

# The Historical and Contemporary Analysis of Women's Representation in the Indian Legal System

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**Abstract:** *The legal framework in India has seen substantial transformations throughout time, resulting in the progressive integration of women into influential positions within the legal profession. Women have achieved significant influence as lawyers, judges, and legal scholars, despite facing historical obstacles. The present study examines the historical progression of women within the Indian legal profession, encompassing the period from colonial times to the contemporary age. This text examines the barriers that impede women's participation in the legal field, evaluates their challenges, and emphasizes their significant contributions to the advancement of Indian law.*

*Despite the increased educational options for Indian women in law due to global influences and modernity in the 21st century, the gender inequality has continued to exist. The study examines the progression from the appointment of Justice Anna Chandy, the first female judge, in 1937, to the current obstacles and the lack of female representation in the judiciary. Prominent individuals such as Leila Seth and Fathima Beevi have successfully dismantled gender barriers by attaining the position of Chief Justices. However, the overall number of women in the judiciary continues to be imbalanced.*

*The research highlights the necessity for ongoing endeavors to improve gender parity within the legal field, suggesting strategies such as implementing a 33% reserve for women in the judiciary. This work makes a valuable contribution to the continuing scholarly conversation surrounding gender representation in the Indian judicial system by providing a thorough examination of historical challenges and current dynamics.*

**Keywords:** Women in Law, Indian Legal System, Gender Representation, Legal Profession, Historical Analysis, Legal Challenges, Legal Practitioner's (Women) Act, Present scenario

## I. INTRODUCTION

The Indian legal profession, which has historically been male-dominated, has witnessed the gradual integration of women through protracted court disputes. The Legal Practitioner's (Women) Act of 1923, enacted during the early 20th century, represented a significant milestone as it bestowed upon women the privilege to engage in the legal profession. Nevertheless, the path towards achieving acceptability was riddled with obstacles, as exemplified by instances such as Regina Guha's, wherein outdated perspectives cast doubt on the suitability of women as legal professionals.

### Historical Context

The legal profession in India has a rich and complex history, with women playing a crucial role in its evolution throughout the years. Women have achieved notable advancements in the Indian legal field, with a considerable number achieving prominence as lawyers, judges, and legal scholars, despite encountering substantial challenges. The objective of this research paper is to analyze the historical trajectory of women in the Indian legal profession, spanning from the initial stages of British colonial administration to the contemporary day. The study will examine the barriers and difficulties that women have faced when trying to enter and excel in the legal profession, as well as their impact on the development of the discipline.

Historically, the legal profession in India has been predominantly male-dominated. The inclusion of women in the judicial system was only facilitated during prolonged legal disputes, and even during this period, female involvement in the courts remained limited until the latter part of the 20th century. The advent of globalization in the twenty-first

century has expanded the avenues for Indian women to engage in legal education and training. The courtroom atmosphere has been calmed and conventional macho chauvinism in the area has been eradicated as a result of modernism. In 1846, all eligible individuals, irrespective of their ethnicity or religion, were granted the opportunity to pursue a career in law. The legislation pertaining to the legal profession persisted in prohibiting women from pursuing careers in this field due to its omission of any explicit reference to women. Prior to the enactment of the Legal Practitioner's (Women) Act, III of 1923, women were ineligible to enter the legal profession. However, this legislation officially granted women the right to practice law. The ban on women practicing law was lifted, granting women in India the freedom to pursue a career in law and act as advocates in courts of law. The conflict was launched by Cornelia Sorabji.

Justices frequently ruled that women did not qualify as "persons" for the purpose of pursuing a career in law. The initial case involving a woman was that of Regina Guha. Following the completion of his Bachelor of Law degree, Guha proceeded to submit an application seeking admission to the Alipore district court in the capacity of a pleader. The application was deliberated upon by the court. Regina posited that the inclusion of women in the Legal Practitioners Act regulations, despite their reference to men, can be justified based on the General Clauses Act's provision that "words importing the masculine gender shall be construed to include female." In relation to the assertion made by civil rights advocate barrister Eardley Norton, the bench asserted that during the enactment of the Legal Practitioners Act, there had not been any instance when a woman was granted the opportunity to engage in legal practice inside the Indian judicial system. Female attorneys were not mentioned in the Legal Practitioners Act. Hazra has been granted permission to participate in the preliminary examination of law as a private candidate by submitting an application to Calcutta University. The denial of her application was attributed to her lack of consistent attendance at legal seminars. The individual was ultimately granted permission by Calcutta University to undertake the preliminary law examination as a private candidate. Following the completion of her undergraduate studies in law at Calcutta University in 1921, she submitted a formal application to pursue a career as a legal practitioner in the Patna district court. In the case of Regina Guha, the Patna high court affirmed the stance that, notwithstanding the stipulations outlined in the General Clauses Act of 1868 and 1897, a woman's gender rendered her ineligible for a certificate under the Legal Practitioners' Act to serve as a pleader.

