

A Socio-Legal Analysis of the Status of Indian Women in the Legal Profession

Ashwin Kunal Singh¹, Dr. J. Adinarayana² and Jayanthi Bai HL³

¹ Assistant Professor

² Assistant Professor

³ Assistant Professor

Christ university, Bangalore.

¹ashwin.kunal@christuniversity.in, ²adinarayana.j@christuniversity.in,

³jayanthi.bai@christuniversity.in

Abstract

Starting with the induction of Cornelia Sorabji into the High Court of Allahabad in 1921 to practice as an advocate, the legal profession had thrown open its doors to the female population of India. Formally, after the passing of the Legal Practitioners' (Women) Act, 1923 abolishing the bar on women from practicing Law, Indian women were granted the right to take up the legal profession and practice as Advocates in the Courts of Law. Cornelia Sorabji had pioneered the fight for justice for the "pardanashin" women of her times, who on account of their ignorance and lack of formal education could be easily deceived by the legal men or their touts.

Introduction

In the mid-19th century, the competition at the Bar was really relentless between the best legal minds of the nation and the number of Indians at the Bar was quite less. The educated women in India, whose numbers were all the more dismal, did assert their right to equality but the laws were structured in a fashion which made their entry into the profession of law very difficult. In fact, the Indian women were denied the privilege of being enrolled as a member of the Bar, until the High Court of Allahabad took the matter into its hand and allowed the application of Miss Cornelia Sorabji to practice law, in the year 1921, thus, making her the first woman to be enrolled as an advocate in India. It led to the passing of the Legal Practitioners (Women) Act, 1923, which made it a statutory right for the women to practice law and the principle of equality are well enshrined in the Constitution of India.

Having said that, the presence of women in the legal profession still remains dismally low. Only 12% of the total judges in the Supreme Court and various High Courts are women. The courts in India seem to have gender bias implicit in them, and thus, the missing gender diversity does not come as shocking.

In the year 1989, after 39 years of the institution of the Supreme Court of India, Justice M Fatima Beevi was appointed as the first woman judge of the Apex institution of 'justice'. Since then, only five more women have been appointed as judges in the Supreme Court. As of now, out of 25 judges in the Supreme Court, there is only one female judge, Justice R Banumathi, with the appointment to the Supreme Court of Adv. Indu Malhotra being pending. At no point there have been more than two female judges in the Supreme Court of India.

The situation in the High Courts is no different. Sikkim is the state with the highest percentage of women judges at 33%, followed by the Delhi High Court at 27%, Madras High Court at 18%, Karnataka High Court at 16% and Bombay High Court at 15%. There are states like Uttarakhand, Chhattisgarh, Himachal Pradesh, Jammu & Kashmir, among others that do not have any female judges. In the 24 High Courts, there are 64 women judges as compared to 557 male judges, with ratio 1:8.7.

The inequality faced by women in the Courts is more of a behavioral one, where the words of the male advocate are considered as more important as compared to their female counterparts. Senior lawyers like Indira Jaising also face the gender discrimination in the Supreme Court, and she has been recorded saying.

Barriers to achieve gender equality in the legal profession

- Implicit gender bias
- Difficulties in balancing personal and professional life
- A paucity of effective mentors and support networks
- A Lack of transparency in the appointment procedure

Research Problem

The reasons for the gender discrimination that women face are as follows, people view women as less competent than men and lacking in leadership potential, partly because of these perceptions, women encounter greater challenges to or skepticism towards their ideas and abilities at work. These perceptions also influence the career progress graph for the women and the slow growth in which tends to discourage women from taking up law as a career. Harassment and bullying at the workplace also contribute greatly to the women leaving the profession of law. The women advocates are constantly seen as misfits in the world of litigation and there have been various instances of women are harassed verbally, not just by the opposing counsel, but also by the 'respectable' judge of the court. Hence, this perpetuates a strong sense of gender disparity in the legal profession, when the judge of the court becomes the person who discriminates on the basis of sex.

Research questions

- Do women face any societal stigma while entering the legal profession?
- Whether women will be changed by the legal profession, or the increased presence of women will change the legal profession?

