

**Gender Bias and Feminist Consciousness among  
Lawyers in India: A Comparative Study of Lucknow  
High Court Bench and Chandigarh High Court**

**ABSTRACT**

**SUBMITTED TO THE  
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**ABSTRACT**

# **Gender Bias and Feminist Consciousness among Lawyers in India: A Comparative Study of Lucknow High Court Bench and Chandigarh High Court**

## **INTRODUCTION**

In India deep rooted and pervasive gender bias which marks judiciary does not allow women lawyers to taken seriously. The dominant patriarchal structure still believes that women's are incapable to break the glass-ceiling in the courtrooms. The women in the courts are increasing in number but very few reach on the top level. They privileged on the high post but less in number and always become the victim of discrimination. It's time become alive to the reality that the gender disparity in judicial institutions needs urgent attention. This must encompass dealing will all forms of misogyny, ranging from the everyday acts of discrimination women face, to the more serious encounters with physical and emotional violence.

Researchers have marveled at the continuing lack of gender diversity in the legal profession's most influential and honored positions. After achieving near equal numbers of male and female law school graduates for approximately two decades, the gap between men and women in law firms, legal academia and the judiciary remains stark. Several scholars have argued that due to negative stereotype portraying women either as workplace cutthroats or conversely, as a secretaries or housewives, decision-makers continue to subordinate women to men in the highest levels of the legal profession. The continuing subordination of women in the legal profession must be challenged and remedied. The implicit gender bias in the legal profession, and it confirmed that gender bias is in fact widely present among female lawyers and judges.

India was and still remains as a male dominated country. Gender bias is a term commonly used to describe how far behind women have remained in seizing opportunities for improving their level of living. The law treats women and men as enjoying equal rights. Focusing on gender issues in the context of the social sector development means empowering women as agents of socio-economic change.

Women openly display their power, Knowledge, skill, receiving public recognition and honour. But also females who manage to wield power in societies that try to limit it or decree female submission; where their leadership is stigmatized and their creativity disdained. Women resist and overthrow oppressive traditional and regimes. Women break the rules in defiance of unjust legal and religious authorities. Women pursue their vision in spite of the personal cost.

The most wide spread and dehumanizing discriminations against women are on the basis of the biased perspective. The traditional Indian society is a patriarchal society ruled by the diktats of self-proclaimed caste lords who are the guardians of archaic and unjust traditions. They put the burden of traditions, culture, and honour on the shoulders of women and mark their growth. Status of women in different human societies of the world is different. In almost all the present and contemporary societies it is discriminatory and prejudicial. Nearly all human societies in different parts of the world are male – dominated. Males are active part and the females only the passive part of the different society, only a thing of enjoyment of males and some societies they are only chattels contractable, saleable and endowed with the duty to serve males and elder females having no material and worthwhile rights. In theory they are respectable but in practice they are the subjects of cruelty, ill-treatment, and all sorts of misbehavior of males.

Since independence government has made concerted efforts towards removing gender biases to ensure that women enjoy equal status with men in the real sense as enshrined in the constitution. But this statement is not totally true. Women remains disadvantaged in many public and private areas of their life, they are underrepresented in the judiciary, in parliament and in senior positions across a range of jobs; and there is still a substantial pay gap between men and women. The present scenario of Indian judiciary there are not enough women lawyers and judges in courts. In India women got right to practice in 1922 and Cornila Sorabji was the first female lawyer enrolled in Allahabad High Court in 1922.

Women lawyer face problems right from when they enter the field. They are generally pinched on every aspect, when they enter in the courtrooms firstly they judged by their clothes, gender, and way of talking, how to deal the cases and how to communicate with

their male lawyers who works with them. It's very tough for women lawyers and judges to prove her more competent and eligible for their position which she holds. Several scholars have argued that due to negative stereotypes portraying women either as workplace cutthroats or, conversely, as secretaries or housewives, decision-makers continue to subordinate women to men in the highest levels of the legal profession.

Women also have to deal with men who are either condescending or patronizing. Either they are nasty to you or would want to take you in their protective umbrella. Which is the old boys club? They do not like women who stand on their own dint and are strong individuals. There are many women in the field judiciary now, both at the bar and the bench. However, their participation is meagre. Their representation not equal to men. There is a historical reason also for that woman took to the field late. It will take time for women to get equal representation in the judiciary.

