

Review on Distinguished Women Lawyers: An Examination of their Historical Quest for Acknowledgment in India

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Abstract: *The present essay examines the trajectory of women's representation in the legal profession in India. The significance of the Legal Practitioner's (Women) Act of 1923 lies in its role in facilitating the inclusion of women within the legal profession. Nevertheless, the Act encountered opposition. A significant number of women who possessed a law degree were prohibited from continuing their legal profession. In the year 1916, Regina Guha submitted her case to the jury with the intention of gaining admission into the legal profession. Likewise, Sudanshu Bala Hazra and Cornelia Sorabji encountered challenges in their pursuit of a career in the field.*

The Allahabad High Court ultimately granted Cornelia Sorabji admission as a legal practitioner, so facilitating the inclusion of women in the field and contributing to the enactment of the Legal Practitioner's (Women) Act of 1923. However, it is necessary to consider whether the Act was sufficient to bring women into the legal profession. The underrepresentation of women in the legal profession across different courts and firms indicates that there is still a significant distance to cover before women are really acknowledged in this field. Nevertheless, it is imperative to acknowledge the significant contribution made by women who served as the primary catalyst for the emergence of women in this particular field.

Keywords: Cornelia Sorabji, Legal Profession, Legal Practitioner's (Women) Act, Regina Guha, Sudanshu Bala Hazra, Women Lawyers

I. INTRODUCTION

The legal profession in India has been marked by the historical challenges faced by women in their pursuit of professional participation. The pursuit of institutional recognition persisted until the enactment of the Legal Practitioners (Women) Act, XXIII of 1923. Nevertheless, the Act did not fundamentally alter the status of women; instead, it just provided a means for women to enter the profession. The ongoing battle for recognition persists, as there is a scarcity of women who have achieved the highest positions in the legal profession, indicating that it was predominantly a male sphere.

The legal profession has consistently been regarded with utmost respect. The necessity of law in upholding modesty and decency during the use of powers is accorded paramount importance. The importance of law lies in its necessity for comprehensive comprehension, elucidation, and contemplation in order to ensure its accessibility to society through the efforts of knowledgeable scholars. In India, women have encountered opposition from their male colleagues in practicing law as a method of serving the nation since the establishment of contemporary legal systems under colonial control. Nevertheless, a substantial opposition to these concepts commenced solely during the initial half of the 20th century. The need for knowledge prompted women in India to engage in other domains, and a comparable inclination to challenge prevailing societal norms was evident within the legal profession.

This research aims to comprehend the challenges faced by female lawyers, utilizing secondary data, while they endeavored to establish their presence in the legal field. The primary sources of information regarding the challenges faced by women in their professional endeavors are derived from tales of diverse cases, as well as their biographies and autobiographies, which provide detailed accounts of their experiences.

Historical traces of the legal profession during the Colonial Era

Prior to the establishment of the Mayor's Court in 1726, the three Presidency towns lacked any legal practitioners. Despite the establishment of these Mayor's courts, there was a lack of laws regarding the qualifications necessary for individuals to become legal practitioners. The responsibility for regulating this problem was entrusted to the courts. The Charter of 1774 was enacted in response to the unhappiness with the Mayor's court. This charter played a significant role in the advancement of the legal profession and facilitated its organization. The establishment of a Supreme Court of Judicature in Calcutta was facilitated by this charter, resulting in the abolition of the Mayor's Court.

The establishment of the Sudder Courts took place at the 'moffussils'. The legal practitioners from India who were in attendance at the Sudder Court were commonly known as Indian 'Vakils'. In 1862, when the High Courts were established, the term "Vakil" referred to an individual who had completed legal education at a university and successfully passed the High Court Vakils' examination. Later on, the term 'vakil' referred to a university graduate who holds an LL.B. degree. An advocate with a degree who is capable of independently handling work on both the Appellate and Original sides.

The introduction of Bengal Regulation VII of 1793 aimed to enhance the standard of pleading in the Sudder Courts. The aforementioned regulation solidified the status of pleading as a reputable occupation. A professional fee was implemented, and Vakils were prohibited from accepting any amount over the approved limit. The individuals were prohibited from engaging in legal proceedings in any court other than the one in which they were designated. Vakils were required to carry out the 'Vakalatnama', which is a document completed by the party or client to grant authorization to a Vakil who would act as the client's representative in the case.