Constitutional Perspective

Indian Constitution in independent India has given the citizens right to equality and the right against discrimination on the basis of their gender from acquiring any education or practicing any profession of their choice. In spite of this right, the legal profession did not become a popular choice for women, simply because, in order to be aware of these rights the women had to have a basic level of education.

For the female population which was largely illiterate due to many reasons such as poverty, stringent caste restrictions, restrictive social customs, cultural practices condemning the working of women outside their homes, etc. ,to name a few, higher education and following a profession were the dreams of an independence era had managed to ignite, even, if only, it was in the form of a consciousness of being subjugated and repressed part of the society largely contributing through many unrecognized forms of labour, underrated and underpaid as a workforce, nevertheless significant to its progress and sustenance.

Judicial views

The Indian Judiciary was active in its encouragement of women who took up the legal profession and went on to appoint the first woman Judge Hon'ble Justice Anna Chandy to Kerala High Court. Justice Anna Chandy had started her career as an Advocate in 1929 and had been appointed a Munsiff in 1937 thus becoming the first Woman Judge in pre-independent India. These two decades also saw the entry into the legal profession of two eminent lawyers who went on to become Hon'ble Justice Leila Seth and Hon'ble Justice Fathima Beevi Chief Justices of Himachal Pradesh and Kerala High Courts respectively. The former had been actively practicing advocate in Delhi, Kolkata and Patna High Courts for more than 15 years and the latter had risen from the position of a Munsiff and had retired as a Supreme Court Judge eventually. Curiously, over the years the representation of women has not increased in the Judiciary corresponding to the initial number of women Judges. The situation is such that there has been a demand of 33% reservation for women in the Judiciary to bring about parity between the numbers of male and female judges.

Statistics Report

Table- 1

Percentage of Women in Total Population of Lawyer's

Year	Percentage of Women in total population of lawyers
1945- 60	2.5%
1961- 70	2.6%
1971- 80	2.8%
1981- 90	8.1%
1991- 00	22%

From the above data we notice a phenomenal growth from 1980s in the number of women joining law and legal practice. Since the rate of growth of the number of women in the profession substantially exceeded that of men by 1995 women lawyers were, as a group, substantially younger than Men with a median age of 35, contrasted to a median age for men lawyers of 46?

