

AN ANALYSIS OF GENDER BIAS IN LEGAL INSTITUTIONS AND ITS IMPACT ON WOMEN LAWYERS AND JUDGES

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ABSTRACT

Gender bias in legal institutions remains one of the most persistent structural impediments to women's participation and leadership in the justice system¹. Despite the increasing representation of women in law schools, courts, and legal academia, discriminatory practices continue to undermine their professional growth and influence. This paper discusses the nature, manifestations, and consequences of gender bias affecting women lawyers, judges, and academicians, with special focus on the Indian legal system. It examines the intersection of institutional culture, patriarchal attitudes, structural inequalities, and professional barriers faced by women at multiple stages of their legal careers. The study, informed by existing literature, case studies, international reports, and documented lived experiences, demonstrates that gender bias is intricately systemic, evident in courtroom interactions, policing practices, legal education, hiring processes, leadership appointments, and everyday professional behaviour. The paper argues that meaningful change necessarily requires reforms in the institutional framework, gender-sensitive training, transparent career evaluation systems, structural support for women lawyers and judges, and a process of cultural transformation within the judiciary, the bar associations, and legal academia².

1. INTRODUCTION

The custodians of justice, the legal institutions, are expected to reflect justness, neutrality, and equality. They reflect the values of good conduct in a democratic society and, more importantly, have an assigned role of guarding the constitutional ethos. But ironically, notwithstanding these lofty ideals, legal institutions, whether in India or elsewhere in the world, mirror the discriminatory patterns in society. In particular, a gender bias continues to shape the culture, governance structures, and everyday functioning of the legal profession.³ The irony is striking: the very system meant to uphold equality becomes a site where inequalities get reproduced, normalised and perpetuated.

¹ U.N. Women, *Progress of the World's Women: In Pursuit of Justice* (2011).

² Int'l Bar Ass'n, *Women in Commercial Legal Practice* (2017).

³ World Bank Group, *Women, Business and the Law* (2023)

In the last few decades, India has seen a phenomenal rise in women coming into legal education.

⁴Today, it is not uncommon to see almost 50% or more of the student population in many law universities being women. However, this numerical increase at the point of entry does not result in corresponding representation in the leadership levels of the profession. ⁵As one goes up-from law schools to litigation, from trial courts to higher judiciary, and from faculty positions to academic administration-the presence of women declines sharply. This shrinking representation brings into sharp focus some critical questions regarding the structural and cultural barriers that hinder women's advancement despite their qualifications and capabilities.

The challenges begin early in a woman's legal career. While many women graduate with distinction, fewer choose litigation since court environments are widely perceived as harsh, unpredictable, and unfriendly to women. ⁶Those who do enter litigation often face skepticism from clients who prefer male advocates for "serious" or "complex" matters. Gendered assumptions about physical toughness, argumentative strength, or courtroom presence continue to influence the decisions made by clients and even some senior advocates. Women are frequently advised-implicitly or explicitly-to pursue "soft" areas of practice, such as family law, mediation, or legal drafting, while criminal law, corporate litigation, and constitutional matters that confer high prestige are left to male lawyers.

Courtroom culture further reinforces this divide. Many women advocates report that they are more frequently interrupted, less respectfully addressed, or have less serious weight given to their submissions, compared with male advocates. Some even experience subtle or direct comments on the basis of appearance, tone, or mannerisms that are seldom examined in male advocates. ⁷These micro aggressions build up over time and contribute to a culture in which women have to work harder to establish any semblance of authority and professional legitimacy. ⁸Even in interactions with police officers at police stations or during the course of investigation procedures, women lawyers often report receiving less respect than male lawyers, reflecting deep-seated gender stereotypes on legal competence and assertiveness.

⁴ Law Comm'n of India, *Reforms in the Judiciary* (2019).

⁵ Vrinda Bhandari & Arghya Sengupta, Diversity in the Judiciary, 5 *NUJS L. Rev.* 145 (2012).

⁶ Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India* (2014).

⁷ Flavia Agnes, *Law and Gender Inequality* (1999)

⁸ U.N. Off. on Drugs & Crime, *Handbook on Gender and the Criminal Justice System* (2019).

