

# The Effects of the Glass Ceiling on the Legal Profession: A Challenge to the Indian Legal System in Comparison with Glass Ceilings in Various Nations

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**Abstract:** *Since India gained independence, the Indian legal system has made significant progress, starting with the admission of Cornelia Sorabji into the Allahabad High Court in 1921 to practice as a lawyer. Following the enactment of the Legal Practitioners' (Women) Act of 1923, the limitations on Indian women engaging in the legal profession were officially eliminated. Providing female advocates with access to the Indian courts, at least in theory. Moreover, the Indian constitution of independent India has granted Indian women the entitlement to equality and protection against any form of gender-based prejudice, enabling them to access education and pursue their desired profession. However, were the affirmative steps implemented by the framers of our constitution really achieve gender equality in Indian courts? Did the idea of equality extend to the individuals who purportedly possessed authority over it? The recent declaration issued by Justice Hima Kohli regarding the imbalanced presence of women in the Indian judiciary presents a contrasting portrayal of the principle of equality advocated by the architects of our constitution, in a context where it was intended to be upheld by the populace. This article examines the factors contributing to the underrepresentation of women in high-ranking positions within the legal profession. It delves into the underlying causes of gender disparity, conducts a comparative analysis of the obstacles encountered by female lawyers in various countries, and ultimately puts forth recommendations and remedies to address this problem.*

**Keywords:** Legal profession, glass ceiling, gender discrimination, women, future

## I. INTRODUCTION

While women have made enormous progress in overcoming challenges and barriers and are now represented in nearly all professions, they have not achieved substantial advancements in the legal field. As per the statement made by Law Minister Kiren Rijju, the representation of women in the higher judiciary is a meager 7.2%. When examining the top positions in the Supreme Court, it is evident that only 13 women have achieved the highest level of authority. Similarly, in the Delhi High Court, the number of women in senior positions is much more alarming, with only 9 out of 237. It is evident from these figures that there exists a significant disparity in the representation of women within the legal profession when compared to their male counterparts. The term used to describe this occurrence of gender bias in many occupations is "Glass ceiling". It embodies a conspicuous or nuanced manifestation of gender-based prejudice that is typically unarticulated and unspoken, yet profoundly ingrained and widespread. The aforementioned figures provide empirical evidence of the underrepresentation of women in significant roles, such as partners in legal firms, judges, or members of tribunals and commissions. Several theories have been suggested to elucidate the phenomenon known as the glass ceiling in the legal profession. These theories include the perceived limitations of women themselves, as well as the institutional prejudice that arises when promoting female candidates to senior-level positions based on their abilities and qualifications, rather than their qualifications and career choices. By considering a multitude of comprehensive research publications and limited surveys pertaining to gender bias within the upper echelons of the

legal field. This essay seeks to uncover the causes of the Glass ceiling in the legal profession, analyze the obstacles encountered by women in different nations, and propose remedies to address this occurrence of gender-based prejudice.

### **Why Does the Glass Ceiling Exist in the Legal Profession?**

Discrimination against women is a pervasive issue in almost every profession, regardless of the stage of their employment. As individuals transition from the initial stages of their professional journey to attaining significant roles, there is a noticeable escalation in gender-based differences. Upon overcoming these challenges, individuals ultimately encounter the 'glass ceiling', an imperceptible yet tangible barrier that impedes their progress towards the pinnacle of their chosen field. The presence of this glass ceiling hinders a significant proportion of female lawyers from achieving crucial positions.

The prevailing cultural paradigm, characterized by a male-centric perspective that assigns males the role as primary earners and women as homemakers, can be identified as the fundamental factor contributing to the existence of the glass ceiling within the legal profession. In Indian society, there is a widely held view that a husband's work holds greater importance than a wife's work and should be given priority over the latter. Furthermore, it is not anticipated that he will distribute domestic responsibilities equally with his spouse. Moreover, there is a societal expectation and even promotion for males to adopt a simplistic approach, focusing largely, if not exclusively, on supporting their families and progressing in their professional lives. Simultaneously, women are anticipated to possess several dimensions, encompassing both domestic and familial responsibilities in addition to their professional endeavors. The legal profession is structured in a manner that prioritizes and incentivizes individuals who assume male roles, therefore neglecting other areas of interest. Consequently, female lawyers are predominantly marginalized from these chances due to their inability to focus only on their professional endeavors.