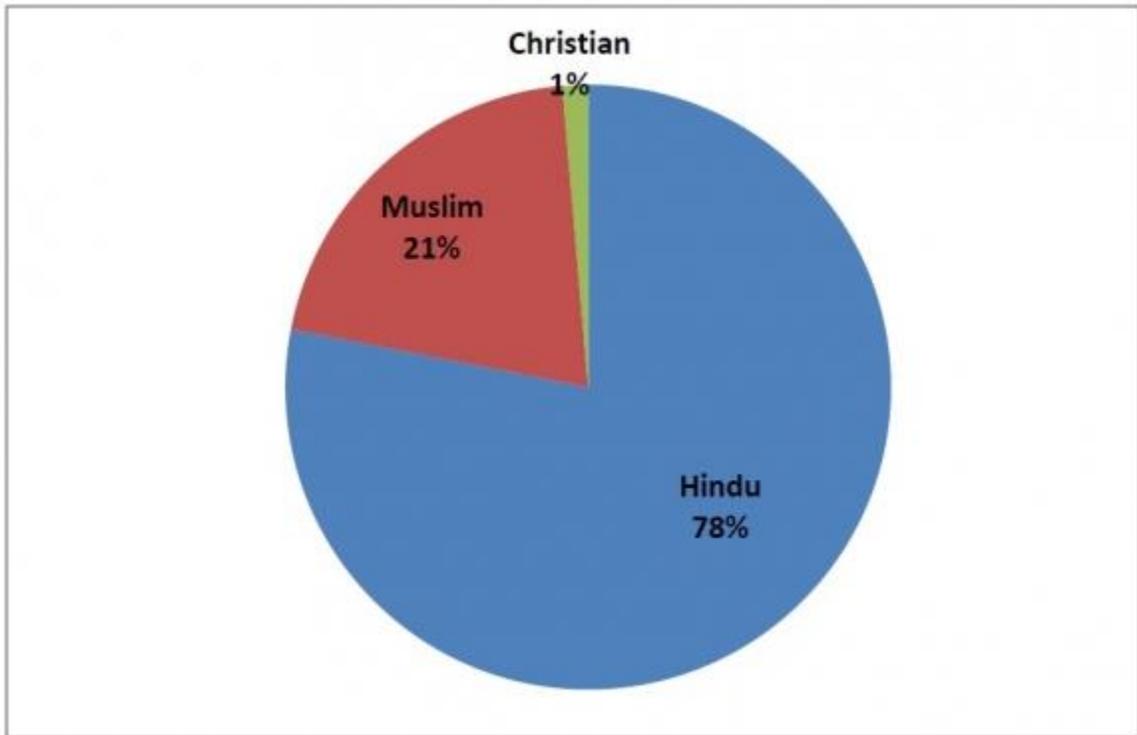
Table 2-

Growth of Women in the Legal Profession over the Years

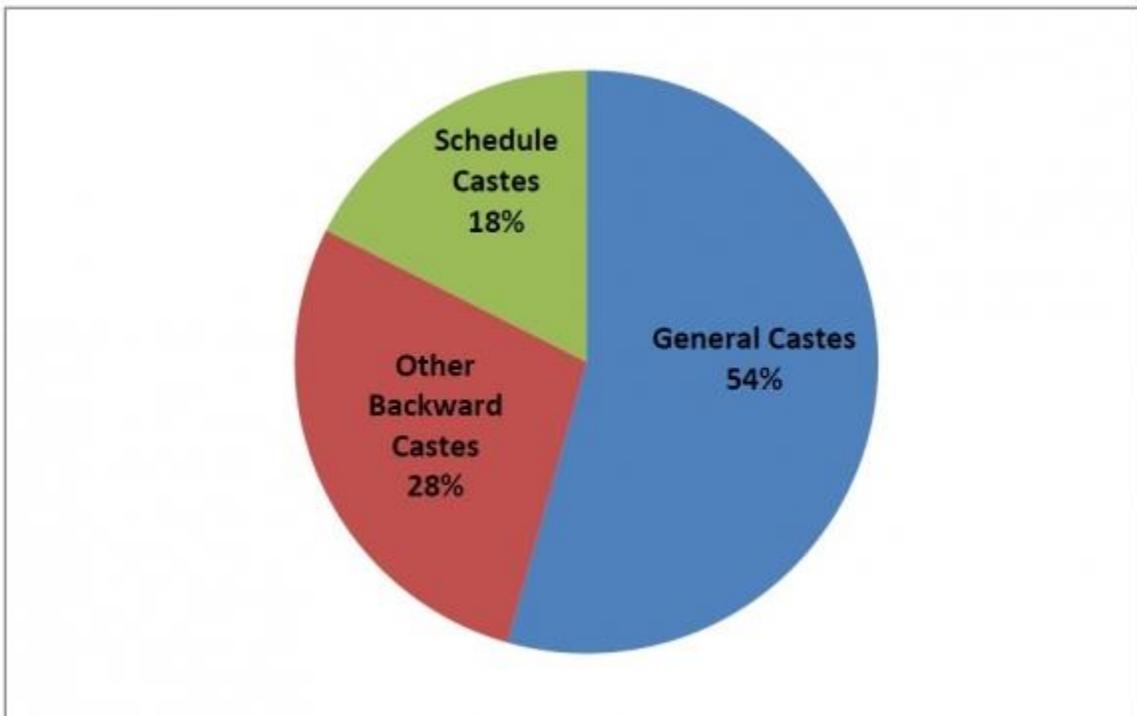
Years	Total registered practitioners	Women practitioners	Percentage
1962-1997	136,635	4,265	3.12%
1998-2005	91,509	7,346	12.3%
1962-2005	228,144	11,611	5.08%

Percentage Break-up of the Decade-wise Registration of Women Lawyers at District Courts in India

