

**GENDER BIASED BATTLEGROUND OR SMOOTH PATHWAY:
CHALLENGES FOR WOMEN LEGAL PROFESSIONALS IN 21ST
CENTURY INDIA**

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ABSTRACT

Legal profession in India has changed its form and content and took various courses through its developmental journey to reach in its present shape. In its historical advancement, the legal fraternity in India has for the first time recognised the importance of female vakils or pleaders to practice before the court of law by enacting the Legal Practitioners (Women) Act, XXIII of 1923. Prior to this, it was believed that females are the not that gender who could plead anything for anyone in the court of law successfully or even if they can; not in subordinate courts and only some of the High Courts allowed them to do so. It was only after the above mentioned Act it was expressly provide that, no woman would by reason only of her sex be disqualified from being admitted or enrolled as a legal practitioner or from practising as such. Since this enactment, women began getting enrolled as legal practitioners. But even after the duly earned permission to enter into that premises where men were the rulers, their participation in litigation was not easily accepted in those times. With the gradual development of societal advancement, though a woman now can easily think of joining the legal fraternity in India, the granules are still not disappeared from their path. There are numerous challenges which they need to face on a regular basis when they are indulging themselves in either shaping them or actually practising as lawyers.

In this juncture, while there will be a wide discussion on ethics intertwined to this profession, this article would be highlighting some of the major issues which are road blockers in reaching the pinnacle of an ideal ethical structure to be practiced and followed by the future lawyers. The article will further analyse and focus upon the problems which the female legal professionals face in their professional periphery. Finally suggestion will be given in regard

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to the betterment of the present situation so that the legal fraternity in India become a safer zone for the 'she gender' to enter and work upon.

INTRODUCTION

"The world will never be complete until women are the part of it."

- **Alice Paul, an American Social Reformer²**

As the quotation address the subject, no part of this incredible world would have been completed if a women would not have shared her place. She is an indispensable part of this brown maintaining its balance from ages. Her efforts to build and fashionize the society are commendable from time immemorial. But in many incidents down the line her exertions went unnoticed. The probable underlying reason being, that from the evolution of mankind the societal set up was patriarchal in its lion's share. Women has in most of the cases regarded as one who cannot lead the team as she was considered timid, polite, submissive and can only do wonders as the inspirational source and not in forefront. Any field what so ever taken as a reference, a long distinguished struggle story will be existing when the matter of participation of feminine gender would come up on surface. From the beginning of civilised society in the world one of such rudimentary field is protecting the legal rights of every entity existing in such vicinity; the initiation of advocacy in its formal from, i.e. litigation or practising law as a profession. History is evident that from ages this profession is flourishing in almost all parts of the world as an indispensable half of the societal set up. Not only it was an inalienable part of the society but at the same time it was considered as one of the prominent profession among the list noble professions practiced in a civilized society.

Law is always given an epoch position for its importance in maintaining the proper decorum, in execution of powers, in tackling various problems which have time and again witnessed by the globe. But law in itself is a matter of minute understanding, interpretation and deliberation and hence keeping these things in mind, a league of well-educated laureates of various ages at various times have taken efforts to practise this discipline and make it accessible to them for whom it is created and exist. Now going back to the argument with which the article started, though advocacy and litigation has always been one of the

²*Famous Women Lawyer Quotes*, <http://thinkexist.com/quotes/top/gender/women/occupation/lawyer>, accessed 10 March, 2015

predominant professions in almost all the times, women were not its part till a considerable period of its development. They were kept outside the purview of advocacy and adjudication for they were not considered as strong enough to handle the issues which are raised and solved in the courtrooms. According to, Anti Suffrage Argument, “women were too sentimental for jury duty”.³ Irrespective of how much advanced the culture and heritage of the then society was, women were strictly prohibited to pursue their carrier in the field of law. But as nothing remain constant accept the law of constant, this imperforated field by women folk never allowed them to sit silently and adhere to the prohibitions imposed on them. Like every other area of expertise which they have proven for allowing them to enter into the arena of practical execution, legal fraternity also has to change their preformat to allow the feminine gender to make and establish their place within and at par with them. Gradually, once the world of men where they were the only rulers became the place of work for the opposite gender too.