The judiciary, as the paramount institution entrusted with ensuring equity and justice, is not immune to gendered dynamics. Although women have made great strides in the lower judiciary, their presence in the High Courts and Supreme Court remains disproportionately low. The collegium system, relying substantially on recommendations and professional networks,⁹ often closes its doors to women because of their limited presence in influential legal circles. Women judges who make it to the bench frequently face prejudice regarding case allocation, with a tendency to assign them less “serious” matters such as family disputes rather than criminal or constitutional cases. This practice, although subtle, helps to entrench the stereotype that women are best fit to handle emotionally charged or domestic issues, rather than complex legal reasoning.

The patterns in institutions of higher learning are not very different. For instance, though many law schools have women lecturers and assistant professors, few rise to the position of dean, registrar director, and vice-chancellor. Women academicians are often burdened with disproportionate administrative and pastoral responsibilities, which in turn reduce the time they can devote to research and publications, for which promotions are approved in academia.¹⁰ Sometimes students, too, internalise gender bias when they view male academicians as more authoritative teachers of constitutional law, corporate law, and criminal law. These biases reflect broader social conditioning, wherein leadership, intellectual strength, and decisiveness are associated with masculinity.

These issues are further exacerbated at the intersection of professional demand and social expectation. Many women in the legal profession have to balance long working hours with domestic responsibilities, caregiving duties, and social expectations to put family before career. Expectations that seldom, if ever, fall on their male counterparts.¹¹ The lack of institutional support systems-such as childcare facilities, flexible schedules, or safe late-evening workplaces- disproportionately burdens women and is reflected in the alarming attrition rate among early-career female lawyers and academicians.

⁹ Ministry of Law & Justice, Gov’t of India, *Judicial Reforms Report* (2020).

¹⁰ Martha Chamallas, The Architecture of Bias in the Legal Profession, 23 *Mich. J. Gender & L.* 215 (2016).

¹¹ Int’l Bar Ass’n, *Women in Commercial Legal Practice* (2017).

Yet, women have continued to show resilience, intellectual capability, and leadership potential amidst such barriers. This presence enriches the legal system through the varied experiences and perspectives they bring, strengthening the quality of justice.¹² Women judges have authored landmark judgments on gender-based violence, constitutional rights, and social equality. Women lawyers continue to excel in advocacy, research, and legal reform. It is women academicians who play an important role in shaping future generations of lawyers and encouraging critical thinking on gender justice.

This paper, therefore, systematically looks at gender bias across various segments of the legal profession—women advocates, judges, and academicians. It highlights the way in which patriarchal structures, cultural attitudes, and institutional practices restrict advancement for women.¹³ The study argues that this persistence of biases affects individual careers but also weakens the broader justice system. By looking at these challenges, the paper tries to contribute to the ongoing discussions on gender equality within legal institutions and to advocate for reforms that shall bring the legal profession closer to the Constitutional promise of justice to all.

2. LITERATURE REVIEW

The existing literature on gender bias in legal institutions highlights several recurrent themes: unequal opportunity structures, patriarchal institutional culture, gender stereotyping, invisible barriers to promotions, and gender-specific expectations regarding behaviour and leadership. International studies by UN Women, the IBA, and the World Bank highlight gender-based discrimination in judicial appointments, courtroom interactions, and professional advancement. It has been observed that women lawyers are often assigned fewer complex cases, receive low remuneration, and inspire less confidence among clients than their male counterparts. In this regard, scholars such as Pratiksha Baxi, Flavia Agnes, and Indira Jaising have documented gendered practices in the Indian courts. Their work has highlighted the fact that while formal equality before the Constitution exists, the sexist language, patronising attitudes, and exclusion from decision-making processes within courtrooms have further marginalised the position of women. For example, reports of the Bar Council of India highlight the difficulties women face in the context of police institutions, with officers undermining the legitimacy of women advocates.

¹² Justice Ruth Bader Ginsburg, *Women and the Constitution*, 32 *Harv. J.L. & Gender* 1 (2009).

¹³ Supreme Court of India, *Gender Sensitisation Handbook* (2014).

¹⁴ U.N. Women, *Progress of the World's Women* (2011).