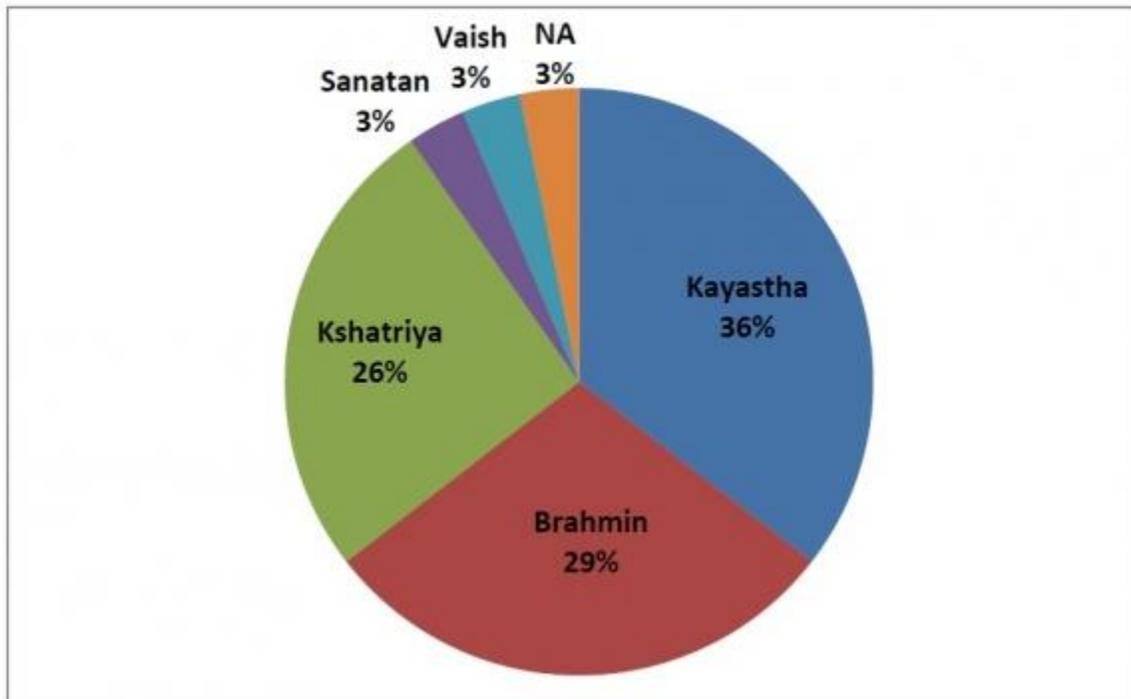
Religious Break-up of Women Lawyers in Percentage



