

EDITORIAL

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Addressing Gender Disparity in the Indian Judiciary: Challenges and Reforms

General Studies Paper 1 (GS1): Indian Society- Role of Women and Women's Organizations

Introduction

The **Indian judiciary** faces a significant **gender imbalance**, especially at higher levels. Despite improvements in **entry-level recruitment**, women remain underrepresented in **High Courts** and the **Supreme Court**. This lack of representation is not just a structural issue; it reflects a broader **societal imbalance** and impedes a balanced approach to justice, as a judiciary inclusive of **diverse perspectives** is essential for fair and comprehensive justice delivery.

Statistics on Gender Representation (2023):

1. Supreme Court:

- Women judges make up only **9.3%** of the total.

2. High Courts:

- Only **13.4%** of judges are women.
- **Some states** either have no women judges or only one.

3. District Courts:

- **36.3%** of judges at the district level are women, indicating better representation at **lower echelons** but limited progression to higher levels.

Challenges in the Legal Profession

Women face various **structural and societal barriers** in the legal field, making it difficult for them to sustain and advance in their careers. These challenges hinder their **career progression**, causing a "funnel effect" that limits the pool of female candidates available for **higher judicial appointments**.

Key Challenges:

1. Establishing Presence in Legal Profession:

- **Advocates:** Women account for approximately **15.31%** of advocates.

- **Senior Advocates and Bar Council Representation:** Women have minimal representation as **senior advocates** or **Bar Council members**, further narrowing their prospects for judicial appointments.
 - **Funnel Effect:** The low percentage of female advocates and senior roles restricts the number of women eligible for higher judiciary roles.
2. **Retention Issues:**
- **Transfer Policies:** Current policies often disregard women's **family responsibilities** and lead to **frequent relocations**, disrupting career continuity.
 - **Support Structures:** Limited access to **mentorship**, **networking opportunities**, and **infrastructural support** discourages career growth.
3. **Infrastructural Shortcomings:**
- **Basic Facilities:** Many district courts lack **basic amenities** such as **dedicated washrooms** for women judges and lawyers.
 - **Family Support Facilities:** Essential facilities like **crèches** or **feeding rooms** are largely unavailable, creating hurdles for women balancing family and work responsibilities.
4. **Economic Barriers:**
- **Lower Starting Income:** Women lawyers often earn less at the start of their careers, which can dissuade them from investing in higher studies or establishing a practice.
 - **Lack of Institutional Support:** Benefits like **maternity leave**, **stipends**, and **financial assistance** are often unavailable, making it financially challenging for women to establish a foothold in the legal profession.

Policy Gaps and Systemic Hurdles

Entry-Level Challenges:

- **Judicial Service Rules:** Many states mandate **continuous practice** for judicial roles, disadvantaging women who take **career breaks** due to **family obligations**.

Retention Issues:

- **Transfer Policies and Support Structures:** Lack of **gender-sensitive transfer policies** affects the retention of women, especially in **higher judiciary roles**.

Social Expectations and Cultural Norms:

- **Primary Caretakers:** Women are often seen as primary caregivers, which limits their ability to pursue demanding roles.
- **Flexible Work Options:** Limited options for **part-time** or **flexible schedules** exacerbate challenges for women.

Public-Private Divide and Gender-Specific Needs

The concept of the **public-private divide**, proposed by **Carole Pateman**, illustrates the challenges women face when moving into **public spheres** like the judiciary, traditionally dominated by men. This divide

highlights that existing policies often do not address the **specific needs** of women, particularly in the judiciary, where **gender-sensitive infrastructure** and **policies** are still inadequate.

Gender-Specific Policy Needs:

- **Recognition of Unique Requirements:** Women need policies that understand their dual roles in society.
- **Policy Gaps:** The absence of **supportive structures** in the public domain amplifies **gender inequalities**.

Broader Impact on Justice Delivery and Societal Perceptions

1. Gendered Perspective in Judgments:

- **Limited Female Voices:** When fewer women serve as judges, the judiciary misses out on valuable **gender perspectives**, particularly in cases related to **women's rights, family law, and sexual harassment**.

2. Public Trust and Representation:

- **Diverse Judiciary:** Greater diversity promotes **public trust** by making the judiciary representative of a **broader spectrum** of society.

3. Role-Model Effect:

- **Inspiration for Aspirants:** More women in the judiciary creates role models for young female law aspirants, promoting a culture of **gender inclusivity**.

Female-Centric Judiciary Policies

A **female-centric approach** to policy-making, sometimes referred to as the "**female gaze**," can help address indirect **gender biases**. This approach involves creating policies and infrastructure that **acknowledge and accommodate** women's unique needs in the workplace.

Proposed Reforms:

- **Flexible Work Hours:** To support women who balance work and family responsibilities.
- **Gender-Sensitization Programs:** To address **unconscious biases** within the judiciary.
- **Women's Legal Associations and Mentorship Programs:** Encouraging mentorship for **professional development**.

Global Comparison and Best Practices

Countries such as the **United Kingdom** and **Canada** have implemented various **gender-inclusive policies** that provide structural support for women, which India could look to as models:

1. **Flexible Work Hours:** To enable a better work-life balance.
2. **Gender-Sensitization Training:** Mandatory training in these countries helps create an inclusive environment.
3. **Gender-Representation Mandates:** Judicial bodies are encouraged to maintain a **gender balance** at all levels, ensuring that women are fairly represented.

Prioritizing Women-Centric Needs in Judiciary

Infrastructural Support:

- **Building Committees:** Representation of women on **judicial building committees** to address the **infrastructure needs** of women.

Policy Reforms:

- **Reducing Practice Requirements:** To accommodate women who may have taken breaks.
- **Gender-Sensitive Transfer Policies:** Flexible policies that help maintain **career continuity** for women.

Training and Support:

- **Gender-Sensitization Training:** In judicial academies to reduce unconscious bias.
- **Family-Friendly Judicial Spaces:** Facilities like **childcare and nursing centers** in court premises.

Conclusion

Achieving **gender parity** in the judiciary is essential for a fair and representative justice system. By reforming **entry-level and retention policies** and providing **infrastructure** that accommodates women's needs, the judiciary can become a more inclusive institution. This will not only **empower more women** to join and remain in the judiciary but will also ensure that **diverse perspectives** are included in judicial decision-making, fostering **justice and equality**.

MAINS QUESTION

A judiciary that lacks gender diversity may fall short of delivering balanced justice." Critically analyse this statement with reference to the impact of women's perspectives in judicial decision-making.