With the passage of time the intention and ability of womenfolk to educate themselves and excel in the field of law remained no more an exceptional thing for discussion. The overwhelming participation of women became so exemplary that slowly it changed the stereotype thinking that this was something which only men can carry out, women would be to polite and incapable to handle the pressures and challenge lodged with this profession. Now the era is of equality and no discrimination on any basis; not at least on the basis of sex and gender. Not only for this reason but women has proved her efficiency, tolerance, expertise, coherence and perpetuity in this profession. The fight of generations for this day has actually given its output in the form that presently no one who knows a bit of it can believe that women cannot be a part of legal world, in contrast there are views in support that they can do more innovations as expected sometimes. Women of this time with utmost interest and efficiency indulge themselves in studying, practising, adjudicating, researching and what not in the field of law.

Taking Indian scenario into consideration, like the other parts of the world, Indian culture has also not allowed women to preach and practice law from its inception. Though women were given immense importance in the ancient times in India, her participations and suggestions were of high values but still even they were kept outside the premises of practicing law and

³ *Kenneth Russell Chamberlain*, Puck Publishing Corporation, 1915, <http://blogs.loc.gov/law/2015/03/women-in-history-lawyers-and-judges/>, accessed 11 March, 2015

taking it as a means to serve the common. For Indians too it was a matter of unacceptance and resistance to welcome the female counterpart of the society to work in equal footing. The societal gesture for the Indian women was same as it was in other parts of the world. The presence of law was very antique in India but it was only limited to the male gender hardly any woman can access it and practicing the same was a dream for her. But now it is no more an exceptional situation for a woman to be a legal professional rather they have become part and parcel who in many cases stood with exemplary stances for the society. The present generation is too much interested in joining the legal fraternity and girl students are in overwhelming number to be legal aspirants in future. In India if we see the participation of female law aspirants in the law colleges or national law universities, sometimes they may be proportionally much more than that of the opposite gender. But in spite of so much change in the approach towards women folk and their presence in the legal world, their struggle has not yet ended. Still there are granules in the path of women legal professionals which sometime or the other create baffles for them to either prove their efficiency or to stand stern on their path. The spirit of equality is still falling short somewhere to give its wide arm protection to them in their practical professional lives.

This article thus chiefly addresses that how women have started her journey towards advancements of their gender participation and represented with all valour to prove their ability and tenacity towards this profession. It then highlights some of the positives achieved by the female in this profession and those flummox which has still maintained an inequality among the law preachers just on the basis of their gender. It moreover tries to divert the attention towards some those issues which are present in a demonic size in the present milieu of India when women are largely without a second thought come and join themselves in the field of law. It finally delineates that when a junction where there is a need of discussion on ethics in relation to this concerned profession is required, when there is a requirement of taking this profession to another level of preaching and practice, when law itself has went miles to achieve plethora of rights for women, why the disadvantaged position is still experienced by many of the women legal professionals in their field of work.

WOMEN IN EARLY LEGAL HISTORY IN SOME COUNTRIES AROUND THE WORLD

The journey of female lawyers, attorneys, judges, solicitors or other legal professionals is always important when their participation in the respective field is studied and a bird eye view of how she has made her place in the world map with this respect become all the more important. Hence starting with United States; Arabella Mansfield was the first woman admitted to the bar in 1869 in Iowa. She had not studied at a law school but rather had studied in her brother's office for two years before taking the bar examination. Curiously enough, in the same year Ada H. Kepley became the first woman in the United States to graduate from law school. A year later, in 1870, Esther Morris was appointed as a justice of the peace in Wyoming Territory; the first woman in the United States appointed to a judicial position. Genevieve Cline was the first woman appointed to a federal court in 1928 when President Coolidge nominated her for a seat on the U.S. Customs Court. She remained on the court for 25 years. Florence Allen, who had previously been a justice on the Ohio Supreme Court, was appointed to the U.S. Court of Appeals, Sixth Circuit in 1932, making her the first woman to be appointed as a judge to a federal appeals court.⁴ Currently there are four women judges in US Supreme court out of eleven in total.⁵ Next in United Kingdom, Elizabeth Orme was the first woman to graduate with a bachelor of laws from the University of London in 1888.