In addition, it is worth noting that the legal profession also adheres to societal expectations on gender roles. The occupational domain exhibits bias against individuals adhering to feminine standards and responsibilities, while simultaneously providing incentives to those who conform to male norms and responsibilities. Women are expected to significantly limit their extracurricular activities in order to meet the professional requirements set by male chauvinists for leading institutions of justice. Male legal professionals frequently perceive it as more convenient and advantageous to prioritize career advancement and attain positions of influence above other facets of their lives. Nevertheless, as a result of familial pressure, female attorneys face obstacles in progressing in their careers and are compelled to limit their working hours and generally forgo opportunities for career advancement due to marital responsibilities. A study indicates that a significant proportion of female lawyers in the legal field are either divorced or unmarried due to significant familial pressure to marry at a young age or to assume the obligations of family and child-rearing, leading many women to choose not to pursue a career in law. In addition, once they had established themselves professionally, they were seen too old to marry according to conventional norms. Consequently, an increasing proportion of female legal practitioners are advancing in their professional trajectories exclusively during periods of being single or childless. Furthermore, many Indian judges hold a conditioned mindset that women are less capable in the legal field due to their submissive disposition and greater desirability inside the confines of their households. In addition, insulting comments made by both male advocates and certain esteemed judges exacerbate their challenges and contribute to the marginalization of women in the legal field.

Ultimately, the combination of these factors, along with other societal prejudices against women, leads to a significant gender imbalance in the legal field. This bias is particularly evident in the higher echelons of the Indian court system, where only 12% of the Supreme Court's judges are women, and the situation is even more dire for high courts. Hence, it is evident that the prejudice experienced by women within the Indian legal system can be attributed to the patriarchal structure prevalent in our society, wherein male advocates are perceived as possessing greater importance and surpassing their female counterparts.

### **An Analytical Examination of Glass Ceilings in Various Nations**

During a conference convened by the Delhi Women Lawyers Forum, it was highlighted that while female professionals in India are experiencing a significant delay in contrast to their counterparts in other nations, this issue is not exclusive to India alone. Nevertheless, there exists a conspicuous disparity between the working conditions in India and

developed countries, and it is intriguing to observe the factors that differentiate the two. A study reveals that a significant factor contributing to the underrepresentation of women in India is their diligent efforts, yet their failure to adequately equip themselves for positions as senior counsel, judges, or partners in law firms. This assertion is reinforced by the presence of gender stereotypes within Indian society, which effectively reinforce the notion of women's inferiority in comparison to men, particularly among female professionals.

#### **An Analysis of Germany and the United States**

A study conducted in Germany and the USA reveals that the work climate in Germany poses greater difficulties for female attorneys in balancing family responsibilities and achieving career success compared to the USA. The observed disparity might be ascribed to the insufficiency of infrastructure and societal biases, hence posing significant challenges for women in Germany to reconcile their marital commitments with their professional pursuits. However, women lawyers in the United States also encounter disparities, despite its status as one of the industrialized economies. Annually, a substantial proportion of women pursue admission into law school, although only a minority attain prominent positions in law firms and Courts, in addition to receiving lesser compensation compared to male attorneys in similar roles. The Glass Ceiling Report by Law360 indicates that there has been an increase in women's involvement in the legal profession in the United States. Nevertheless, it is noteworthy that males continue to constitute over 65% of attorneys in the United States, as well as approximately 70% of non-equity partners and more than 80% of equity partners.