¹⁵ World Bank Group, *Women, Business and the Law* (2023).¹⁶ Pratiksha Baxi (2014).

¹⁷ Flavia Agnes (1999).

¹⁸ Indira Jaising, *Gender and the Legal Profession in India* (2015).

¹⁹ The literature also identifies biases persisting against women academicians. Various studies have documented the gender gap in promotions, research evaluation, student perceptions, and administrative opportunities. Female academicians often face the trivialisation of their expertise and an expectation to take part in administrative or nurturing jobs, whereas men would dominate influential academic committees.

²⁰ Women judges have faced many structural barriers at work, such as glass-ceiling effects, questioning of their legal authority, restrictive representation in certain tribunals, and assumptions about their capability to handle criminal or other high-pressure cases. Despite major contributions by women judges all over the world and within India, stereotypes continue to shape case assignments and collegiality.

²¹ The literature largely concludes that gender bias is not an individual problem but an institutional and structural issue requiring systemic reform.

2. OBJECTIVES OF THE STUDY

The major objectives of this research are:

1. To analyse the nature and forms of gender bias within the legal institutions.
2. The research aimed at assessing the experiences of women lawyers, judges, and academicians regarding discrimination and stereotyping.
3. To investigate the ways in which institutional culture reinforces gender inequality.
4. To assess the India-specific patterns of gender bias in courts, police stations, and legal education.
5. Propose strategies for mitigating gender bias and enhancing women's participation and leadership in legal institutions.

¹⁹ Martha Chamallas, *supra* at note 10.

²⁰ Justice B.V. Nagarathna, *Women in the Judiciary*, *Indian J. Const. L.* (2018).

²¹ David B. Wilkins & G. Mitu Gulati, *Reconceiving the Tournament of Lawyers*, 84 *Tex. L. Rev.* 1581 (2006).

4. RESEARCH METHODOLOGY

The study adopts a qualitative research methodology based on secondary data. It includes:

- Review of academic literature, journals, and books
- Analysis of UN, IBA, and government reports
- Study of documented experiences of women lawyers and judges
- Examination of Indian court cases and legal debates
- Analysis of interviews and articles written by senior women jurists
- Review of policies relating to judicial appointments, bar councils, legal education, and workplace equality

The methodology ensures a comprehensive understanding of gender bias as a structural and systemic phenomenon.

5. FORMS AND MANIFESTATIONS OF GENDER BIAS IN LEGAL INSTITUTIONS

Gender bias manifests in visible and invisible forms, including discriminatory attitudes, unequal opportunities, sexist assumptions, and structural barriers.

5.1. Stereotyping and Patriarchal Expectations

²² Women lawyers are often expected to be “soft-spoken,” “non-aggressive,” or “less argumentative,” whereas assertiveness is encouraged in male lawyers. When women display confidence, they are often labeled as difficult or unfeminine.

5.2. Bias in Courtroom Interactions

²³ Women lawyers frequently report:

- Interruptions by male colleagues
- Dismissive or patronising language from judges
- Hostility from senior advocates
- Body-language-based intimidation

Courtrooms often operate on an unspoken hierarchy where male lawyers dominate space.

²² Flavia Agnes (1999).

²³ UNODC (2019).

5.3.Discriminatory Briefing and Client Trust

²⁴Clients may prefer male lawyers for criminal, corporate, or high-risk litigation, assuming women lack “toughness.” As a result, women receive:

- Fewer high-profile cases
- Lower financial compensation
- Limited courtroom exposure

5.4.Exclusion from Informal Networks

²⁵ Major opportunities in litigation arise through:

- Networking
- Chamber politics
- Friendship circles
- Late-night discussions
- Client dinners or social clubs

Women are often excluded due to safety concerns, familial responsibilities, or male-only environments.

5.5.Gender Bias in Legal Academia

²⁶ Women academicians face:

- Student bias in classroom authority
- Slower promotions
- Less visibility in research and publishing
- Unequal administrative responsibility
- Perceptions that men are “more knowledgeable” in certain subjects

²⁴IBA (2017)

²⁵ Wilkins & Gulati (2006)

²⁶ Chamallas (2016).

