



GENDER BASED CHALLENGES FACED BY WOMEN LEGAL PROFESSIONALS

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ABSTRACT :

The journey for a legal professional in India has taken various courses through its developmental transition to reach its present shape. The importance of female lawyers was first recognised before the court of law by the Legal Practitioners (Women) Act XXIII of 1923. Earlier it was believed that females could not plead or represent anyone in the court of law successfully. It was only after the Act that expressly provided women to be admitted or enrolled as a practitioner. Even through the women were allowed to practice, their participation in litigation was not easily accepted in those times due to male entered / domination. Gradual societal development made women think of joining the legal fraternity, but the small particles have not disappeared from their path. Woman lawyers face numerous challenges and have to face it on a regular basis. At this point, the article throw in sights on major issues which are puddles in the reaching the zenith of a structure that should be followed and practised for further lawyers. The article will provide an analysis and focus on the problems and suggestions given for the betterment of present situation of the legal fraternity.



KEYWORDS : Legal Professionals, Legal Fraternity, Challenges, Male Domination, Discrimination, Practitioner

INTRODUCTION

"Let women be provided with living strength of their own. Let them have the means to attack the world and wrest from it their own subsistence, and their dependence will be abolished"

- Simone de Beauvoir

Existentialist Feminist & Social Theorist

Of the above quotation women should be allowed to be independent and work her living on her strength. Women's strength is always underrated and undermined. Her hard work and contribution have been unnoticed and not mainstreamed. It could have triggered the most important reason of Patriarchal domination or indoctrination in society. Most women in many cases have been regarded as one who cannot take leadership and decisions and considered as timid, polite, docile, submissive and could only serve as responsible in the family and not in the forefront society. Whatever be the field there is a long distinguished struggle whatever be the matter of participation.

Evidence from history shows that this profession in all parts of the world. It was not only an inalienable part but was considered as a prominent and important profession and above all a noble profession. The importance of law its epoch place, decorum in execution of powers and tackling various problems is to be highly commended. But the same law can be a matter of minute understanding

interpretation and deliberation. Advocacy and litigation have been predominant profession in almost all times and women are still not considered a part of its development.

Women kept outside the purview of advocacy and adjudication because they are considered not strong as men to handle the issue which are raised and solved in courtrooms. Those who approve women's entry to the legal field say that it is sentimental to have women in jury duty. It does not take into account the need for women to pursue a career in legal profession irrespective of how much advanced the culture and heritage of a society.

The imperforated field never allowed women to sit silently and adhere to the prohibitions imposed on them. Women have proven that gender does not make them withdraw from the legal fraternity but have proved that they could also rule the place of work being the opposite gender too. Time has made women to get themselves educated and excel in the field of law. The stereotypical way of thinking has changed whereby earlier only men used to carryout the work but now female lawyers are also capable of handling the pressures and challenges by this profession.

The present era is of equality as well as of discrimination. In the Indian scenario, the culture has not allowed women to preach and practice law. Though women were given important place in ancient times her participation and suggestions were kept outside in the premises of practising law. Indian male lawyers found it as a matter of acceptance to welcome their female counter part to work in equal footing. Law being an ancient subject limited it to the male gender alone. Nowadays women have become part and parcel and have stood in many cases as exemplary.

The present generation we find many girl students wanting to become legal aspirants. They have joined law colleges and national law universities. But in spite of so much change in the approach towards women folk and their presence in legal world, their struggle has not ended. There are grains in the path of women legal professionals which creates baffles for them to either prove their efficiency or stand stern in their path. Equality is falling short when an arm protection is required by these women professionals.

LEGAL HISTORY OF WOMEN GLOBALLY

The most noteworthy to mention was in 1869 in Iowa United States, Arabella Mansfield was the first woman to be admitted into the Bar. She was not a law degree holder but rather studied in her brother's office before doing the examination. Ada Kepley was the first woman to graduate from law school. Esther Morris was appointed as a justice of the peace in 1870 and was the first woman to be appointed in a judicial position in the United States of America. Currently there are more than 4 judges in the US Supreme Court women In the UK, Elizabeth Orme was the first law graduate from University of London in 1988.

Women were admitted in the law society in 1922. The four women were Maud Crofts Carrie Morrision, Mary Pickup and Mary Skyes. Currently there is one woman as justice is the Supeme Court of UK. In Germany women were admitted into universities depending upon the will of the state. Germany's first women judge was Maria Hagemeyer who became judge of district court in Bonn in 1927. The first women to be admitted in the Bar in France were Olga Petit and Jeanne Chauvin. It was only in 1946 women could become judges in France, In China women have never been excluded from law schools or legal practice. In current Supreme Court three of the 16 are women court leaders.