#### **An Unfavorable Overview of the UK's History**

UK statistics indicate that the Legal profession embraces women as barristers and provides them with prospects for advancement, albeit to a limited extent. In a survey done in 2017 by a business, it was found that the representation of female partners in the top 10 legal firms is at 18%, but in the subsequent 15 firms, the proportion decreases to 19%. Barristers and judges experience a more severe situation. Among senior barristers, there is a disparity of 254 female barristers compared to 1409 male barristers. Similarly, in the High Court, just 22% of judges are women, while in the Court of Appeal, the percentage is 24%. The underrepresentation of women in the legal profession can be explained to a significant number of women leaving the profession after being appointed to the Bar, resulting in a gap even among senior professionals. The factors contributing to this significant attrition rate are readily apparent. The confluence of societal and financial constraints compels female barristers to relinquish their arduously acquired and highly valued profession at the Bar, opting instead for less demanding and remunerative occupations.

#### **China: Leading the Way in Addressing Gender Discrimination in the Legal Field**

The legal profession in China exhibits a notable disparity in gender representation. The process of feminization within the legal profession in China has only lately commenced, resulting in a notable disparity between the number of women and men engaged in legal practice. China's law schools have consistently produced a similar number of graduates over an extended period. However, there continues to be a noticeable lack of female representation in the fields of law, including lawyers, judges, and law school teachers. In the context of China, a notable power imbalance exists between genders. Women are often marginalized and assigned secondary responsibilities, while men hold a more dominant and authoritative role. In the context of China, a significant percentage of women are employed in legal jobs of lower social rank. The gender pay discrepancy in China's legal profession is readily apparent. Regrettably, Chinese female lawyers exhibit a reluctance to acknowledge their gender as an obstacle to pursuing a career due to their strong adherence to patriarchal norms. Consequently, the situation in that location is significantly more dire than in India, where women are aware of the gender-based prejudice they face and are actively protesting against it. The presented statistics demonstrate the presence of a glass ceiling phenomenon, even within the context of a highly industrialized nation.

#### **Suggestions: A Strategic Plan for the Future**

The challenges associated with gender bias in the legal field are diverse, intricate, and firmly ingrained in the fundamental structure of our society. In order to effectively tackle these concerns, it is imperative to address them across many levels. While legal changes have partially guaranteed women's participation in the legal profession by

requiring equal treatment, no comparable changes have been implemented to encourage males to engage in unpaid domestic work. There is a need to reorganize both the business and the household in order to eradicate gender divisions. An additional prompt resolution to gender bias could involve implementing family-oriented measures to assist women advocates in India, such as providing paternal leave, establishing child care facilities, and offering flexible working hours. These policies are crucial for women advocates and would not require them to compromise their personal lives in favor of their professional pursuits.

In the foreseeable future, it is imperative to alter the prevailing societal mindset, wherein the traditional gender roles assigned to women must be relinquished. It is imperative to raise awareness and provide education to both society and advocates, with a focus on highlighting the talents of female advocates rather than perpetuating gender-specific societal norms. Moreover, it is imperative to implement institutional measures aimed at eliminating gender prejudices that are perpetuated by numerous societal preconceptions. Furthermore, it is imperative that this process of purification is supported by policies that are dedicated to achieving gender equality for women. These policies should prioritize the impartial assessment of women and promote their value based on their inherent worth, rather than their gender. Similarly, certain legal firms have put forth and provided financial support for initiatives focused on "diversity training." These initiatives try to educate employees about the fundamental distinctions between men and women, with the goal of fostering an attitude that values and respects these differences, rather than exploiting them to marginalize or prejudice women.

In relation to the Bar and Judiciary at a more structural level, it is imperative to implement targeted institutional modifications to effectively tackle the challenges associated with gender imbalance. In light of the patriarchal structure of our culture, it is imperative for justice-dispensing institutions to establish a standing committee dedicated to addressing the problems of women while upholding secrecy. Furthermore, it is imperative for the courts and bars to establish connections outside the confines of the courtroom in order to tackle the systemic prejudice experienced by women and raise awareness among male members of the judiciary and profession.