5.6. Institutional Policies and Lack of Support

Many legal workplaces lack:

- Maternity policies
- Child-care facilities
- Flexible working hours
- Anti-sexual harassment mechanisms

These structural gaps disproportionately affect women.

6. GENDER BIAS IN THE INDIAN LEGAL SYSTEM

6.1. Bias Faced by Women Lawyers in Police Stations

²⁸Police stations in India are male-dominated environments. Women advocates report:

- Being addressed informally or disrespectfully
- Police reluctance to share case details
- Longer waiting times
- Suspicion of competence
- Preferential treatment toward male advocates

These experiences erode women's professional dignity and hinder legal access for their clients.

6.2. Bias Against Women Academicians in Indian Law Universities

Women academicians often experience:

- Student favouring of male teachers
- Assumption that women should teach "soft subjects"
- Denial of senior administrative roles
- Gendered evaluation in research output
- Stereotypes questioning their authority

This undermines their leadership and academic credibility. _____

²⁷ Bar Council of India (2018).

²⁸Pratiksha Baxi (2014)

6.3.Challenges for Women Judges in Indian Courts

Women judges face:

- Doubts about their emotional stability
- Lack of respect from male advocates
- Stereotyping in case assignments
- Fewer opportunities for elevation
- Isolation in collegial relationships

Despite this, women judges have delivered landmark judgments on constitutional law, gender rights, and criminal justice reform.

7. DISCUSSION

Gender bias in legal institutions is neither an isolated nor individual issue; rather, it is primarily structural, part of entrenched professional standards, institutional ethos, and expectations. While constitutional values like equality and fairness form the base for the conduct of the legal system, these values have not been reflected in internal practices. The prevalence of gender bias has consequences for women lawyers' career advancement, weakens their professional identity, diminishes their representation in leading positions, and eventually undermines the overall credibility of the justice system. A justice system cannot ensure equality to citizens if it does not operate with equality between genders.

Why Do These Biases Persist?

Biases persist largely because legal institutions have historically evolved around male participation, creating a masculine professional culture that remains even as more women enter the profession. Patriarchal norms about perceptions of authority, competency, and leadership remain. Networking patterns in litigation, informal professional circles, and chamber systems remain male-dominated, leading to gatekeeping that limits women's advancement. Further, stereotypes that women are "too emotional," "less assertive," or "unsuited" for criminal or high-stakes litigation result in a self-perpetuating cycle where women receive fewer opportunities, which then serves as proof-wrongly interpreted-that they are less capable. Lack of institutional accountability, absence of gender-sensitive training, and weak enforcement of workplace-equality policies foster the continued normalisation of bias. Entrenched hierarchical behaviour and gendered social conditioning in police stations and courtrooms further serve to make gender bias appear routine rather than discriminatory.

Consequences for Justice System Legitimacy?

²⁹ The consequences of gender bias extend beyond individual careers of women; it hits at the legitimacy of the justice system. A judiciary and legal profession that does not represent half the population is bound to lose public confidence. When women are marginalised, diverse perspectives that are essential for fair, empathetic, and context-sensitive decision-making are lost in the judicial system. Research across the world bears this out: more gender diverse judiciaries bring out more balanced judgments in cases involving gender-based violence, family law disputes, workplace discrimination, and child rights. The lack of respect for women lawyers in police stations and courts sends the impression that institutions that have the mandate to enforce equality themselves perpetuate inequality. Victims, particularly women, will not approach the systems for fear of bias or mistreatment, thereby weakening access to justice and undermining the constitutional guarantee of equality before the law.

Comparing India with Other Countries?

³⁰ Whereas gender bias in legal institutions is a problem throughout the world, India's experience reflects specific cultural, structural, and socio-economic realities. Indeed, Western countries like Canada, the UK, and Australia have made conscious efforts in the past couple of decades to strengthen women's representation in the judiciary through transparent appointment systems, gender quotas, mentorship structures, and gender-sensitive legal training. Consequently, their high courts have a relatively higher proportion of women judges than India does. For instance, India still relies on collegium-based appointments, informal networks, and traditional chamber systems as key entry points, which tend to favor male candidates over females.

