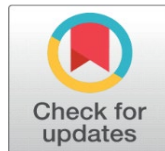


THE CONTRIBUTION OF WOMEN ON JUDICIAL DECISION-MAKING IN THE INDIAN JUDICIARY

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ABSTRACT

Women's involvement to the Indian judiciary's making of decisions has been pioneering and continues to progress. In count to expanding their number in the courts, female judges take had a major influence on constitutional law over time, especially regarding gender justice and rights. Their decisions reflect the importance on social justice, equality, and preserving women's rights in a patriarchal culture. By examining their impact on landmark decisions, especially those related to women's rights, gender justice, and progressive changes in the law, this article examines the critical part played by female judges in the Indian court. Understanding how women have shaped the constitutional framework and challenging traditional one's patriarchal interpretations of the law is critical to understanding how the judicial system is changing. However, despite their significant, challenges like resistance, underrepresentation, and gender bias remain prevail. With an emphasis on noteworthy judgments, judicial perspectives, and the ongoing difficulties played by female legal professionals, this article provides an in-depth study of their achievements in law. Gender balance and a gender equitable work environment in the judiciary is beneficial and important for improving fairness, legitimacy and quality of the judiciary, reducing barriers in women's contact to justice, and bringing women's voice and perspective to the bench. Noting gender gaps at the higher echelons of judgeship positions that persist partly due to unfavourable and non-transparent nomination and promotion systems, heavy workloads with a lack of family-friendly schemes, lack of political will, and persistent stereotypes and taboos, this chapter focuses on various measures to enhance gender equality of judiciaries. To achieve this, steps must be taken to recruit, retain, and advance men and women from a variation of backgrounds into judicial careers; create a thorough framework for gender equality in judicial decision-making; and track the results of gender equality programs in the judiciary.

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Keywords: Indian Judiciary, Women, Gender Justice, Law, Judicial Decision-Making, Etc

1. INTRODUCTION

Women have traditionally remained underrepresented in India's judiciary. That women have been categorised against through history is no secret. Across cultures, gender discrimination has stymied women's economic participation and progress. Women historically could not enroll or practice law because society deemed the profession unsuited for women.¹ Women's representation in the court's ruins disproportionate to their man equivalents. As of now, the number of women in the Indian judiciary remains to be limited. The Indian judiciary has developed over the years through a dynamic interplay of historical traditions, legal reforms, and societal changes. One of the major developments in recent

¹ Rano Devi Gupta, Advent of Women in the Profession of Law, ALLAHABAD HC, <http://www.allahabadhighcourt.in/event/AdventOfWomenInTheProfessionMrsRDGupta.pdf>

decades has been the growth in the number of women serving as judges. The presence of womankind in India has started to transform judicial decision-making and encourage the development of gender equality. This article explores the impact of women judges on the judicial landscape, highlighting their role in shaping legal interpretations and fostering equality to gain women and men. The Preamble, Fundamental Rights, Fundamental Duties, and Directives of the Indian Constitution Principles, upholds the opinion of gender equivalence. It not only ensures women's equivalence but moreover empowers the State to enact laws that support positive discrimination against men. Various laws, development strategies, plans, and programs have been designed to promote women's progress within a democratic society.

Due to legal reforms and broader shifts in socioeconomic status, women's status in India's judiciary has significantly evolved over time. In pre-colonial India, women were mainly barred from official legal responsibilities.