The first female law graduates in Scotland were Eveline MacLaren and Josephine Gordon Stuart, both obtained a bachelor of laws from the University of Edinburgh in 1909. The 1919 Sex Disqualification (Removal) Act paved the way for women to become admitted into the legal profession over there. Women were first admitted to the Law Society in 1922. The first four women to be admitted were Maud Crofts, Carrie Morrison, Mary Pickup, and Mary Sykes. Carrie Morrison was the first out of the four to finish her articles and be admitted as a lawyer in England. Margaret Kidd was the first woman to be admitted by the Scottish bar in 1922 and later became the first woman appointed as King's Counsel in 1948.⁶ The first appointed female judge was Elizabeth Lane in 1962. Currently one of the total twelve justices of the Supreme Court of UK is a woman.⁷

⁴ Kelly Buchanan, *Women in History: Lawyers and Judges*, Library Of Congress, available at <http://blogs.loc.gov/law/2015/03/women-in-history-lawyers-and-judges>, accessed 11 March , 2015

⁵ Biographies of Current Justices of Supreme Court, SUPREME COURT OF UNITED STATES, available at <http://www.supremecourt.gov/about/biographies.aspx>, accessed 12th March, 2015

⁶ Supra note. 4, para 19

⁷ Biographies of Judges, THE SUPREME COURT, available at <https://www.supremecourt.uk/about/biographies-of-the-justices.html>, accessed 12 March 2015

In Germany, women were admitted to universities depending upon the will of the state, between 1900 and 1909. In 1913, among 9,003 law students in the German empire, there were 51 women in all. However, until the passage of the Law on the Admission of Women to the Offices and Professions of Justice, 1922, women graduates were not permitted to take the state examination necessary for the practice of law in Germany. Germany's first woman judge was Maria Hagemeyer, who became a judge of the district court of Bonn in 1927. In 1933 however, all judges were dismissed by the Nazi regime. Gisela Niemeyer was the first woman to be appointed as a justice of the Federal Constitutional Court, in 1977. There are currently five women among the 16 justices of the Federal Constitutional Court.⁸ It has been traced that the first woman to graduate from a French university with a law degree was actually from Romania: Sarmisa Bilcesco, who first registered in 1884. She obtained her licentiate in 1887 and a doctorate in 1890. She then returned to Romania, where she was admitted to the bar, thus becoming Europe's first woman attorney. The first women to be admitted to the bar in France were Olga Petit and Jeanne Chauvin, who were respectively sworn in on December 6 and 19, 1900. It would not be until 1946 that women could become judges in France.

However, the proportion of women among French judges has risen quickly in recent years. Women represent 57% of the French judiciary and in recent graduating classes from the Ecole National Judges' School it is composed of up to 80% women. Some countries have glorious past in this aspect. One among them is People's Republic of China. The history of legal education and the legal profession in the early years of the People's Republic of China (PRC) was commendable. Though technically the legal profession was not formally established until 1979-1980, but women have never been excluded from law schools, legal practice, or judgeship throughout the history of the PRC. In fact, there were women law graduates and lawyers even prior to the founding of the PRC in 1949. For example, the first Minister of Justice of the PRC, Ms. Liang Shi, graduated from law school and started practicing law in the 1920-30s before she was appointed as a minister in 1949. In the current Supreme People's Court three of the sixteen court leaders are women.⁹