Moreover, it is imperative that women engaged in the legal profession unite in order to provide mutual support. Women in the legal profession should collaborate to establish an organization that can examine gender disparities in the workplace, ensuring that no woman feels isolated in their fight against systemic and societal injustices. It is imperative that these associations and organizations are overseen by competent leaders to mitigate the potential influence of caste or class bias in instances of gender inequality encountered by women within the legal field.

## II. CONCLUSION

At first glance, the solutions and suggestions may seem straightforward, as the underlying cause of gender bias in the Indian legal system can be attributed to the mindset of male legal professionals. This mindset is influenced by patriarchal ideologies, particularly male chauvinism, which in turn shapes the overall structure. Consequently, the resolution of the underlying factor contributing to gender inequality necessitates the implementation of a comprehensive yet straightforward approach that takes into account both structural and societal dimensions in order to effectively address the gender difference within the Indian legal framework.

## REFERENCES

- [1]. <https://dnluslj.in/glass-ceiling-in-the-legal-profession-a-curse-to-the-indian-legal-system/>
- [2]. Akshay Pathak, Neha Kumari, Glass Ceiling In The Legal Profession —A Curse To The Indian Legal System, DNLU-SLJ, < <https://dnluslj.in/glass-ceiling-in-the-legal-profession-a-curse-to-the-indian-legal-system/>> accessed March 23, 2024.
- [3]. Azmat, G and R Ferrer (2017), "Gender Gaps in Performance: Evidence from Young Lawyers", Journal of Political Economy, 125(5): 1306-1355.
- [4]. Bertrand M, C Goldin and L Katz, L (2010), "Dynamics of the Gender Gap for Young Professionals in the Financial and Corporate Sectors", American Economic Journal: Applied Economics, 2: 228-255.
- [5]. Blau, F D and A Winkler (2018), The Economics of Women, Men, and Work, 8th edition, Oxford University Press.

- [6]. Boschini, A and J Roine (2020), "The Share of Women in Top Incomes", VoxEU.org, 29 January.
- [7]. Catalyst (2013), Catalyst Quick Take: Women in Law in the U.S., New York, NY: Catalyst.
- [8]. Fernandez, R and A Fogli (2009), "Culture: An Empirical Investigation of Beliefs, Work, and Fertility", American Economic Journal: Macroeconomics, 1(1): 146-177.
- [9]. Ganguli, I, R Hausmann and M Viarengo M (2020), "Gender Differences in Professional Career Dynamics: New Evidence from a Global Law Firm", Harvard CID Faculty Working Paper No. 378.
- [10]. Goldin, C (2015), "A Pollution Theory of Discrimination: Male and Female Differences in Occupations and Earnings", Human Capital in History: The American Record, Chicago, IL: University of Chicago Press.
- [11]. Hofstede, G H (1984), Culture's Consequences: International differences in Work-Related Values, New York, NY: SAGE Publications.
- [12]. McKinsey (2017), Women in Law Firms, McKinsey Publication.
- [13]. National Association Of Women Lawyers (2014), 2014 Eighth Annual National Survey on Retention and Promotion of Women in Law Firms, Chicago, IL: The NAWL Foundation.
- [14]. NAWL (2019), National Association of Women Lawyers - Survey Report on the Promotion and Retention of Women in Law Firms.
- [15]. Noonan, M C, M E Corcoran and P N Courant (2005), "Pay Differences Among the Highly Trained: Cohort Differences in the Sex Gap in Lawyers' Earnings", Social Forces 84(2): 853-872.
- [16]. Rikleen, L S (2013), "Solving the Law Firm Gender Gap Problem", Harvard Business Review, 20 August.
- [17]. The Times (2014), "Top Law Firms committed to Closing the Gender Gap", 22 May 22.
- [18]. Wood, R G, M E Corcoran and P N Courant (1993), "Pay Differences among the Highly Paid: The Male-Female Earnings Gap in Lawyers' Salaries", Journal of Labor Economics, 11(3): 417-441.