In 1858, when the British Government assumed control of the East India Company's territory, it abolished the distinct system of Supreme Court in the Presidencies and Sudder Courts in the moffussils. Conversely, the High Court is positioned at the highest level. A consolidation of the Supreme Courts and the Sudder Courts resulted in the establishment of these High Courts. The Legal Practitioners Act of 1879 established the criteria for admitting Vakils to practice in the High Court. Similarly, the Regulations for the Zilla (district) courts specified the conditions for the pleaders, so differentiating between the Vakils and pleaders. The legal practitioners were categorized into six categories following the founding of the High Court. These grades include Advocates, Attorneys (Solicitors), Vakils of High Courts, Pleadings, Mukhtars, and Revenue Agents. The Legal Practitioners Act of 1879 effectively consolidated all six levels of the legal profession within the purview of the High Courts. The Legal Practitioners Act, along with the Letters Patent of the High Courts, served as the primary legislative framework governing legal practitioners in the lower courts of the nation until the Advocates Act of 1961 was passed.

The struggle during early 20th Century: Regina Guha and Sudhansu Bala Hazra

The traditional perception of the legal profession as exclusively male was called into question in 1916 when Regina Guha, upon completing her Bachelor of Law degree at Calcutta University, applied to be admitted as a pleader in the Alipore District Court. The application was expeditiously declined due to the exclusive admission of male individuals as pleaders. In 1921, Sudhansu Bala Hazra posed a second challenge to the legal profession. However, in the same year, Cornelia Shorabji achieved the distinction of being the first woman to be admitted as a pleader at the Allahabad High Court. The simultaneous challenge ultimately resulted in the modification of the Legal Practitioner's Act, resulting in the enactment of The Legal Practitioners (Women) Act in 1923. The ban on women practicing law was abolished by this act.

In this particular setting, two acts hold significance. The legislations in question are the Legal Practitioners' Act of 1879 and the Legal Practitioners' Act of 1884. Under the jurisdiction of the High Courts, the Act of 1879 consolidated six degrees of legal practitioners, namely Advocates, Solicitors (Attorneys), Vakils, Pleadings, Mukhtars, and Revenue Agents, into a unified system. The Act of 1884 granted the High Courts the authority to establish regulations, with the prior approval of the Provincial Government, regarding the eligibility and admission criteria for individuals to become Advocates. These regulations authorized the High Courts to appoint as many Advocates as they saw appropriate. In the present situation, it is imperative to take into account the Act of 1879. It is stated that those who are admitted as 'vakil' in the High Court are also permitted to practice in the lower courts and revenue offices within the local boundaries of

the appellate jurisdictions of those courts. Nevertheless, it was imperative to adhere to the regulations pertaining to the linguistic manner in which the court and office were to be communicated by both the litigants and the tax agents.

This section provides clarification on the locations where advocates can register and engage in practice. It is noteworthy that while the Advocate or Vakil is referred to as a 'person', women were not encompassed by this designation. According to the High Court, women were not allowed to be registered as Vakils or Pleaders in any lower court because the term 'person' exclusively encompassed men. The Calcutta High Court and Patna High Court rejected the appeals of Regina Guha and Sudhanshu Bala Hazra on the precise basis mentioned.

Regina Guha derives her ancestry from Jewish Bengali heritage. Following the successful completion of her Bachelor of Law degree at Calcutta University in 1916, Guha submitted an application to be admitted as a legal practitioner at the Alipore District Court. Her application was scheduled to be reviewed by a special panel of five judges from the Calcutta High Court. This was because it was the first time a woman had applied to become a lawyer. Several arguments opposing Regina's cause hold significance within this particular setting. One of the judges stated that The Legal Practitioners Act made no reference to women. Furthermore, the Legislature also failed to take into account the inclusion of women as legal practitioners. Based on the aforementioned argument, it is evident that the interpretation of many laws, the stance of the legislature, and the societal composition of the country contradicted Regina Guha's eligibility. A specific excerpt from the Regina Guha vs Unknown case, which took place on August 29, 1916, holds considerable significance. According to the statement, the significance of the 'person' factor was deemed insignificant in granting women admittance as pleaders in the courts. In this particular instance, the General Clauses Act of 1868 (I of 1868), which stipulated the inclusion of females within the masculine gender, was not duly acknowledged. It has been argued that the inclusion of terminology such as 'he' and 'his' in the Legal Practitioner's Act implies that the Legislature intended for individuals to exclusively practice as pleaders. Due to the historical exclusion of women from the legal profession, the court lacked certainty regarding the suitability of women for this occupation.

Despite comprehending the etymological validity of the term 'person', which encompasses both genders, the judges were unwilling to introduce any novel ideas. A comparable incident had occurred in Britain three years prior to the Regina Guha Case. The Law Society declined the application of Gwyneth Bebb, Karin Costelloe, Maud Ingram, and Frances Nettlefold to take the preliminary examinations for the purpose of becoming solicitors, based solely on the argument that women do not meet the eligibility criteria for solicitorhood. In the case of Bebb vs Law Society, four women unsuccessfully challenged the inclusion of women in the definition of 'person' as stated in the Solicitor's Act of 1843.