⁸ Supra note. 4, para 6

⁹ Supra note 4 at Para 4

WOMAN IN INDIAN THE HISTORY OF INDIAN LEGAL FRATERNITY

Like many of the countries around the world India was having its own story of legal evolution. From ancient period itself India was enriched with some of the powerful legal scripts which have helped the then societal set up to look forward with properly regulated manner. Whether it was in Vedic ages when Smritis and Shastras were expounded by notably able luminaries who have ushered knowledge in the field of law and administration or The Indus Valley Civilization whose civil law system has always been given a very high value, India has always proved its richness in its legal basics and understanding. With the advent of Britishers in India, there was a wave of changes in the field of law and its operation on the land. Some out of them were so persistent that even after Independence the country thought to continue with those legislations to regulate its society with minimum possible changes. The participation of women in Indian legal fraternity was not there during its ancient times. Though some of the females in the society were allowed to study the scriptures of that time and were recognised in latter times as cardinals of knowledge like Gargi and Maitrayee, but these were exceptionally rare incidents.

In the latter times though many among the Indian women broke the shackle and went ahead of their times to pursue their quest of knowledge in various fields; they were out of the legal world till the advent of 20th Century. The first among the league to join this testosterone dominated society was Cornelia Sorabji, she was the first female barrister of India who was allowed to practice in Allahabad High Court in 1924.¹⁰ Not only had she become the frontier among the women folk in India to represent them in among the male dominated society of legal professionals but she was the one who registered her name in history being the first female in the entire world to study law at Oxford University. She was the first woman to sit for the Civil Law Examination but was unable to get a degree as women were not allowed to receive a law degree over there till 1920.¹¹ However due to the male bias and discrimination she was not allowed to plead any case rather was restricted only up till providing opinions on any case, till a long time.

¹⁰ India's First women lawyer, National Portrait Gallery, <http://www.npg.org.uk/whatson/display/2012/cornelia-sorabji-indias-first-woman-lawyer.php>, accessed 12 March 2015

¹¹ Id

This development in Indian legal platform was a result of a long test and tribulation. Prominent among the factors were two notable judicial pronouncements in this respect; viz. *In Re: Regina Guha v. Unknown*, (1916)¹² and *In Re: Miss Sudhansu Bala Hazra v. Unknown*, (1921)¹³ respectively and the consequential draft of Legal Practitioners (Women) Act, XXIII, 1923. In both of these litigations the chief issues raised were that when the female population of India who are getting the degree of law from there recognised Universities under the specific Act, they should also be allowed as pleader in the Court of Law, that there is no provisions under the present legislations for the profession which can prevent female law degree holders to practice publicly in High Courts as well as lower Courts. It brought a wave of social change and consequently the abovementioned legislation was materialised which finally paved the way for women law aspirants to be a part of the Indian legal fraternity.

CHALLENGES FACED BY WOMAN BEING A LEGAL PROFESSIONAL IN INDIA

India is presently standing in an era where the people who belong to legal fraternity are demanding a new and advanced ethical code for them, they are heading towards redefining the legal practice and art of advocacy. And while talking about legal world in its strict sense women are now taken as its indispensable part. But ironically when at one point there is a plan that the ethical context of the concerned profession needed to be taken to another level of refined form, the ethics get compromised at some point of time when there is a differential and discriminatory behaviour towards the female legal practitioners in the country. Because ethics is not only about how one has to deal with his/her profession per se it is also how one has to respect others' presence in the same arena.