The Indian legal system started to take shape during the British colonial era when official courts and legal frameworks were established. Legal reforms and broader shifts in socioeconomic status have had an important influence on the representation of women in the Indian judiciary over time. In India, Cornelia Sorabjee fought the historic battle to become the first woman graduate at Bombay University and later at Oxford University in 1892 where she studied for a Bachelor of Civil Law (BCL).² However, she failed to acquire her degree from Oxford until 1920.³

More women entered the legal field in the early 20th century. This period also marked the outset of greater societal acceptance of women toward legal roles.⁴

Before gaining independence, India complete substantial improvements for a gender neutral in the judiciary, which is consistent with a broader commitment to preserving the justice and equity guaranteed by the constitution. The foundation for the continued advancement of equal prevalence of women in the Indian judiciary was established in 1950 with the adoption of the Constitution of India and its progressive implementation over the years that followed. The adoption of the Indian Constitution in 1950 laid a solid basis for gender equality. The Constitution's Articles 14 and 15 are important in this regard. Every person, regardless of gender, is guaranteed equality before the rule and equal protection under it under Article 14. An egalitarian approach inside the judicial system and other public domains is made possible by these principles. Gender equality was not immediately implemented in the judiciary, despite these constitutional guarantees.

The Constitution of India guarantees equality with the regulation and prohibits discrimination based on sex. However not until the 1960s that women began to be appointed to significant judicial positions. The female legal trailblazers paved the way for Anna Chandy in 1937 to become the first Malayalee woman appointed as the First Grade Munsiff.⁵ Chandy was the first woman to enroll in Law College at Travancore; she braved the mockery of male colleagues and professors while studying there.⁶ Chandy later became the first woman HC judge, in 1959.⁷ In 1968, Anna Chandy developed the first woman judge of a High Court, serving in the Kerala High Court.⁸ Anna Chandy's appointment was a landmark event, as it demonstrated a gradual shift towards recognizing and embracing the capabilities and contributions of females in the judiciary. Chandy's career paved the way for greater gender inclusivity in the Indian legal system. It is

² Cornelia's admission and completion of her degree at Oxford became the watershed event that contributed to the women's suffrage movement in Britain. Not only was she the first Indian woman, but she was the first woman period to study at Oxford. See Joe Sommerlad, Cornelia Sorabji: Who was India's First Female Lawyer, THE INDEPENDENT (Nov. 15, 2017), <https://www.independent.co.uk/news/world/asia/cornelia-sorabji-india-female-lawyer-first-woman-google-doodle-feminism-oxforduniversity-a8055916.html>.

³ Prof. Louise Richardson (V.C., Univ. of Oxford), when moderating a panel discussion organized by the Vidhi Centre for Legal Policy in Delhi to address concerns of gender diversity in the Indian judiciary, acknowledged the discrimination faced by Cornelia Sorabjee when she became the first woman to study the law at Oxford. She explained how Cornelia had to have special permission to attend lectures, visit the library, and take exams. She further discussed how Cornelia was denied a scholarship to study at Oxford as they were historically awarded only to men. VIDHI CTR. FOR LEGAL POLICY, Women in Legal Profession, YOUTUBE (Oct. 11, 2018), <https://www.youtube.com/watch?v=6P0JcXbpbic>.

⁴ Shylashri Shankar, *Gender and Legal Reform in India* (Oxford University Press, 2008), p. 78.

⁵ K Parameshwar & Medha Damojipurapu, The Pioneer from Travancore- Justice Anna Chandy, 42 THE INDIAN ADVOCATE: J. BAR ASS'N OF INDIA-WOMEN AND L. 212-222 (2018).

⁶ Parameshwar & Damojipurapu, *supra* note 35, at 214. Anna Chandy had radical ideas on issues concerning women's autonomy and liberty, and rights of the accused. She actively advocated for women's reproductive rights, promoted the use of contraception, and supported equal employment opportunities for women. Id.

⁷ Former Judges, KERALA HC, <http://highcourtofkerala.nic.in/fmrjudges.html> (last visited on September 2024).