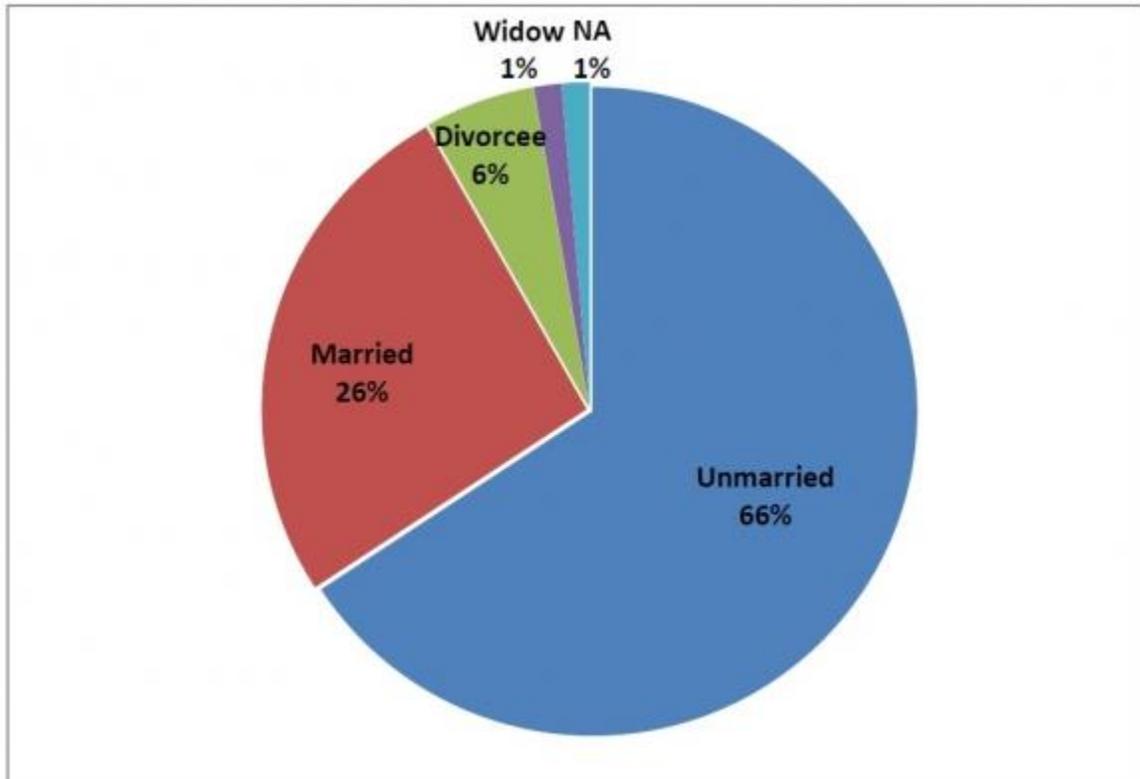
Caste Composition of Women Lawyers in Percentage



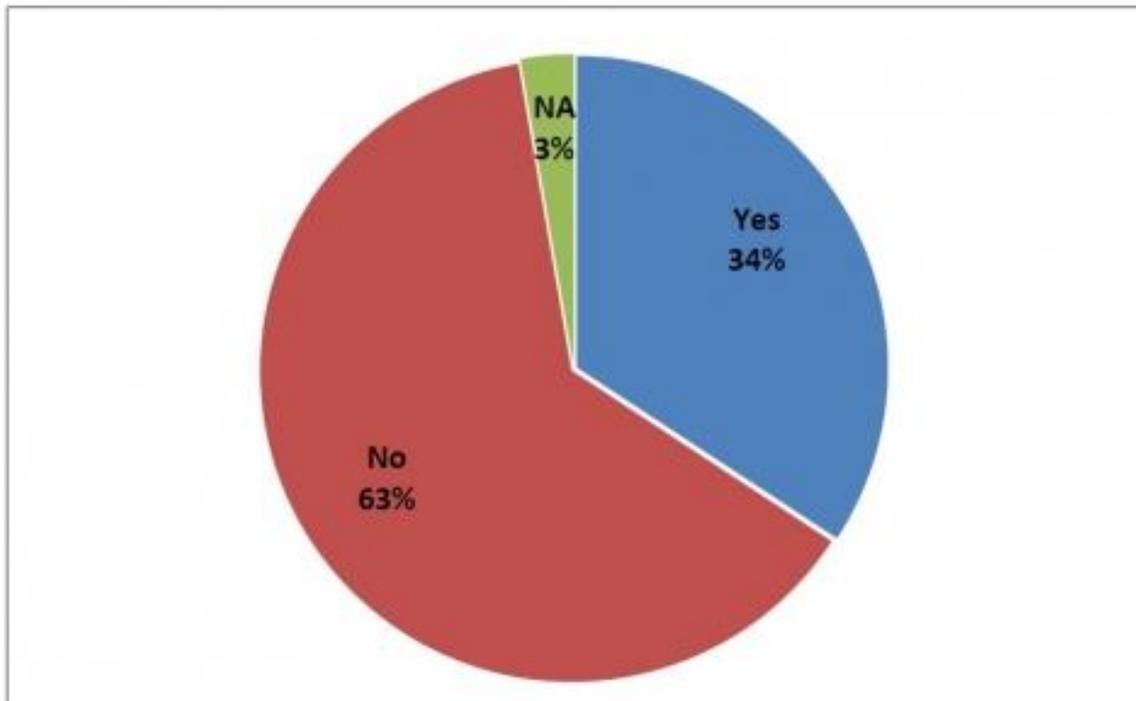
Break-up of Forward Caste Women Lawyers in Percentage