It is now history that women were construed unequal in terms of participation in this profession. If the current scenario is taken into consideration, it can be construed that female law aspirants are entering into the profession with leaps and bounds. If the law universities' students are taken into account, the gender ratio will be optimistic in terms of the equal presence of girls and boys. If the women lawyers' involvement in corporate India is exemplified, in 2015 it was almost nearby 17.34% in comparison to 12.5 % in

¹² 35 Ind Cas 925, 21 CWN 74, <http://indiankanoon.org/doc/1090509/>, accessed 12 March 2015

¹³ ILR 1 Patna 104, 64 Ind Cas 636, <http://indiankanoon.org/doc/1246400/>, accessed 12 March 2015

2010.¹⁴Moreover some of the leading law firms in India were showing a steep closeness in the gender ratio in their board.¹⁵ But then this is just the tip of the ice berg; some of the good aspects on which the women legal professionals can't lament upon. There are various causes at lion's share which stop them to have a happy presence in their profession. The discrimination of the gender biasness comes to them in different levels. The present article has highlighted two of such discriminatory grounds.

- Firstly, the proportion of the female participants in the practice and in judiciary, their presence in higher judicial posts.
- And secondly, the degree of conducive environment provided to the female legal professionals at their workplace.

Dealing with the first issue, there are some of the practical experiences shared by the known figures. According to the experience shared by Justice Leila Seth (the first women Chief Justice of a State in India), "When I asked a question and my brother judge pointed out to them that they (the male lawyers) should say My Lady, they thought the easiest way out was to say, My Lord and look at the male judge as if the question had emanated from him! Very rarely was I addressed correctly. Most of my brother judges, while introducing me to outsiders would say, 'Meet our new lady judge', as if my sex was not apparent. They also wanted me to take on the tea arrangements, when there was a celebration".¹⁶

Ratna Kapur (Director of the Centre for Feminist Legal Research) believes that "Gender biases are ingrained in the Indian judiciary. There is a lot of resistance to women entering the club of senior advocates and it's a hallmark of the Indian judicial system. This resistance is based on male insecurity. There is also a lot of rampant institutionalized sexism in the legal profession. I think if a man and woman have the same experience and merit when it comes to appointing senior advocates, then the woman should be given equal preference.

¹⁴ Kunal Doley, *In India Inc too, women lawyers setting new bar*, March 6 2015 <http://www.financialexpress.com/article/india-news/in-india-inc-too-women-lawyers-setting-new-bar/220027/>, accessed 14 March 2015

¹⁵The erstwhile Amarchand Mangaldas before it split into two different law firms had a 45:55 gender ratio across the board. Id at para 7

¹⁶*When Leila Seth became a victim of gender bias!*, Apr 23, 2015, (PTI), <http://www.deccanherald.com/content/473366/when-leila-seth-became-victim.html>, accessed 14 March 2016.

This is a kind of affirmative action to correct age old institutional biases against women in the legal profession.”¹⁷ Zia Mody (an eminent lawyer in the field of Corporate Lawyer and Founder of AZB Partners) while sharing her experiences of early days of practice in India says, “Those days were hard. There were hardly any women in the court. The clients didn’t want women lawyers taking up their cases. It was stressful initially. I knew that my seniors as well as clients were not as confident of me as they were of my male counterparts.”¹⁸ Not only the women lawyers or adjudicators themselves but even their male counterparts have also accepted the issue. Justice P. Sathasivam (Former Chief Justice of India) stressed the need to correct the gender ratio in our country in this particular matter too. He moreover stress upon that, “The percentage of women among lawyers continues to be negligible in the Indian Bar even in the 21st Century, women lawyers have a greater role to play in effective administration of justice and are vital for transformation of future society so should be given equal chance to show their aptitude. There is an almost equivalent ratio of women and men in law schools and colleges, but when they move up in the ladder from students to lawyers and then Benches, the number of females in the profession drastically reduces.”¹⁹ Justice M.Y. Eqbal said that, “given their immense talent, enterprise and inherent sensitivity, it was not surprising that women had made their mark in the legal profession and, as a corollary, they had made inroads in the Indian judiciary at all levels, so their respect should be as same as that of male lawyers at Bar or of male judges and for the outside world.”²⁰