By this point in time, the Sex Disqualification (Removal) Act of 1919 had been enacted in England, thereby granting women the opportunity to enter the legal profession. Simultaneously, the Allahabad High Court granted admission to Cornelia Sorabji as a vakil. The Patna high court's ruling initiated a focused endeavor to modify the Legal Practitioners' Act. In the year 1922, Narayan Malhar Joshi proposed a resolution with the aim of modifying the Legislative Assembly Electoral Rules in order to eliminate the practice of sex-based disqualification in relation to voter registration. In response to Joshi's resolution, Gour proposed an amendment aimed at eliminating sex-based exclusion within the legal profession. In 1923, the Legal Practitioners (Women) Act was enacted, eliminating the disqualification and explicitly prohibiting the admission or registration of women as legal practitioners or their practice purely based on their gender.

A span of two decades was dedicated to the arduous endeavors of advancing literacy and enhancing women's consciousness regarding their entitlements within the multifaceted nation of India. Meanwhile, the Indian Judiciary actively promoted the participation of women in the legal field and made the significant decision to nominate the inaugural female judge to the Kerala High Court, namely the esteemed Justice Anna Chandy. Justice Anna Chandy commenced her professional journey as an Advocate in the year 1929, and subsequently, in 1937, she was appointed as a Munsiff, so establishing herself as the first female judge in pre-independent India. Over the course of these twenty years, two distinguished lawyers joined the legal field and subsequently ascended to the positions of Chief Justices in the Himachal Pradesh and Kerala High Courts, namely Leila Seth and Fathima Beevi. The former had accumulated over 15 years of experience as a practicing attorney in the Delhi, Kolkata, and Patna High Courts, while the latter had advanced from the role of a Munsiff to ultimately to the post of a Supreme Court judge. Interestingly, there has been no commensurate growth in the proportion of women represented in the Judiciary relative to the initial number of women judges. There has been a demand for a 33% reservation for women in the Judiciary as a means to attain parity between the representation of male and female judges.

### **Present scenario**

Having explored the historical backdrop of women in the legal field, we may now analyze the present-day circumstances. Saurabh Kumar Mishra's study paper demonstrates that the growing presence of women in the legal profession signifies a positive change in societal attitudes. It is concerning that a significant number of female practitioners do not acquire a sufficient number of cases, leading to low pay. Furthermore, female attorneys often encounter substantial challenges when it comes to marriage and raising a family. While a considerable proportion of women opt for the legal profession as their primary choice, the overwhelming majority of them depart from this sector promptly or shortly after entering into matrimony. A remarkably small number of women are capable of enduring beyond the age of forty, which is astonishing. Currently, legal professionals have accumulated substantial expertise and have reached the zenith of their professional trajectories. Discrimination against female legal practitioners in the professional setting is a significant issue. It is noteworthy that the study did not include a specific question on sexual harassment, taking into account the sensitivities of women. Instead, sexual harassment was included within the broader category of gender discrimination. This exemplifies that even the legal profession, which aims to ensure justice for everyone, is not impervious to prejudice and mistreatment, frequently of a sexual nature, directed at its own female community. Out of the 101 women legal practitioners who were contacted, a total of eight declined to participate in the poll.

## **II. CONCLUSION**

The issue of women's underrepresentation in legal careers in India has substantial implications for both the legal profession and society at large. Despite the significance of women's opinions and experiences in shaping legal policy and practice, there exists a notable underrepresentation of women in positions of power and influence. The absence of variety might lead to a restricted concentration and a constrained comprehension of the matters impacting women, thereby perpetuating gender disparities.

Despite the existence of regulations and programs aimed at fostering gender diversity within legal professions in India, their effectiveness has been constrained. There exists a contention that affirmative action initiatives exhibit a limited scope and fail to effectively tackle the underlying factors contributing to gender disparities within the legal field. The availability of mentoring and networking opportunities has been constrained, resulting in a lack of support for women in their pursuit of career progression.

Cultural and societal conventions have a significant role in the persistence of gender imbalance among legal professions in India. As previously mentioned, societal norms around marriage and motherhood might impede women's professional aspirations and create challenges in balancing work and home responsibilities. Moreover, the underrepresentation of women in prominent roles within the legal field can foster an inhospitable environment that deters women from pursuing legal careers.

In order to enhance gender diversity and foster a legal profession that encompasses the needs and viewpoints of all segments of society, it is imperative to confront the issue of women's underrepresentation in legal professions inside India. To attain this purpose, it will be necessary to adopt a holistic approach that tackles the underlying factors contributing to gender inequality, including prejudiced policies, societal and cultural norms, and inadequate support systems for women in the legal field.

I would like to propose several solutions to effectively address these difficulties. Enhancing the presence of women in the legal field requires a comprehensive and diverse approach. One approach to achieve this goal is by implementing rules that promote work-life balance, such as offering flexible scheduling and parental leave. The implementation of mentorship programs and leadership training is an essential measure in facilitating the advancement of women into leadership roles. Addressing unconscious bias is vital due to its potential impact on the hiring, promotion, and retention of women. Enhancing pay and promotion transparency can contribute to the equitable compensation and advancement of women. Establishing a conducive work atmosphere that fosters diversity and inclusion, facilitates networking and professional growth, and addresses issues of harassment and prejudice is vital. Finally, the promotion of knowledge on the challenges encountered by women in the legal profession, together with the provision of assistance through networking events, mentorship programs, and professional development opportunities, can contribute to the advancement and flourishing of women in this domain. By adopting these suggestions, the legal field can cultivate a

more inclusive and fair atmosphere that encourages the professional growth and progression of women. By implementing this approach, India would be able to develop a judicial system that is fair and impartial, catering to the needs of all its residents.

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