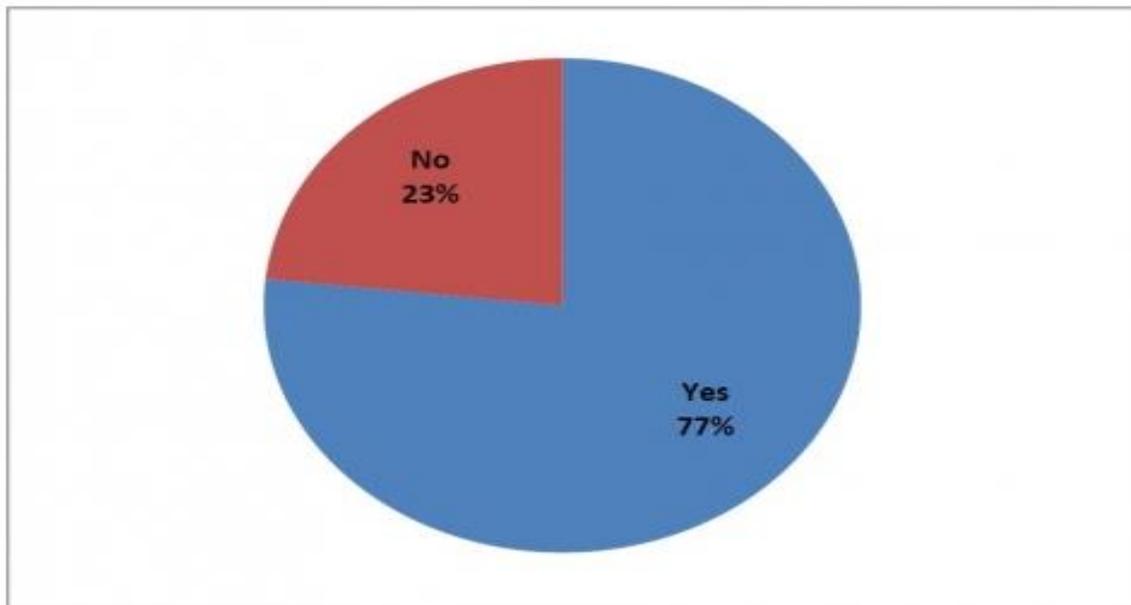
Marital Status of Women Legal Professionals in Percentage



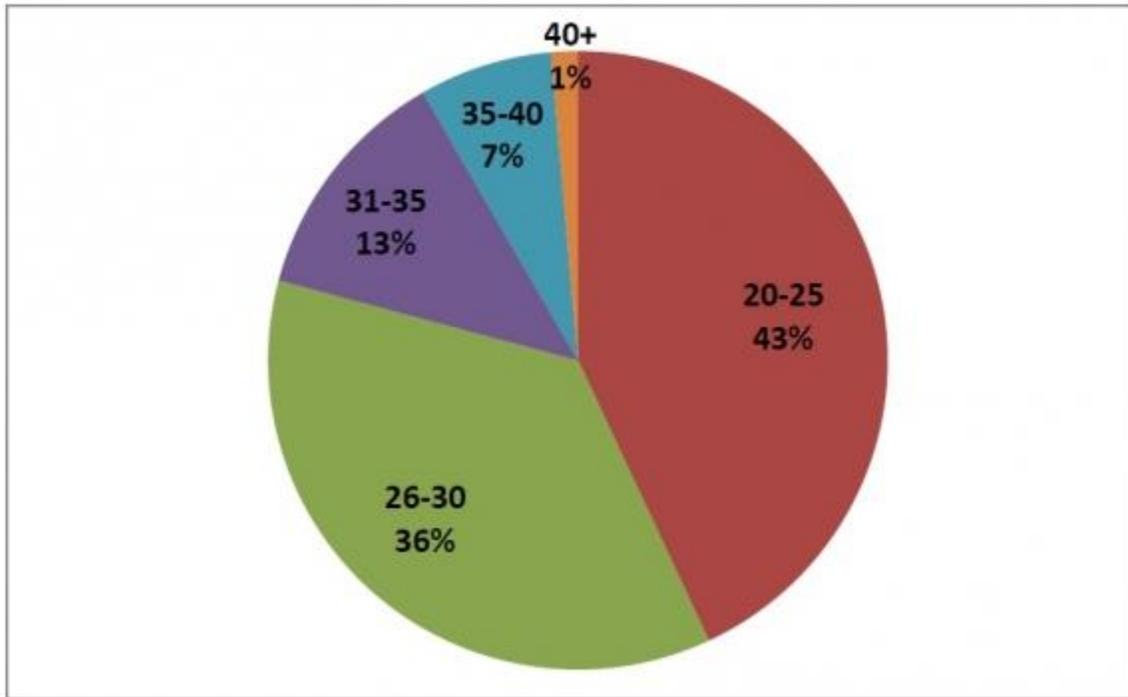
Experience of Gender Discrimination by Women Legal Professionals in Percentage