Other countries in South Asia, like Pakistan, Nepal, and Bangladesh, similarly reflect low levels of representation of women in senior judicial positions and thus reveal broader regional patriarchal norms. But other countries, like Rwanda and South Africa, show that strong policy interventions and gender quotas go a long way in enhancing women's leadership in the justice sector. In comparison with these international models, India has been very slow in adopting structural reforms to bring about better gender equity in its legal institutions

²⁹ World Bank (2023).

³⁰ UNODC (2019).

8. RECOMMENDATIONS

1. **Mandatory gender-sensitivity training** for police officers, judges, and court staff.
2. **Transparent judicial appointment processes** to increase women's representation.
3. **Diversified case briefing** to ensure women lawyers receive challenging cases.
4. **Mentorship programs** for women lawyers and academicians.
5. **Stronger sexual-harassment redressal mechanisms** in courts and universities.
6. **Maternity support and child-care facilities** in legal institutions.
7. **Inclusion of women in bar association leadership positions.**
8. **Awareness programs** for students to reduce gender bias in legal education.

9. CONCLUSION

In fact, in Indian legal institutions, deeply embedded structural problems of gender bias continue to shape the professional experiences of woman advocates, judges, and academicians in many and often invisible ways. Patriarchal attitudes, persistent stereotypes, and institutional obstacles continue to affect the way women's competence, authority, and leadership are perceived. Women advocates remain frequently subjected to subtle yet systematic forms of discrimination in the courts: incessant interruptions during court arguments, lack of respect from senior counsel, and scornful behaviour on the part of police officials enhance an entrenched culture of male domination. Women judges remain significantly underrepresented, particularly in higher judicial forums, which limits diversity in judicial perspectives and weakens the inclusiveness of justice delivery. Similarly, woman academicians continue to face biased evaluations, disproportionate administrative burdens, and slower career advancement based on entrenched gender norms. Despite these challenges, women in the legal profession, through valuable and significant contributions, continue to enlarge their scholarship, contribute to rights-based jurisprudence, and progressively enhance justice processes.

The future demands long-term structural reforms beyond symbolic representation. Such reforms should entail transparent and accountable systems of judicial appointment, institutionalised mentorship frameworks, gender-responsive workplace policies, and continuous Gender - sensitisation training across courts, police, and academic institutions. Further research is needed to study region-specific challenges, intersectional discrimination, and the long-term impact of women's leadership on judicial outcomes. Most importantly, the development of a gender-balanced judiciary and legal profession is not just a question of representation but, more fundamentally, one of democratic necessity. A justice

system that truly reflects the diversity of the society it serves will be more credible, more legitimate, and better equipped to deliver substantial justice. Achieving gender equality in the legal institutions is, therefore, an essential condition to ensure integrity, fairness, and future resilience of the justice system itself.

REFERENCES :

1. U.N. WOMEN, *PROGRESS OF THE WORLD'S WOMEN: IN PURSUIT OF JUSTICE* (2011).
2. INT'L BAR ASS'N, *WOMEN IN COMMERCIAL LEGAL PRACTICE* (2017).
3. MINISTRY OF LAW & JUSTICE, GOV'T OF INDIA, *REPORT ON JUDICIAL REFORMS* (2020).
4. PRATIKSHA BAXI, *PUBLIC SECRETS OF LAW: RAPE TRIALS IN INDIA* (Oxford Univ. Press 2014).
5. FLAVIA AGNES, *LAW AND GENDER INEQUALITY: THE POLITICS OF WOMEN'S RIGHTS IN INDIA* (Oxford Univ. Press 1999).
6. INDRA JAISING, Gender and the Legal Profession in India, in *CONTEMPORARY ISSUES IN LAW AND JUSTICE* (NLSIU Press 2015).
7. BAR COUNCIL OF INDIA, *REPORTS ON LEGAL EDUCATION AND PROFESSIONAL ETHICS* (2018).
8. WORLD BANK GROUP, *WOMEN, BUSINESS AND THE LAW* (2023).
9. Selected Articles and Judicial Interviews from LiveLaw India, Bar & Bench, and National Law School of India Review (2015–2023).