Dr. Judith Bourne thinks that the verdict of the case was entirely detrimental to women's rights. The Bradwell vs Illinois case (1873) exemplifies the deliberate exclusion of women from the legal profession. Myra Bradwell sought permission to join the Illinois Bar, but the judges informed her that the inherent timidity and delicacy associated with femininity were not suitable for many civil occupations. They emphasized that women's primary purpose and duty were to serve as wives and mothers, making the distinction between private and public life a matter of divine decree.

These seemed futile challenges eventually yielded results. Shortly after the Bradwell vs Illinois case, the Illinois Legislature granted women the right to join the bar, a precedent that was subsequently adopted by other states in the United States. The Bar of Ontario in Canada granted permission for women to enter the profession in 1897. A similar occurrence took place in India. The legal profession encountered its first challenge in 1916, and within a span of five years, it encountered its second challenge from Sudhanshubala Hazra.

In order to balance her responsibilities as the headmistress of the kindergarten department at Ravenshaw Girl's School, Sudhanshubala Hazra pursued her legal studies at Ravenshaw College, attending evening classes. Hazra encountered challenges during her Law examination. In the year 1917, the initial application of the individual in question was switched from Calcutta University to Patna University without her knowledge, resulting in a swift rejection. However, her second application was accepted by Calcutta University in 1918 after careful study. Her merit was demonstrated through her successful completion of the preliminary law examination in 1919 and intermediate legal examination in 1920. Prior to the final examination, a nationwide non-cooperation movement had emerged. Hazra had to overcome the obstacles posed by the pickets placed outside the examination hall of Calcutta University in order to demonstrate her commitment to pursue law. She believed that her actions were motivated by a desire to benefit the future women who would pursue this profession.

Nevertheless, the attainment of a Bachelor of Law degree in 1921 proved insufficient to propel her into the legal profession. Sudhanshubala Hazra submitted an application to attend the Patna District Court as a lawyer. The Patna High Court had to review Hazra's application, similar to the Regina Guha Case. The judges of the Patna High Court rendered a like verdict to that of the Regina Guha Case. The case of 'Miss Sudhansu Bala Hazra vs Unknown on 28 November, 1921' (Sudhanshu Bala Hazra case) reaffirms that only the male individual was acknowledged as a party participating in the legal proceedings. Pleaders were initially acknowledged by Regulation VII in 1793, and since then, no female has been permitted to serve as a pleader.

Nevertheless, two notable distinctions exist between the Regina Guha case and the Sudhanshu Bala Hazra case. The Sex Disqualification (Removal) Act of 1919 was enacted in England, thereby granting women the opportunity to pursue careers in the legal profession. In 1921, the Allahabad High Court granted Cornelia Shorabji permission to work as a lawyer. While upholding the Legal Practitioner's Act, the Patna High Court acknowledged the advancements and acknowledged the necessity of revising the statute.

A comprehensive initiative was initiated to revise the Legal Practitioner's Act. In contrast, Cornelia Sorabji expressed the view that it was imperative for 'Purdah ladies' to have female practitioners, while Sudhanshubala Hazra shared a similar perspective. The incapacity of 'Purdah ladies' to educate male practitioners, resulting in their vulnerability to deception and corruption, provided a suitable opportunity for female practitioners to emerge. Hari Singh Gour, a lawyer, educationist, and social reformer, quickly joined the campaign. According to historical records, Hari Singh Gour held membership in the Central Legislative Assembly. Narayan Malhar Joshi, a Trade Union Leader and co-founder of the All-India Trade Union Congress alongside Lala Lajpat Rai, played a significant role in ratifying various important agreements. A resolution was proposed by Joshi in February 1922 with the aim of amending the Legislative Assembly Electoral Rules. The proposed amendment sought to eliminate the requirement of sex disqualification for individuals seeking registration on electoral rolls. Perceiving this as a favorable occasion to implement more modifications, Hari Singh Gour revised Joshi's resolution by proposing another resolution to eliminate the legal disqualification based on sex. Nevertheless, Dr. Hari Singh retracted his amendment after receiving assurance from Sir William Vincent, the Home Member, that input will be sought from various sources such as local governments, High Courts, Oudh Bar Association, the general public, and professional bodies about the inclusion of women in the legal profession. The plan elicited a range of opinions. Insufficient progress in women's education was highlighted by the Allahabad Bar Library, while the Oudh Bar Association expressed support for the aforementioned proposition. Numerous arguments were presented in support of the idea. It has been suggested that women were granted admission to the Bar in England and other European countries, and it is recommended that India adopt a similar approach. Essentially, the inclusion of female practitioners was necessary to symbolize the 'purdah nashin' women who wear veils. Nevertheless, following numerous arguments both in favor of and against the exclusion of women from the legal profession, the Government of India approved the Bill on March 21, 1923, which subsequently became law on April 2, 1923. The enactment of the Legal Practitioner's (Women) Act established the principle that women cannot be excluded from being admitted or enrolled as legal practitioners or from practicing as such solely based on their gender. Hazra was registered in the Patna High Court following the enactment of the 1923 Act, however, Regina Guha did not witness the Act's passage. The endorsement of Cornelia Sorabji and the enactment of the Legal Practitioner's (Women) Act promptly resulted in the necessary transformation.