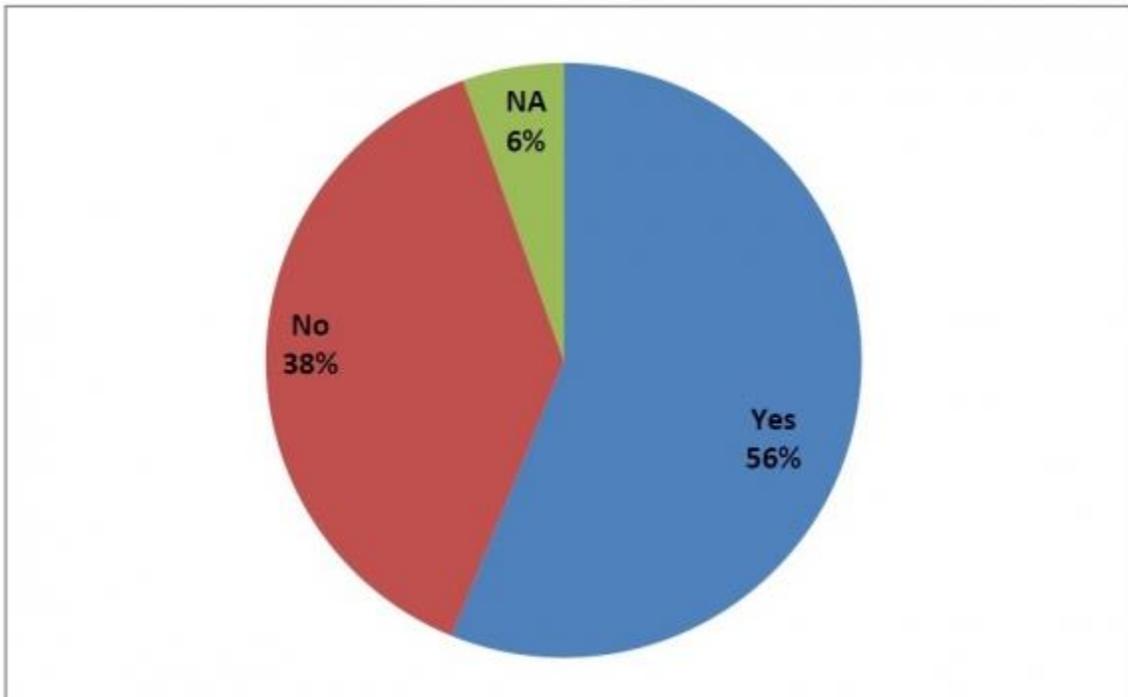
Family Cooperation to Women Legal Professionals in Percentage



Age composition of Women Lawyers in Percentage



Choice of Legal Profession as a Career Option for the Offspring in Percentage



Family Members in the Profession in Percentage



Table-3

Sex-Wise Distribution of Legal Professionals in India

Category	1981		1991	
	Male	Female	Male	Female
Judges & Magistrates	97.8%	2.2%	97.1%	2.9%
Legal Practitioners & Advisers	95.4%	4.6%	93.2%	6.8%
Legal Assistants	98.8%	1.2%	98.9%	1.1%
Jurists & Legal Technicians	98.9%	1.1%	98.3%	1.7%

Source: Indian Bar Review, Vol. XXI, Number 1.

