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REPRESENTATION OF WOMEN IN THE INDIAN LEGAL SYSTEM: A HISTORICAL AND CONTEMPORARY ANALYSIS

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Abstract

India's legal system has undergone considerable transformation, gradually incorporating women into key roles within the profession. Despite longstanding barriers, women have successfully established themselves as prominent lawyers, judges, and legal scholars. This paper traces the historical journey of women in the Indian legal field, from the colonial period to the modern era. It examines the challenges women have faced in entering and advancing within the profession and highlights their vital contributions to the evolution of Indian law. Once a male-dominated sphere, the legal profession in India began opening up to women following persistent legal efforts. A significant milestone came with the enactment of the Legal Practitioner's (Women) Act in 1923, which formally allowed women to practice law. However, acceptance was slow, as seen in cases like that of Regina Guha, where outdated perceptions questioned women's legal standing.

In the 21st century, globalization and modern educational reforms have broadened access to legal education for women in India. Still, gender imbalance continues, particularly within the judiciary. The paper follows the progress from the appointment of Justice Anna Chandy, India's first female judge in 1937, to present-day challenges, highlighting the continued underrepresentation of women on the bench. Trailblazers such as Leila Seth and Fathima Beevi broke significant ground by becoming Chief Justices, but overall female representation remains limited.

The study emphasizes the urgent need for measures to promote gender parity in the legal field, including the recommendation of a 33% quota for women in the judiciary. By providing an in-depth look at both historical and present-day issues, this research adds to the ongoing conversation about gender equity in India's legal system.

Keywords: Women in Law, Indian Legal System, Gender Representation, Legal Profession, Historical Analysis, Legal Challenges, Legal Practitioner's (Women) Act, Judiciary, Gender Equality, Contemporary Issues

Historical Background

India's legal profession is rooted in a rich and complex history, with women gradually emerging as key contributors to its growth. Over time, women have made notable progress despite significant challenges, becoming recognized as lawyers, judges, and legal thinkers. This paper examines the historical journey of women in Indian law, beginning during British colonial rule and continuing to the present. It focuses on the difficulties they faced in entering the profession and acknowledges their valuable input in shaping legal progress. Historically, the legal field in India was overwhelmingly male-dominated. Women's entry into courtrooms was only possible after extended legal struggles, and even then, their presence remained limited well into the late 1900s.

However, the 21st century ushered in changes—globalization and modern values enhanced women's access to legal education and gradually diminished male-centric biases in legal institutions. It wasn't until 1846 that all qualified individuals, regardless of religion or nationality, could enter the legal profession. Yet, women continued to be excluded, as the law at the time didn't explicitly mention them. The breakthrough came with the enactment of the Legal Practitioner's (Women) Act in 1923, which officially allowed women to practice law. Cornelia Sorabji played a pivotal role in initiating this change. Prior to this, courts often ruled that women did not qualify as "persons" under the law. A landmark case was that of Regina Guha, who applied to become a pleader after obtaining her law degree. She argued that the General Clauses Act permitted gender-neutral interpretations, but the court rejected her claim, emphasizing that there was no precedent for women practicing law. Similarly, another aspirant, Hazra, was initially denied permission to sit for her law exam due to not attending lectures, but eventually gained the right to appear privately and later sought to become a pleader. Her request was also denied by the Patna High Court, reaffirming that women were not eligible under the existing law.

Meanwhile, England had passed the Sex Disqualification (Removal) Act in 1919, allowing women to enter legal practice. Around the same time, Cornelia Sorabji was enrolled as a vakil by the Allahabad High Court. Following the Patna ruling, a movement to amend Indian law

began. In 1922, Narayan Malhar Joshi proposed changes to electoral rules to eliminate gender-based disqualification for voting. This effort expanded to include the legal profession, resulting in the 1923 Legal Practitioners (Women) Act. This act clearly stated that women could not be denied the right to practice law based on their gender. Over the next two decades, efforts were made to promote education and legal awareness among women across India's diverse society. The judiciary began to support this shift. Justice Anna Chandy, who started practicing law in 1929, became the first female judge in pre-independent India when appointed as a Munsiff in 1937.

Other trailblazers followed, such as Leila Seth and Fathima Beevi, who both rose to the position of Chief Justice in state high courts—Himachal Pradesh and Kerala, respectively. Seth had an extensive legal career across several high courts, while Beevi advanced from a lower court judge to a Supreme Court Justice. Despite these individual achievements, the overall number of women in the judiciary has not grown in proportion to early breakthroughs. To address this imbalance, there have been increasing demands for a 33% reservation for women in judicial positions to foster gender parity.

Contemporary Scenario

Having explored the historical background of women in the legal field, it is important to consider the current landscape. According to a study by Saurabh Kumar Mishra, the rising number of women entering the legal profession signals a positive change in societal attitudes. However, several troubling issues persist. Many female lawyers struggle to receive a sufficient number of cases, resulting in lower incomes. Additionally, personal responsibilities such as marriage and child-rearing often hinder their professional growth. Although some women choose law as their primary career, a large number leave the profession either soon after getting married or within a few years. Alarmingly, very few continue practicing beyond the age of forty—a stage when most professionals have gained substantial experience and are likely to reach their career peak.

Workplace discrimination is another pressing concern. Notably, due to the sensitive nature of the subject, the survey did not include a separate question on sexual harassment; instead, such experiences were grouped under general gender discrimination. This highlights a troubling reality: even within the justice-driven environment of the legal profession, female practitioners face discrimination and harassment, including of a sexual nature. Furthermore, eight out of the

101 women approached for the study declined to participate, possibly reflecting discomfort or distrust stemming from these ongoing issues.

My Opinion

In my view, the lack of adequate female representation in India's legal profession has profound implications—not just for the profession itself, but for society at large. Women remain significantly underrepresented in leadership roles and decision-making positions, even though their insights and experiences are vital to shaping inclusive legal policies and practices. This imbalance limits the diversity of perspectives in the legal field and often results in a narrow approach to issues, especially those affecting women, thereby reinforcing existing gender disparities.

Although various policies and initiatives exist to promote gender diversity in the legal workforce, their impact has been limited. Critics argue that current affirmative action measures are too narrowly defined and fail to tackle the deeper, structural roots of gender inequality. Opportunities for mentorship and professional networking are also scarce, depriving many women of the guidance and support essential for career progression.

Much of this inequality stems from entrenched cultural and societal expectations. Norms related to marriage and motherhood frequently act as barriers to women's career advancement, making it difficult to balance personal responsibilities with professional demands. Furthermore, the scarcity of women in leadership roles within the legal sector often fosters an environment that feels exclusive or unwelcoming, discouraging aspiring female professionals. To address these challenges and improve gender diversity, a holistic approach is needed—one that targets the underlying causes of inequality, such as biased policies, regressive societal attitudes, and inadequate institutional support.

I propose several steps to support this transformation. Firstly, promoting work-life balance through flexible work arrangements and parental leave policies is essential. Secondly, empowering women through leadership training and mentoring programs can help elevate them into influential roles. Unconscious bias, which affects hiring, promotion, and retention, must be identified and mitigated. Ensuring transparency in pay and career advancement can help level the playing field. Moreover, fostering a professional culture that values inclusion and actively combats discrimination and harassment is critical.

Lastly, building awareness of the challenges women face, along with offering networking events, mentorship opportunities, and skill development programs, can enable women not just to enter but to thrive in the legal profession. By implementing these reforms, India can move toward a legal system that is fairer, more representative, and better equipped to serve the needs of all its citizens.

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