First woman to be accepted in Court: the case of Cornelia Sorabji

Cornelia Sorabji, the inaugural female counsel in India, encountered significant challenges throughout her foray into the legal sphere. Cornelia's father, acknowledging her early intellectual aptitude, provided encouragement for her pursuit of higher education. She achieved the distinction of becoming the inaugural female graduate of Bombay University. Despite her exceptional performance on her college examination, which would have facilitated her attainment of a full scholarship for schooling in Britain, she was refused the opportunity solely based on her gender. In order to secure funding, she had to submit a written plea to the National Indian Association, which received a highly positive response. Regrettably, throughout that period, England prohibited women from pursuing a legal education. Cornelia Sorabji's pursuit of a legal education at Somerville College, Oxford was facilitated by her tutor, Benjamin Jowett. Hence, she achieved the distinction of being the inaugural female to pursue a legal education at Oxford University, as well as the

first Indian to pursue studies at any British university. Notwithstanding her successful completion of the exams, she was not awarded a degree.

In 1894, she came back to India and undertook a lengthy voyage in order to get recognition as a lawyer. Cornelia aspired to advocate for the rights of the 'purdahnashin', a group of women who were prohibited from engaging in communication with those outside of their immediate family. While she possessed the ability to prepare their cases, she lacked the capacity to advocate for them in court. Cornelia proceeded to do two consecutive examinations: the LLB examinations administered by the Bombay University, and the pleader examination at the Allahabad High Court in 1899. Although she did not receive official recognition as a Barrister, she was eventually appointed as a Lady Assistant to the court of wards in Bengal in 1904. In her journey, she traversed the regions of Bengal, Bihar, Orissa, and Assam, advocating for the rights and well-being of women and children.

While the legal profession granted women recognition in 1923, Cornelia had previously obtained her acceptance at the Allahabad High Court before to this. However, her enrolment as a Barrister in the Calcutta High Court occurred in 1924. The movement had commenced, albeit gradually. Initially, only a limited number of women entered the profession, but the notion of advocating for others in the court had enlightened several individuals. Following the attainment of independence, the Indian Constitution made concerted efforts to uphold gender equality. The Constitution of the country has facilitated access to a range of educational institutions and professions for women through the implementation of many Fundamental Rights and Directive Principles. The women's lack of fundamental knowledge and awareness hindered their comprehension and realization of these rights.

II. DISCUSSION & CONCLUSION

The women's significant contributions have not only resulted in the dismantling of the glass ceiling, but have also paved the way for others to follow suit. These women have made significant contributions to the profession of law. At an era when women were not actively encouraged to participate in the public realm, they have successfully navigated their path into the field. They have pursued the field of law during a period characterized by societal disillusionment and admonishment. They remained steadfast and implemented reforms inside the system that prohibited them from practicing as advocates. As society evolved and women became more prevalent, they have made a significant impact in the industry. In addition to their role as advocates, women have also been granted admission as judges, gaining entry into both the High Courts and the Supreme Court. An increasing number of women have shown optimism in pursuing a career in the field, inspired by influential role models.

Since the 1970s, there has been a notable increase in the participation of women in various professional roles, including advocacy, academia, legal assistance, voluntary work, and drafting. In the past twelve years, the legal profession has experienced an increased influx of women pursuing studies in law. However, there exists an imbalance between the number of women entering the study of law and the number of women entering the practice. Women continue to face challenges in their professional endeavors. However, amidst these challenging circumstances, some individuals have emerged who have made significant contributions to the area. During the period following independence, a significant proliferation of Law Firms emerged. These companies were managed by individuals from a single family. The employment of women in such organizations was deemed inconceivable due to the lack of recognition of their abilities. The recognition of women as a valuable human resource in this particular profession was limited due to their association with childbearing and childrearing. The responsibilities associated with parenthood may impede women's ability to sustain their employment and prompt them to seek time off. Consequently, a work culture that is supportive of women did not emerge.

Women aspiring to pursue a career in law lacked mentors to emulate. The introduction of the new legal course facilitated comprehension for women. The duration of the five-year program provided training in the practical application of legal information, enabling individuals interested in this profession to identify their desired field of practice based on their aptitude. This enabled women to pursue a legal education and prompted them to contemplate the potential modifications they may make to the profession.

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