LEGAL HISTORY OF WOMEN IN INDIA

India's story of women in legal professions has been backed with powerful legal scripts like the Smritis and Shastras propounded by powerful luminaries in the field of law and administration. With the advent of the British there was a wave of change in the field of law. The participation of women in Indian legal fraternity was absent in ancient times. Some of the females in society were allowed study the scriptures and recognised as learned people like Gargi and Maitrayee who were exceptions.

In latter times Indian women broke the shackles and were out in the legal world. The first female barrister of India who was allowed to practise in Allahabad High Court in 1924 was Cornelia Sorabji. Not only did she become the first among women but she was the only one who registered her names in history but

was the first one is the entire world to study law of Oxford University. She was also the first women to sit for civil law Examination but was unable to get a degree as women were not allowed to a law degree until 1920. She was not allowed to plead any case due to male and discrimination. Issues were raised since many women who received degree of law from recognised universities should also be allowed as pleaders in the court of Law. It should allow female law degree holders to practice publicly in High Courts as well as lower courts. It brought a wave of social change and finally paved a way for female legal fraternity.

CHALLENGES FACED BY WOMEN BEING LEGAL PROFESSIONAL IN INDIA

India stands in a period where people who belong to the legal profession are demanding a new and advanced ethical code required for practicing and advocacy. Women should also be taken as indispensable part in the legal fraternity. Ethics includes not only preferential treatment but also elimination of differential behaviour which is discrimination towards women.

In the current scenario many women are entering legal profession. There is an equal ratio of boys and girls entry law universities. Many law firms also show a steep closeness in the gender ratio. But it's just tip of the iceberg. There are various causes for discrimination and gender basis it can be divided twofold.

1. The first number of female lawyers in practice and in judiciary, their presence in higher judicial postings.
2. The conducive environment provided to female legal professionals at workplace.

Gender basis is ingrained in the Indian Judiciary. There is much resistance to women entering club of senior advocates because of male insecurity. There is a lot of institutionalised sexism in legal profession. Both men and women should be given equal preference based on merit in appointment of advocates. Another challenge is that clients do not want women lawyers taking up their cases. They think that the women lawyers are not as confident as male counterparts. The percentage of women lawyers continuous to be negligible in the Indian Bar. Equal chance is not given to show their aptitude. When females move up the ladder from students to lawyers and then benches, the number of females in the profession drastically reduces.

The working environment should be healthy and conducive. It should include aspects like freedom to work at a place without physical and mental harassment proper vicinity and hygienic premises. Mental Harassment comes to light when female lawyer face gender based violence, discrimination, pre-concerned notion of ability and aptitude in equality in salary, breaks in their carrier to maternity leave denial of professions in job sometimes due to own behaviour balance between household, and their job commitments. The organisation / court where they work view maternity leave, denial of promotions in jobs and sometimes due to own behaviour while balancing between household and their job commitments. Their Organisation/Court where they work view maternity leave and benefits as a drain. No child care assistance is given and women in litigation don't have standard 12 weeks of leave due to the structure of court practice. If women raise their voice to make her point heard she is considered as cantankerous and not assertive. Women lawyers are intrigued by the issue of marriage and having children and gender basis too at several levels. Question on Marriage and children are commonly asked though it is a personal matter. "Sexual Harassment" is defined under the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal Act 2015) but the word "Workplace" courts do not strictly come under the periphery of the same. There is no employer -employee relation when it comes to female advocates. Though the Supreme Courts of India has constituted a gender Sensitisation committee which has to take care of sexual harassment matters in the premises, few complaints are lodged and even they as they are non-functional. Most of the high court's all India do not complaints committee which would take of complaints of sexual harassment. There is absent of propose sanitation facility which is important to human and a basic requirement.

CONCLUSION

There is inequality, discrimination towards the female lawyers. They face consequential problems and it is deplorable that yet there is participation of women in the profession. In spite of all problems women have reached the with the ceiling with undaunted efforts and took it in her stride irrespective of the nature and risks involved with it. There are many successful legal women professionals in every area of litigation or corporate firms, judiciary or legal aid, research or academics and other fields of law. A lot of efforts have been imitated to provide a sense of security of any sort of discrimination faced by women lawyers. Examples like the Society of Women Lawyers, All India Federation of Women Layers at National Level, the Supreme Court of India has set up a Committee to look after the gender sensitisation issues for protecting the right to work in a safe environment. After the Visakha and Consequential Act of 2013, Indian employers whether Government or Private Organisations are much aware of their accountability to provide a safe and secured environment. The Legal profession should not be judged on her sex but on their output since the noble nature of this profession.

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