selection. When it comes to lesser number of women being elevated to higher courts, one needs to see how many women are actually practicing advocates, how many continue their practice continuously, because many lady practitioners leave their flourishing careers to fulfill their household duties.

Another reason for lesser number of female judges in higher courts is because a lot of talented female lawyers especially first generation lawyers, prefer to take lower judiciary exams and get a steady job as they cannot afford to practice in court without any support for years and thereafter wait to get noticed to be appointed to higher courts.

The struggles of a female are not over even after being appointed as judge of High Court or Supreme court, as they still face bias and gender discrimination. This is not the case only in India but it's a worldwide phenomenon. Women judges face lot of difficulties in discharging their duties even in most developed countries. They are taken lightly, their opinion is not given due importance. Lesser important cases are given to females as clients might not have confidence on female judges. Male judges feel that a female would not understand complex financial issues. So, she has to work twice as hard as compared to her male counterpart. They have to struggle to get noticed. To make a mark a women judge needs to be exceptionally good, whereas male counterpart do not have any such pressure. Why this differentiation?

### **Women in academics:**

Generally it is believed that academics is suitable profession for females as it allows them to take care of their family as well as profession. However we find, in legal academia, number of women is lesser. Although this number is growing but the number

of women in highest administrative position like Vice Chancellors or full Professor are only few. Women generally do not apply for highest posts, reason could be confidence gap, that is, women lack the confidence to apply, they do not want to take the risk, and they apply for jobs that are much below their reel of competence.

There is gatekeep bias, meaning thereby that selection committees are generally male dominated, so, they end up selecting more male candidates. Male academicians get invited to conferences more often because they have more social contacts and are good at networking. Since they get invited more often, they get more visibility, even results in even more invitations and networking. Women suffer here as they are generally not lobbying, so they miss out on opportunities. Even if some women are lobbying or networking their character becomes questionable and they are seen in bad light as by the society and also accused of being a bad mother or wife who is ignoring household duties to exceed in career. They are often called as over ambitious and money minded.

## **CONCLUSION AND SUGGESTIONS:**

Crime against women is rising each day, legal fraternity has responsibility to ensure justice is done to them, but number of female's lawyers and judges is not rising at same pace, so, affirmative steps must be taken to increase the participation of women in legal arena and improve condition of women in legal profession. Gender sensitization programs should be run in all courts for lawyers as well as judges to create a conducive atmosphere for women in courts. Infrastructure needs to be improved to make court atmosphere more comfortable for females like opening creches in all courts. For appointment at High Court and Supreme court talented lawyers in district court should also be considered. Generally they are not noticed; only lawyers working in high court are noticed and elevated to bench. There needs to be regular exams for appointment of judges at district courts so that more talented and capable women lawyers can join judiciary at district level and can thereafter be elevated to high court. Women need to be given flexible working hours rather than fixed time of their presence in educational institutions, this will make them more productive and give them liberty to be more creative. Women themselves can also look for innovative methods of utilizing their time in maternity leave by either drafting or writing articles it will keep them in touch with their profession even when they are not actually practicing or teaching. Last but not the least duty lies on the women judges and lawyers to be more supportive to women lawyers and promote them.