The sociologists had described the women by propounding different perceptions. In India, the history speaks that the women are considered as a divine force but the multi-cultured Indian society placed the women at different positions. Thus, there is no uniform status of women in the Indian society. However civilization showed the overall upliftment of women's position. According to historian ROMILA THAPER "Within the Indian sub-continent there have been infinite variations on the status of women diverging according to cultural malice's, family structure, class, caste property rights and morals". The Indian philosophy poses the women with dual character. On the one hand, she is considered fertile, patient and benevolent but on the other hand, she is considered aggressor and represents 'shakti'.

Women have traditionally occupied marginalized and subservient roles over essentially patriarchal world. Throughout ages, even the judicial systems, supposedly 'egalitarian' in nature, have otherwise failed in alleviating women's sufferings. It has only been wow, especially since the 1960's that the rise of feminism, and increasing political, social and cultural awareness about women's issues, that legal frameworks have accorded women a distinct legal status. Nonetheless, a lot is still desired to be done in this regard, and women have to fight still a long battle to achieve true equality. Women are the better half of men and parcel of the society in our country. The status of women in India has been

subject to many a great change over the past few millennia. From equal status with men in ancient times, through the low points of the medieval period, to the promotion of equal rights by many reformers, the history of women in India, women have adorned high offices including that of the president, Prime Minister, Speaker of Lok Sabha, Deputy Chairperson of Rajya Sabha and Leader of Opposition, among others.

Indian woman plays a vital role. Her image has changed from that of a housewife to a useful person in almost all spheres. A woman's physical weakness is no longer a barrier in getting herself established in the modern world. It is no longer said, 'behind every man's success there is a woman,' but the new saying is, "by the side of every man, there is a woman, trying to succeed".

### **RATIONALE OF THE STUDY**

The path of women in the legal profession can very easily be described as a process of continuing challenge. In practically no country in the world have women easily secured for themselves the right to practice the law. The true reason for men's resistance to women lawyers is however more likely because of the law's close relationship to power in society. The legal profession structures power relations between groups and classes by shaping the rules and laws that open or limit opportunities without resort to force, making it the quintessential male power role.

While the complete ban on women practicing law is now no longer there in most jurisdictions, and women in fact comprise a fairly large percentage of the legal profession, discrimination against women lawyers has not completely ended. Despite their wide spread presence in the profession, and their numerical gains, they are yet to achieve equivalent increase in power and opportunities.

Today, India has a large number of women lawyers. In fact in several jurisdictions, the number of female law students is greater than the number of male students. This however does not mean that there is no longer any discrimination against women lawyers. The gender bias exists within the legal profession is evident from the fact that women's participation in the judiciary has lagged its potential. Gender bias in the profession is reflected at several levels- first, in the proportion of women lawyers; second, in the

attrition rate of women advocates, and finally, in the lack of high positions that women lawyers occupy be it in the bar, in law firms or in the judiciary.

## **CHALLENGES FACED BY WOMEN LAWYERS AND JUDGES IN INDIAN JUDICIARY**

The progress made by women lawyers noted to believe that there is no longer any discrimination against them and they face no challenges. This however is far from the truth. The number of women is ever increasing, they are still in the minority at the top levels of the legal profession, and although blatant forms of discrimination have been virtually eliminated by the use of legislation as well as a shift in cultural norms, subtle forms of discrimination remain. Institutionalized practices, such as the emphases on billable hours as a measure of productivity and on business development in law firms, create obstacles for many ambitious women lawyers.

- Large income differential between men and women lawyers, with the men increasing their lead over the years.
- The biggest challenge for women lawyers across countries and types of legal practice is undoubtedly balancing their domestic and professional spheres.
- Sexual harassment is a problem that women lawyers have encountered almost since the start of their practice.
- Women often fall prey to gender – based segregation predicated by stereotypical perceptions about their abilities and characteristics, for example; ‘women function well as family lawyers’.
- Remember, India is a country in the world where women regarded as a goddess indeed. But on other hand the male dominated Indian Society apparently lost it’s cultural.