⁸ V. K. Ahuja, *Landmark Judgments of the Indian Supreme Court* (Vikas Publishing House, 2003), p. 102.

possible that she was the first female higher-court judge in the Anglo-Saxon world.⁹ The 1970s and 1980s witnessed increasing representation of women in the judiciary. In 1989, M. Fathima Beevi was named the Supreme Court of India's first woman judge, marking an important momentous in the history of Indian judiciary.¹⁰

These developments likely helped lead to Fathima Beevi's appointment as the first female SC judge in any Asian nation in 1989.¹¹ While the removal of structural barriers—along with the evolution of the rights outlook and emergence of check instruments to combat discrimination—helped more women come into the Indian judiciary, bias did not disappear completely; its nature just changed. Patriarchal approaches and insights have evolved but not vanished. Gender bias now manifests in covert structural barriers—the rules and norms for judicial appointment that are indirectly gender-biased in their operation.¹² Implicit bias means a person's subconscious prejudices may not even be apparent to them. These partialities control without the person's active responsiveness, purpose, or knowledge.¹³ This prevents the person from recognizing and mitigating the method of their biases based on stereotyped characteristics of race, ethnicity, age, gender, and appearance.¹⁴ An individual must constantly contest their own ideas about society considering social and empirical realities to recognize and moderate their own biases.

2. MILESTONES AND PROGRESS

2.1. FIRST FEMALE HIGH COURT JUDGE ANNA CHANDY

Justice Anna Chandy (1905–1996), also called Anna Chandi, was India's first female judge was an Anglican Syrian Christian who embraced Catholicism, in later life. After obtaining a post-graduate degree from Government Law College, Thiruvananthapuram in 1926, she became the first woman in her state to get a law degree. After being called to the Bar, she began practicing law as a barrister in 1929.

In 1937, Chandy was appointed as a munsif in Travancore by the Maharaja upon the advice of his Dewan (First Minister), Sir C.P. Ramaswami Iyer. This made Chandy the first female judge in India. In 1948, She was promoted to the position of District Judge in 1948. She remained in that office till her retirement on 5 April 1967. Chandy wrote an autobiography called *Atmakatha* (1973) and served on the Law Commission of India after retiring. Chandy advocated for women's rights throughout her career as a judge, lawyer, and politician. She did this most prominently by founding and editing a women's magazine. *Often described as a "first generation feminist", In 1931, Chandy, who is frequently referred to as a "first generation feminist," ran for the Shree Mulam Popular Assembly.*

2.2. FIRST FEMALE SUPREME COURT JUDGE

Justice Fathima Beevi, the first woman Supreme Court judge appointed in 1989, was among the early pioneers who noticeable an important turning point in the way women are often seen in the highest levels of the legal system.

Born in Pathanamthitta, Kerala, on April 30, 1927, Ms. Justice M. Fathima Beevi was raised by her mother, Khadeeja Bibi, and father, Mr. Meera Sahib. On November 14, 1950, the student enrolled as an advocate after earning a B.Sc. from University College in Trivandrum and a B.L. from Law College in Trivandrum at Catholice High School in Pathanamthitta.

Although there are still issues, The figure of females in the judiciary has increased in recent decades. By 2024, Women will possess important serves toward the judiciary, including at the Supreme Court and several High Courts.

⁹ Rupsha Bhadra & Debroop Basu, Manu and the 'Muse', THE TELEGRAPH (June 4, 2016), <https://www.telegraphindia.com/entertainment/manu-and-the-39-muse-39/cid/1421377>.

¹⁰ Arvind Verma, *The Evolution of Indian Judiciary* (HarperCollins, 2012), p. 134.

¹¹ Beevi, Muslim woman to rise to any higher judicial level in India. See Apoorva Mandhani, India's First Female Supreme Court Judge, Justice Fathima Beevi, Turns 90, LIVE LAW (May 1, 2017), <https://www.livelaw.in/indias-first-female-supreme-court-judge-justice-fathima-beeviturns-90/>.

¹² Kang, *supra* note 5. The Implicit Assessment Test (IAT) was developed by Harvard University to help identify implicit biases. A person can take the test and determine their biases, to observe them and ideally prevent their future operation. Project Implicit, HARVARD UNIV., <https://implicit.harvard.edu/implicit/education.html> (last visited October 2024); see also Understanding Implicit Bias, OHIO STATE UNIV., <http://kirwaninstitute.osu.edu/research/understanding-implicit-bias/> (last visited on August, 2024).