If statistical facts are referred regarding women representation in adjudication and lawyering, presently out of **25** sitting Judges of Supreme Court of India including Hon’ble Chief Justice, only **1** is a woman (Hon’ble Mrs. Justice R.Bhanumati).²¹ Out of 24 High Courts presently in India number of women judges in some of the High Courts are: **2 out of 70** total Judges at Allahabad High Court,²² **9 out of 39** total Judges at Delhi High Court²³, **6 out of 43** total Judges

¹⁷Sai Manish, *Can our courts be just to women when they promote so few women?*, Grist Media September 16, 2013, <https://in.news.yahoo.com/can-our-courts-be-just-to-women-when-they-promote-so-few-women--072257488.html>, accessed 14 March 2015

¹⁸ Varsha Adusumilli, *How Zia Mody broke the glass ceiling in the legal profession*, 23 JANUARY 2014, <http://her.yourstory.com/zia-mody-0123>, accessed 14 March 2015

¹⁹ Staff Reporter, *Women lawyers vital for transformation of future society*, The Hindu, Chennai, March 16, 2013, <http://www.thehindu.com/news/national/tamil-nadu/women-lawyers-vital-for-transformation-of-future-society/article4516487.ece>, accessed 14 March 2015

²⁰ Id

²¹List of Supreme Court Judges in India, Supreme Court of India, <http://supremecourtindia.nic.in/judges/judges.htm>, accessed 14 March 2015

²² List Allahabad High Court Judges, <http://www.allahabadhighcourt.in/service/judgeListSeni.jsp>, accessed 14 March 2015

at Calcutta High Court,²⁴ 7 out of 60 total Judges at Bombay High Court,²⁵ out of which only 2 are the Chief Justice of their respective High Courts (Delhi and Kolkata). In the last two decades the Delhi and Mumbai High Courts appointed only three female senior counsels each out of a total of 122 and 81 new senior advocate designations awarded by the courts respectively.²⁶

For an account of female lawyers in India, a data of 2007 has been found out as this was a tough figure to be found out generally. So according to that data, out of 955013 total lawyers registered in State Bar Councils of 20 Indian provinces, only 98556 were female lawyers and the rest were of the opposite gender. While the ratio of the law aspirants appearing in one of most renowned examination is looked upon, CLAT for 2015, for the UG course (B.A, LL.B), 37,358 students appeared, out of whom 20,392 were boys and 16,965 girl students. For PG (LL.M) 4,863 candidates appeared, out of whom 2,292 were boys and 2,571 were girl students.²⁷ There is a close affinity among the number of students appeared for the exam from both the genders in UG level however in PG level female representation is a bit more than that of their male counterparts. So it can be deduced that, while there is no uncanny feeling among the womenfolk of not entering into the legal arena to opt it as a future venture, there are some factors which stop them to probe more as and when they gradually elevate themselves in higher platforms. Gender biasness can be posed as one of the plausible reasons of such diminishing percentage of their presence.

The second issue been highlighted is the conducive working environment. Talking about a healthy environment includes some of the aspects like the freeness to work at a place without physical or mental harassment, proper vicinity and hygienic premises to develop a healthy mental faculty. The matter of mental harassment comes in the picture when the female lawyers face various discrimination on the basis of pre conceived notion of ability and aptitude, inequality in the matter of getting same salary, their breaks in the carrier due to maternity leave taken by them, sometimes denial of promotions in job and sometimes due to

²³ List of Delhi High court Judges, <http://delhihighcourt.nic.in/cjsittingjudges.asp>, accessed 14 March 2015

²⁴List of Calcutta High Court Judges, <http://calcuttahighcourt.nic.in/judges.htm>, accessed 14 March 2015

²⁵ List of Bombay High Court Judges, <http://bombayhighcourt.nic.in/jshow.php>, accessed 14 March 2015

²⁶Kian Ganz & Neha Chauhan, *Exclusive: Only 6 women became senior counsel in two decades but odds slim for all*, Legally India, 08 March 2011, <http://www.legallyindia.com/201103081892/Analysis/exclusive-only-6-women-became-senior-counsel-in-two-decades-but-odds-slim-for-all>, accessed 15 March 2015

²⁷ Staff Reporter, *Martinian clinches all India 6th rank in CLAT*, TNN, May 20, 2015, <http://timesofindia.indiatimes.com/city/lucknow/Martinian-clinches-all-India-6th-rank-in-CLAT/article-show/47349696.cms>, accessed 15 March 2015

their own dwindling behaviour while balancing between their household and their job commitments. Most corporate organisations are unwilling to invest in women's talent. They view maternity leave and benefits as a drain on their resources.

