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EQUAL LAW, UNEQUAL BENCH: WHY WOMEN JUDGES ARE STILL RARE IN INDIA

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Abstract

This paper explores the gender inequality in the Indian judicial system in a systematic manner by scrutinizing the institutional, social, and structural factors which are leading to the under-representation of women in the judiciary. It presents the arguments based on recent empirical evidence and juridical determinations, arguing that there should be greater diversity, more transparency, and inclusiveness in the appointment of the judiciary, so that the Indian judiciary can truly be a reflection of the society to which it is entrusted to serve.

Keywords

Gender Inequality, Indian Judiciary, Women Judges, Institutional Barriers, Judicial Diversity, Equality, Legal Reform

With Lady Justice depicted symbolically in the country as blindfolded, the Indian judiciary still remains in a figurative blindfold; they still are metaphorically blind to the women. Even though the Indian judicial Constitutionalism as the protector of democratic values and the collaborator in the protection of the Constitutional principles, the gender imbalance of the judicial system reveals the lack of correspondence between constitutional principles and the real practice. The Supreme Court of India has not yet had a woman Chief Justice and as of August 2024, there are just three women judges out of 34 representatives of the Supreme Court of India, and during its 75 years of history, India never appointed a woman Supreme Court Justice. Whereas the number of women judges has gradually been rising at the lower level, it is quite evident that the higher courts have a significantly low proportion of women in their number.

Since its inception, the Supreme Court has seen only 11 women judges. As of 2024, only 4% of sitting judges across High Courts are women, and just two High Courts currently have women Chief Justices. According to data from the Supreme Court Observer, women's

representation in High Courts rose modestly from 11% in mid-2021 to about 14% by early 2025, with 106 out of 754 judges being women. Punjab and Haryana High Court leads with 14 women judges, followed by Madras (12) and Bombay (10), while several High Courts still have only one or none.

The real reason behind this imbalance is embedded in the systemic and cultural barriers. The collegium system has flaws in diversity and transparency, and disproportionately low-profile cases are assigned to female litigants, which reduces their visibility and increases their chances of promotion. The long working hours, the lack of proper childcare services, and the dominant social demands characterized by patriarchy further reduce the participation of women. These challenges are amplified by the lack of gender-sensitive infrastructure such as special facilities and child care centers at judicial premises.

The issue is not limited to gender but it also includes caste and class representation. Empirical research shows that, less than 25 per cent of judges of the High Court are representatives of Scheduled Castes, Scheduled Tribes or Other Backward Classes, and only 2 per cent of judges across the judiciary represent those communities. This information, combined with the lack of women representation, reflects an ineffective judiciary that does not reflect the social diversity of India.

The need to achieve gender balance in judicial institutions is ingrained in the values of fairness and justice. Women judges include a diversity of voices, especially in adjudication involving gender rights, issues within a family, and more general social justice. Justice Leila Seth has expressed in words that a balanced judiciary should have the faces of everybody it serves. Therefore, reserving places to women in the judicial nomination procedure, creating open selection principles, and creating mentorship programs to aspiring female attorneys are all irreplaceable steps toward achieving this goal.

A constitutional imperative is the adjudicatory body, which is a clear reflection of the demographic heterogeneity of India rather than an aspiration. As a result, the appointment of a judge should be guided by equality and inclusivity dogmas. The release of transparent institutional procedures and gender-sensitive workplace dispositions will ensure that justice is not simply administered, but rather delivered by individuals chosen to represent all their domains in society.

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