¹³ Halilovic' & Huhtanen, *supra* note 9, at 1.

¹⁴ *Id.*

Women's representation in higher judicial positions and gender equality in legal practices are continuous efforts.¹⁵ Recent notable appointments include Justice Indira Banerjee and Justice B.V. Nagarathna, who have made immense efforts to Indian jurisprudence, are recent notable appointments. steady progress made toward gender equality. Justice Nagarathna's potential future prospective appointment as India's Chief Justice serves as a reminder of the overtime though gradual advancement for gender parity.¹⁶

In the history of women's contribution in the Indian judiciary, there have been significant revolving points. Women now hold a variety of positions in the judiciary, ranging from district courts to the Supreme Court, which reflects a growing commitment to gender parity.

3. PROMINENT WOMEN JUDGES

3.1. JUSTICE INDIRA BANERJEE¹⁷

Justice Indira Banerjee was born on September 24, 1957, and attended Presidency College, which is affiliated with Calcutta University, to obtain a bachelor's degree in history with honours after passing the Indian School Certificate Examination at Loreto House in Calcutta. On February 5, 2002, she was named a Calcutta High Court permanent judge. She was nominated by India's Chief Justice in July 2013 to participate in a week-long Judicial Administration training at Singapore's Civil Services College. On August 8, 2016, she obtained an appointment as a judge of the Delhi High Court, where she assisted the State Legal Services Authority, Delhi as a chair. She was solely designated as the Madras High Court's Chief Justice on April 5, 2017, and On April 5, 2017, she was on oath in as the Chief Justice of the Madras High Court. On August 7, 2018, she was raised to the position of Supreme Court. On September 24, 2022, she was set to retire on September 24, 2022.

3.2. JUSTICE HIMA KOHLI¹⁸

Justice Kohli, who was born in Delhi on September 2, 1959, received her early education at St. Thomas School before pursuing her history degree at St. Stephen's College, University of Delhi. In addition to advising numerous organizations, including the Delhi Pollution Control Committee and the Public Grievances Commission, on legal issues, Justice Kohli has examined a vital impact in several public interest cases. She has served in prominent capacities, including as a member of the Editorial Committee of Nyaya Deep and the General Council of the West Bengal National University of Juridical Sciences in Kolkata. As Chairperson, she has led several committees, including those of the Delhi Judicial Academy and a High-Powered Committee for jail decongestion during the COVID-19 pandemic. Her commitment to justice is further reflected in her roles as Executive Chairperson of the Delhi State Legal Services Authority and as Chairperson of the Delhi High Court Middle Income Group Legal Aid Society. She has also existed a member of the Governing Council of the National Law University and has served on various administrative and supervisory committees of the High Court. Justice Kohli's contributions to promoting mediation, environmental preservation, and resolution. On January 7, 2021, she was affirmed in as the Chief Justice of the High Court for the State of Telangana, and subsequently, on August 31, 2021, she was selected as a The Supreme Court judge of India. Additionally, she serves as the Chancellor within the National Academy, (NALSAR), Hyderabad.

3.3. JUSTICE BELA TRIVEDI¹⁹

Born on June 10, 1960, in Patan, North Gujarat, she had a varied schooling experience due to her father's transferable judicial service. She pursued her B. Com – LLB from MS University, Vadodara, and practiced as a lawyer specializing in Civil and Constitutional law at the Gujarat High Court for about a decade. She was directly appointed as a judge at the City Civil and Sessions Court in Ahmedabad on July 10, 1995, which is a significant event noted in the Limca Book of Indian Records for having a father and daughter judge in the same court. Her judicial career saw her in various roles, including Registrar – Vigilance at the High Court, Law Secretary for the Government of Gujarat, and Judge for CBI

¹⁵ Neha Dhingra, *The Judicial Appointment Commission: An Analysis* (SAGE Publications, 2019), p. 89.