Judiciary is a power for Indian women where she can project herself more powerful and fight for their rights and prove herself more dignified and show their caliber. The main motive to take this topic for research is this judiciary is the most dominating profession and more powerful pillar of every country. India talks about equality in front of law where women and men have equal rights? No. Today women have no equal rights and respect in the country. In judiciary women lawyers and judges also been discriminated

even then they are on high rank. This is my main agenda to find out the main reasons behind this glass-ceiling disparity inside the Indian judiciary. What problems they face inside the courts? Why their ratio not increased comparison to male lawyers? How they can achieve equal status at par with men in Indian judiciary?

Gender bias is ingrained in the Indian judiciary. Less representation of females in legal system reflects a deep problem. Women have periodically stormed many male bastions. But despite the doors of the temples of justice- the courts- being open to women for decades, why have so few women entered it as judges? In top Courts lack of women

### **OBJECTIVE**

- To analyze the present status of female lawyers in Indian judiciary.
- To review the studies available on the issue of gender bias and feminist consciousness among lawyers in India.
- To examine/measure the extent of feminist consciousness among lawyers in Indian judiciary.
- To find out impact of gender bias on female lawyers at the work place.
- To find for reasons for the absence of women from the bench.

### **HYPOTHESES**

- The present status of female lawyers in Indian judiciary is not good.
- There are numerous studies available on the issue of gender bias and feminist consciousness among lawyers in India.
- The extent of feminist consciousness among male lawyers in Indian judiciary is moderate whereas among female lawyers it's very high.
- The impact of gender bias on female lawyers at the work place is negative.
- Socio-cultural reasons are responsible for the absence of women from the bench.

### **RESEARCH METHODOLOGY**

### **UNIVERSE OF THE STUDY**

Universe of the study is Lawyers of Lucknow High Court (Bench) and Chandigarh High Court.

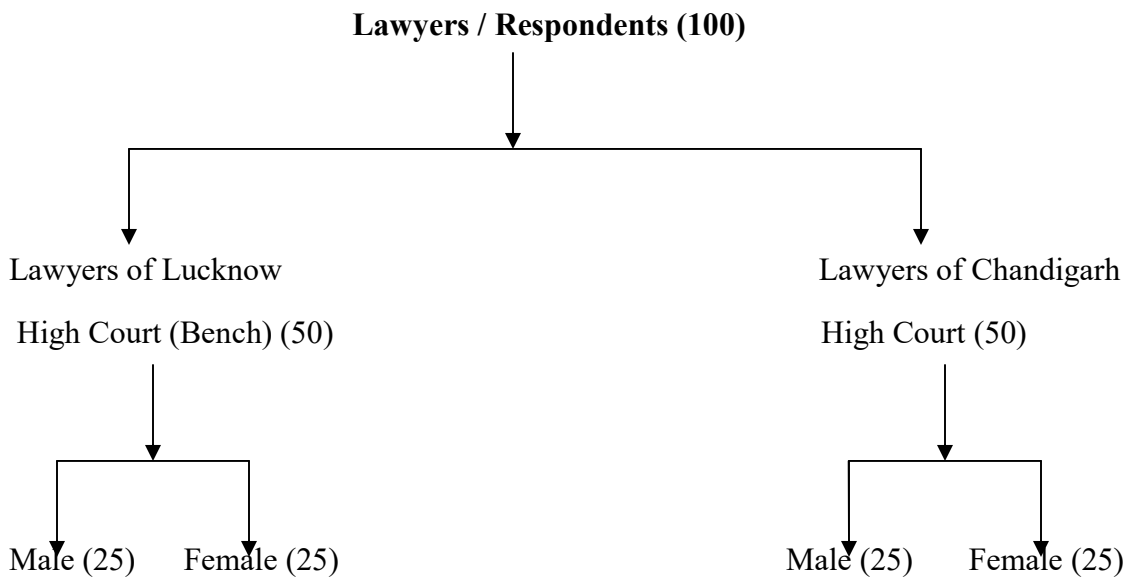
## RESEARCH DESIGN

The approach of the research is descriptive and analytical. For data collection about gender biasness and feminist consciousness among lawyers, “questionnaire” has been administered among respondents.

## SAMPLE SIZE

100 respondents have been selected by the using Proportionate random sampling. Further, a sample of 50 respondents each from Lucknow High Court (bench) and Chandigarh High Court respectively has been selected for data collection.

The sample size of the study is comprised of -



## SOURCES OF DATA COLLECTION

The sources of the data collection are primary and secondary both. Primary data is collected through questionnaire. Secondary data has been collected through books,



journals, articles, newspapers, previous research, official statistics, government reports and information drawn from the internet. To analyze data SPSS has been used in research.