Suggestions

The immediate solution to address the issue of gender disparity in legal profession is that there should be family-oriented policies, favouring the women lawyers in the country. Eliminating sex discrimination requires the immediate adoption of policies that enable workers of both sexes to better combine their work and personal lives.

Such policies should include providing paternal leaves, flexible work schedules and child care, which are of primary importance to the women lawyers who have sacrificed their personal lives in order to advance with their profession.

Some law firms have come up with the idea of organizing and sponsoring 'diversity training' programs designed to teach employees to understand and value the difference between men and women.

There must be a proper complaint structure that ensures the confidentiality of the complainant, keeping in view the society that we live in. The Courts and the Bars must associate themselves with groups and individuals beyond their domains to address the concerns of the female members of the system and to sensitize the male members of the Judiciary and the Bar.

Conclusion

The Indian legal system is not the same as it had been a decade ago and the multifarious advancements taking place within it due to technological introductions and change in the style of workings would require a period for assimilation after which further advancements may be discerned. Establishing e-courts in India will certainly improve the justice delivery system, and the resulting convenience of being able to argue online from the Advocate's office may become a lure to the women Advocates of India to start practicing or teaching on line. The lure of becoming a Judge still holds sway amongst Advocates and lawyers, but the number of female Justices has not increased over the years when compared to male Judges. But slowly and surely, the perceptions regarding the profession are turning around favorably to bring about equality in status, parity in pay and novelty in work culture acceptable to women such that more and more women will choose to enter this profession in coming years, thus, ending the gap between the number of men and women advocates.

With regard to Indian context at the Bar and the Judiciary, there needs to be some specific structural changes which need to be made in order to address the issue of gender disparity. The women involved in the legal profession must come together and form an association which can look into the issues of gender disparity at workplace, without letting any women feel alone in their fight against a structural and societal evil. It is also important that such groups and associations are led by able leaders so as to avoid any kind of caste or class discrimination in cases of gender inequality faced by the women in the legal profession.

References

Journal Article

1. Dinovitzer, Ronit, and Bryant Garth. "Lawyers and the legal profession." *The Handbook of Law and Society* (2015): 103-117.
2. Wilkins, David B., Vikramaditya S. Khanna, and David M. Trubek, eds. "The Indian Legal Profession in the Age of Globalization." (2017).
3. Gandhi, J. S. "A Sociological Portrait of the Indian Legal Profession." *Lawyers in Society: The common law world 1* (1988): 369.
4. Seron, Carroll. "Afterward: A comparative look at the status of women in the legal profession." *Indiana Journal of Global Legal Studies* 20.2 (2013): 1359-1372.
5. Sen, Jhuma. "The Indian women who fought their way into the legal profession." (2019).
6. Ballakrishnen, Swethaa, and Rupali Francesca Samuel. "India's Women Legal Academics: Who They are and Where You May Find Them." (2018).
7. Desai, Ranjana Prakash. "Legal Education." *Contemporary Issues in International Law*. Springer, Singapore, 2018. 37-42.

Books

1. Menkel-Meadow, Carrie. "The comparative sociology of women lawyers: The "feminization" of the legal profession." *Osgoode Hall LJ* 24 (1986): 897.
2. Schmitthener, Samuel. "A Sketch of the Development of the Legal Profession in India." *Law & Soc'y Rev.* 3 (1968): 337.

Online reference

1. <http://timesofindia.indiatimes.com/city/chennai/Women-lawyers-want-33-quota-in-judiciary/articleshow/21196367.cms>
2. <https://eces.revues.org/1976>
3. <http://www.legalservicesindia.com/article/2285/Representation-of-Women-in-the-Legal-Profession-In-India.html>
4. <http://lawtimesjournal.in/gender-disparity-in-legal-profession/>