¹⁶ R. K. Gupta, *Women Judges and the Law: Indian Perspectives* (Deep & Deep Publications, 2021), p. 156.

¹⁷ <https://www.sci.gov.in/judge/justice-indira-banerjee/> (last retrieved on 06/08/2024)

¹⁸ <https://www.sci.gov.in/judge/justice-hima-kohli/> (last visited on August, 2024).

¹⁹ <https://www.sci.gov.in/judge/justice-bela-m-trivedi/> (last retrieved on 06/08/2024).

court and Special Judge for bomb blast cases. On February 17, 2011, she was promoted to the Gujarat High Court. In June 2011, she was moved to the Rajasthan High Court, where she remained benched in Jaipur until her return to Gujarat in February 2016. She succeeded to the office of Supreme Court of India on August 31, 2021, after continuing to serve at the Gujarat High Court. She is set to retire on June 9, 2025.

3.4. JUSTICE B. V. NAGARATHNA²⁰

Born on October 30, 1962, in Bengaluru, she finished her B.A. (Hons.) in History from Jesus and Mary College, Delhi University, in 1984 and obtained her LL.B. degree from Delhi University, in July 1987. Beginning her legal career at KESVY & Co., Advocates in 1987, she started independent practice in July 1994 and continued until her elevation judge of the High Court of Karnataka in 2008. Her practice covered a broad spectrum, including administrative, constitutional, commercial, and family law. She also represented the State Legal Services Authority of Karnataka and served as Amicus Curiae in several cases. She has selected as an Additional Judge of the Karnataka High Court on February 18, 2008, and declared as a Permanent Judge. On February 17, 2010, she held notable positions such as President of the Karnataka Judicial Academy and President of the Bangalore Mediation Centre. She contributed to the book “Courts of India” by the Supreme Court, specifically the chapter on Karnataka courts, and chaired the committee for the Kannada translation of the book released in April 2021. Later she promoted to the Supreme Court of India in 2021, she is set to retire on October 29, 2027.

3.5. JUSTICE R. BANUMATHI²¹

A native of Tamil Nadu, Justice R. Banumathi was born on July 20, 1955. She became an advocate on January 7, 1981, and started working in the Mofussil Courts of Tirupattur, Krishnagiri, and Harur. On January 7, 1981, she was admitted as an advocate and began serving in the Tirupattur, Krishnagiri, and Harur Mofussil Courts. On April 3rd, 2003, she was promoted to the High Court of Madras. She played a critical part in the State Judicial Academy during her tenure as president and person in the Board of Governors, assisting in the development of organized training programs for judicial staff and officers. She wrote the “Handbook of Civil and Criminal Courts Management and Use of Computers,” which was a useful manual for judicial ministerial staff and the District Judiciary. From July 15, 2013, she served as the Executive Chairman of the Tamil Nadu State Legal Services Authority and was Chairman of the High Court of Madras Legal Services Committee from February 21, 2011, to January 20, 2012, actively engaging in legal services and organizing Lok Adalats. On November 16, 2013, she was sworn in as the Chief Justice of the Jharkhand High Court, where she significantly improved the infrastructure of the District Judiciary and addressed staff vacancies. On August 13, 2014, she continued her illustrious career and lifted to the Supreme Court of India.

3.6. JUSTICE INDU MALHOTRA²²

Justice Malhotra was born in Bangalore on March 14, 1956. She attended Carmel Convent School in Delhi. She received a bachelor's and master's Political Science degree from Delhi University and a post-graduate diploma in Corporate Laws and Secretarial Practice, she started her career as a Political Science lecturer. She received the Mukesh Goswami Memorial Prize in 1988 after obtaining her L.L.B. as an advocate in January 1983 and becoming an Advocate-on-Record in 1988. In 2007, the Supreme Court appointed her as the second female Senior Advocate. She attending Carmel Convent School in Delhi. and Delhi University with a bachelor's and master's degree in political science. Before switching to law and earning has assisted as an arbitrator for several organizations and specializes in arbitration.