Not surprisingly, 84% of women in law firms and companies rated their employers below average on the parameter of childcare assistance programmes and 74% of them felt their employers fared average and below average in promoting or mentoring women within the organisations.²⁸ Women in litigation don't have the standard 12 weeks of maternity leave, given the structure of court practice, hence to leave their place of work for such a long period of time haunt them that how it will boomerang on them once they come back. According to senior advocate Pinky Anand, "Women in litigation have it harder as they have to face clients, lawyers and judges, most of whom are male, on a daily basis. In a way, they have to confront gender bias at several levels. If a woman raises her voice to make a point, she is discerned to be cantankerous, not assertive. At times, this perception overshadows her merit and results in her being labelled aggressive."²⁹ In corporate sectors, though they primarily assert equality but going deep it is realised that even there women lawyers are many a times intrigued by the issues of marriage and having children, gender bias enter there too at several levels. Most prominently matters like unequal salary, reposing less trust, entrusting unchallenging jobs are at the peak. Questions on marriages or having children are asked very commonly to them which are almost entering into the personal matters being suspicious about their full output at job which is banned in many Countries (its illegal in United Kingdom under Equality Act, 2010).

Sexual harassment on the hand is also not very uncommon episode in the legal world. The term, 'sexual harassment'³⁰ has been widely defined under, "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013". But when the

²⁸Sonal Makhija, *Indian women legal lawyers face many challenges*, <http://www.sunday-guardian.com/analysis/indian-women-legal-lawyers-face-many-challenges>, accessed 15 March, 2015

²⁹ Id

³⁰ Section 2(n) of the Act, 2013 defines;

"sexual harassment" includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely :-

- (i) physical contact and advances; or
- (ii) a demand or request for sexual favours; or
- (iii) making sexually coloured remarks; or
- (iv) showing pornography; or
- (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

word ‘workplace’³¹ is interpreted, Courts strictly doesn’t come under the periphery of the same, hence applicability of the Act becomes feeble over there. Moreover there is no employer-employee relation when it comes to the female advocates who practice. Hence they have to resort to the internal committees framed on the matter. Though now the Supreme Court of India has constituted a gender sensitization committee (Supreme Court Gender Sensitisation and Internal Complaints Committee (GSICC)) which is taking care of sexual harassment matters in the premises. Most high courts all over India however do not have complaints committees which would take up complaints of sexual harassment. Even if they do, they are largely non-functioning. Some of the Court premises in India are challenged with the absence of providing proper sanitation facility to their women advocates which is one of the basic requirements one should get while at work. Moreover, the overcrowded court rooms many a times thwart them towards an uncomfortable surrounding.³²

ETHICS, MORALITY AND WOMEN LEGAL PROFESSIONALS

First, ethics refers to well-founded standards of right and wrong that prescribe what humans ought to do, usually in terms of rights, obligations, benefits to society, fairness, or specific virtues. Such standards are adequate standards of ethics because they are supported by consistent and well-founded reasons. Secondly, ethics refers to the study and development of one’s ethical standard. So it is necessary to constantly examine one's standards to ensure that they are reasonable and well-founded. Ethics also includes the continuous effort of studying our own moral (both beliefs and conducts) and inculcate them in our day to day execution of behaviour. When these behaviours include professional conduct it is termed as Professional

³¹According to Section 2(o), “workplace” includes :-

(i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;

(ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service;

(iii) hospitals or nursing homes;

(iv) any sports institute, stadium, sports complex or competition or games venue. whether residential or not used for training, sports or other activities relating thereto;

(v) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey.