### **TOOLS OF DATA COLLECTION: QUESTIONNAIRE IS DIVIDED INTO THREE SECTIONS**

- I. Questions related to Socio-economic background of the respondents.
- II. Questions related to Gender Biases among lawyers.
- III. Questions related to Feminist Consciousness among lawyers.

### **LIMITATION**

Earlier the researcher wanted to study the nature and extent of gender biasness and feminist consciousness among lawyers and judges of Chandigarh and Lucknow city but while conducting the field work, the researcher faced problems in collecting data from judges. The researcher couldn't find respondents among judges. Some of them out rightly denied giving information about gender biasness in judiciary. That's why later on the researcher decided to focus only lawyers. This is the main limitation of the present study.

### **ORGANIZATION OF THE STUDY**

This study is organized in four chapters. In first chapter the main concepts of the topic, what is the importance of this study and why it is required in society, significance of the study briefly explained. The topic basically based on gender so it is defined briefly with rationale, methodology, research design, tools and techniques.

In second chapter divided in two parts. In first part review of literature that tells the existed information is available and how much material present on the topic which is chosen for research. It also clarifies our aim of research and what we have to find. Objectives would be drawn on this review of literature. In second part 'Conceptual Framework' is organized. The main purpose of this chapter is to explain and familiar with the common terms which is used in this research. People have their different point of view and opinion of particular issue. This chapter focuses the main terms which is used in judiciary and what is the opinion of those persons who works inside judiciary.

Third chapter' describes the real environment of Indian Judiciary. The chapter explains the truth and real observation of the truth and real observation of the lawyers and judges in the courtrooms. This chapter tells that what female /male lawyers understand the concept of gender bias and feminist consciousness in judiciary. In this chapter 'Research Methods and Analysis of Data' is also briefly defined on the finding which is collected during the field survey and verbal interview and through questionnaire. Every question is analyzed and compared between male and female lawyers. Observation/answers: what they thought about their profession in judiciary, concept about patriarchy, gender bias, feminist consciousness, gender stereotype and gender discrimination inside the courtrooms.

At last chapter 'Conclusions and Suggestions' is the final result of the findings of the researcher. Numerous studies analyzed and result arises in the form of findings. The researcher creates new solutions based on facts and findings.

## **CONCLUSION**

Women work the most; ironically they earn the least in life. Their special social responsibilities, subordinate status in society, family patriarchy, socio-economic backwardness and proneness to occupation in the unorganized sector with low products and marginalization in employment opportunities account for their poor/low earning capacity. Even as young girls or after marriage women's income is always considered only as a support income. Gainful employment constitutes only a part of the aggregate work performed by a woman day in and day out. Women contribute vastly to the social economy.

Earlier we had lot of discussed on women under the subordination of male in the form of father, brother, husband and boss in Indian society. But in Indian Constitution the agenda for equality is specified in fourteen subsequent articles. In its approach, the Convention covers three dimensions of the situation of women. Civil rights and the legal status of women are dealt with in great detail. In addition, and unlike other human rights treaties, the Convention is also concerned with the dimension of human reproduction as well as with the impact of cultural factors on gender relations. The legal status of women

receives the broadest attention. Women have rights which are written/mentioned in Indian Constitution are not very much aware from that. These rights create feminist consciousness among males and females in Indian judiciary. So we can say more awareness should arise through judiciary in both gender.

It is clear that mere reservation is not enough because a women representative lacks qualitative participation due to both internal and external factor. Women's empowerment is not something which involves sincerity, earnestness and capacity and capability on the part of both men and women. It is challenging task in India as even today she can not take any independent decision. She feels subordinate to her husband and even to her son. While women participation is on the rise in almost all sectors in India, the same is not with judiciary, lower or higher.