³²Swagata Raha & Sonal Makhija, *India survey: women battle bias in legal profession*, 10 August 2012, The Global Legal Post, <http://www.globallegalpost.com/global-view/india-survey-women-battle-bias-in-legal-profession/>, accessed 15 March, 2015

Ethics and when that if applicable to the people of the Legal profession it is called as Legal Ethics.

In the words of Chief Justice Marshall,³³ “The fundamental aim of legal ethics is to maintain honour and dignity of the Law profession, to secure a spirit of friendly cooperation between the Bench and the Bar in the promotion of higher standards of justice, to establish honourable and fair dealings with the counsel, with his clients, opponent and witnesses and colleagues”.³⁴ Hence it is a well understood fact that the legal world is entirely responsible to maintain the legality, equality, conduct and behavioural aspects of their own stakeholders as well as of the common. So, if people belonging to the fraternity discriminates among themselves then the ultimate objective will be diminished somewhere, which is then not be a decorum for an ideal form of professional ethics. Hence, to achieve the highest objective for which law is embedded in any civilized society, i.e. administration of justice can only be achieved if discrimination on any basis is avoided and attention is only towards achievement of the best taking everyone together. Sometimes it has also been accepted by the women lawyers (specially who practice in Courts) themselves that, they can't give their complete output towards their profession when there arises a requirement to fit in both of her professional and family responsibilities, that is to be dealt not casually because sometimes that casualness brings unfortunate results unwelcomed by them shattering their career in many cases. So ethics and morality is something above any biasness whatsoever which should be followed by those who are entrusted to see and safeguard the society form any sort of discrimination as a whole.

CONCLUSION

The above parts of the article has elaborately dealt with various aspects of presence of feminine legal professionals, inequality and discriminatory behaviour towards them and consequential problems faced by them due to such discriminations but, still the participation of women in this profession is commendable. She has stretched the ceiling with her undaunted efforts to make a dignified position in all the aspects of legal profession independent of its nature and risks involved with it. Now there are numbers of successful

³³ 4th Chief Justice of United States Supreme Court

³⁴ Lecture by Hon'ble Mr. Justice F.M. Ibrahim Kalifulla (Former Judge Supreme Court of India), Inaugural function of Workshop for Young Lawyers on Professional Conduct, Tamil Nadu Judicial Academy, 15 December 2013

women legal professionals in every area whether it is litigation or corporate firms, judiciary or legal aid, research or academics and many others in the field of law.

Efforts for their protection have also been designed at different levels to provide a sense of security against any sort of discrimination faced by them. Initiatives like, Society of Women Lawyers-India (SOWL), All India Federation of Women Lawyers, has been set up to improve interaction of women lawyers at national level. In addition to it there are several fora by which they can interact with their International colleagues. As mentioned above Supreme Court has setup a Committee to look after the gender sensitizational issues for protecting the right to work in a safe environment and most of the High Courts have followed it by improving their women cell and setting up such committees which will take care of the grievances put forward by the female lawyers. After Vishakha Case and Consequential Act of 2013, Indian employers whether in Private or Governmental Organisations are very much aware of their accountability to provide a safe and secured environment to their female employees. Now, the society has come a long way ahead of those days when people like Cornelia Sorabji has to fight alone in a male dominated world. People of feminine gender has to prove nothing new to make the world understand what they can achieve if they want to. Hence the ideal form of ethics and morality in legal profession should always focus towards achieving and establishing justice and legality in the society instead of indulging in discrimination and unnecessary apprehensions towards any gender without specific grounds. Every single legal professional should be judged not on their sex but on their output and nobility towards the profession which is regarded as one of the epoch service to the mankind. That is one of the ways to achieve an idealistic form of ethics and morality in legal profession.