## **SUMMARY**

Based on empirical study researcher the present status of female lawyers is not good. In judiciary selection of male-female lawyers is not based on equal ratio. Clients are also preferred their cases to be argued by male lawyers as comparison to female lawyers. Women still faces this biasness in the courtrooms. In courtrooms women don't have proper infrastructure facilities and dropout rate of women lawyers is high as comparison to men. In judiciary women are disgustingly underrepresented in the leadership roles in the legal profession. On the basis research work 62% respondents agreed that promotion process in judiciary is not gender biased. 56.45% male and 43.55% female respondents are agreed. On comparison of both high courts 72% respondents of Chandigarh High Court and 52% of Lucknow High Court (Bench) are agreed. On the basis of pay gap structure 67% respondents agree that pay structure is also not based on the gender of lawyer in judiciary. 59.70% male and 40.30% female respondents are agreed. 78% respondents of Chandigarh High Court and 56% respondents of Lucknow high Court (Bench) are agreed. These findings clear the vision that conscious arose in judiciary and it affects the both gender in society. Women are now openly adopt law as profession and achieved high rank in judiciary. In this study researcher found that status of women lawyers in judiciary is bias free. There is no any kind of discrimination is found in courtrooms. Women got equal employment opportunities. Women have also

opportunities to get higher education in judiciary. Women lawyers across the country are shining with their brilliance and giving tough competition to their male counterparts and made remarkable position in society. According to combine responses of respondent's researcher found that women's are more effective law makers than men.

Researcher observed that at workplace women get facilities and privileges in Judiciary. They work equivalently like men's work. But this also proved that institutional bias is still existed in judiciary. Although women working hours are comparatively same as men. 81% respondents agreed that males choose law as profession more than females in judiciary. 51.85% male and 48.15% female respondents are agreed. On the comparison of both High Courts' 90% respondents of Lucknow High Court (bench) and 72% respondents of Chandigarh High Court are agreed. On the basis of empirical research there are some reasons which affect women representation in law profession. These are no transparency in selection procedure of lawyers in judiciary. Women's stereotypical role expectation is the big hurdle in their career advancement. House hold burdens are the main factor which affects their progress and promotions at work place. Women don't have quota based reservation in judiciary. Women only survived on the basis of their capabilities, courage and on their merit base in this profession.

## **SUGGESTIONS TO INCREASE WOMEN'S PARTICIPATION IN THE INDIAN JUDICIARY**

Some problem and their remedies are as follows.

1. **Low Status and self-esteem: Need of Up gradation:** Most of the women in judiciary feel inferior to male counterparts in courts. This attitude needs to change to make women confidence level high towards their representation in judiciary.
2. **Dependence upon Men since Childhood: Need of Independence from early stages:** In Indian culture, girls remain dependent upon the father, brother or cousin and this very feeling continue in their married life. We must give capacity building training to girls in schools to be independent. The programmes of free universal education upto the age of 14 should be vigorously implemented. The courses of studies should inculcate the values of gender equality, self-respect,

- courage, independence, etc., which would help to develop the personalities of girls/women.
3. **Lack of Interest and Knowledge: Need of Enthusiasm and Training:** Patriarchal tag on Indian Judiciary creates less interest among women to take part in it. Women have not aware about judiciary norms and proper knowledge how to make career in judiciary. They must generate enthusiasm within themselves by making a goal attach themselves to the altar with a spirit of dedication and reverence.
  4. **Lack of Support Networks:** The result of women's lack of support networks in the legal profession is that women "aren't given enough challenging, high visibility assignments". This generates a self-perpetuating barrier. If women do not feel like they are supported, they are more likely to leave.
  5. **Family and Career:** Women in legal profession are trying to maintain a family burden and workplace load which affects her career opportunities in their personal life. Working women are not treated as equals with men in the legal profession. Certain barriers are in their way of achieving equality in the workplace, and its time for those barriers to be broken.

## **SUGGESTIONS FOR FURTHER RESEARCH**

- Change the mind set of peoples regarding judiciary is not a patriarchal profession.
- Give respect to each individual in profession.
- Capability, capacity, understanding is more required in this profession rather than gender.
- Educational level should be high of the individual so that people can be aware about the realities of a particular gender. It decreases the level of gender discrimination.
- Upbringing of the child should be bias free, so the development level of boy/girl child will be remain same. It spread the change among society.
- Socio-Cultural norms should be not more stressed on work behavior. It legitimated only on the limited area.

- The interference of religion is not allowed in education, employment, and in freedom sector of individual.
- Personality should be calm, administrative, mature and more knowledgeable.
- Perception should be based on facts not on traditional mind set and cultural attitudes and norms on a particular concept, thing, thought etc.
- Remove the orthodox thoughts regarding women in society.