4. CONTRIBUTION OF WOMEN ON JUDICIAL DECISION-MAKING

Although they may be a minority in the Indian judiciary, the iconic judge in rendering landmark decisions that changed India—known as the Guardians of the Indian Constitution—have had a major influence on issues like reproductive rights and workplace safety. In India's democratic culture, the Constitution is a hallowed text that embodies

²⁰ <https://www.sci.gov.in/judge/justice-b-v-nagarathna/> (last retrieved on 06/08/2024).

²¹ <https://www.sci.gov.in/judge/justice-r-banumathi/>

²² <https://www.sci.gov.in/judge/justice-indu-malhotra/>

the values, aspirations, and guiding principles of the country. As guiding principles, values such as justice, liberty, equality, and fraternity are protected in the Indian Constitution, which was prudently drafted with deliberation for all facets of society's citizens. The Indian judiciary is responsible for protecting the Indian Constitution. Often referred to as the third pillar of Indian democracy, the judiciary is important to upholding the rule of law and guaranteeing the authenticity of this holy text. As the vigilant guardian of the Constitution against shifting social norms, challenges, and aspirations, the judiciary interprets the Constitution's provisions and selects cases that come up within its constitutional framework. The judiciary is one of the most honourable professions because people turn to it as a last resort afterwards to the other institutions have failed. Consequently, the public expects the temples of justice to uphold the same principles that the courts set forth for the nation. Historically, men have held a dominant position in the judiciary. However, more women are advancing to the top divisions of the judiciary, marking a slow change in India's legal system. The interpretation and maintenance of the Indian Constitution have had significantly impacted by these prominent jurists, who are well-known for their discernment, moral character, and dedication to justice. These outstanding Indian women judges, who hold the country's founding document in their hands, have played an integral part in shaping the course of justice and furthering the cause of equality. To guarantee everyone's safety and security in the community, they have engaged in protracted combat. They are serving as the ray of hope that justice will prevail no matter how difficult the journey²³.

Several of India's most significant female judges throughout the years. They have ruled over important cases and a key role in rendering historic rulings that have changed the face of India. Important legal rulings have benefited greatly from the efforts of female judges, especially in the fields of social justice, human rights, and gender equality. Among the most noteworthy contributions are:

1. Vishakha v. State of Rajasthan (1997): In this historic ruling, Justice Sujata V. Manohar established the rules for preventing sexual harassment in the workplace. It emphasized the need for a legal framework to protect women's dignity and rights in professional settings, filling the gap until formal legislation, such as the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, was enacted.

2. Shayara Bano v. Union of India

The Supreme Court stated that the exercise of triple talaq, or instantaneous divorce, was unconstitutional in Shayara Bano v. Union of India.²⁴ This landmark ruling addressed Whether the exercise of direct triple talaq and was delivered by a bench that included Justice Kurian Joseph. The ruling established a precedent for legal changes intended to safeguard women's rights in personal law contexts and represented a changing understanding of gender rights. Triple talaq was stated unconstitutional by the Supreme Court, which was backed by most of the bench. The first woman to advocate for religious freedom and stress that practices that harm women should not be permitted was Justice Indu Malhotra. Her dissenting opinion represented a careful balance between personal laws and constitutional rights.

3. Shah Bano Case (1985): In this instance, the **Supreme Court** delivered a controversial judgment regarding maintenance for divorced Muslim women. The judgment, supported by Justice **Jeevan Reddy**, highlighted the significant of women's economic rights within the Muslim personal law. The case brought national attention to the intersection of religion and women's rights and led to the **Muslim Women (Protection of Rights on Divorce) Act, 1986**.

4. Common Cause v. Union of India-The Supreme Court of India affirmed the Right to an honourable demise in Common Cause v. Union of India²⁵, holding that people have the right to decline medical treatment and, in certain cases, choose passive euthanasia. An important part of this case was played by Justice D.Y. Chandrachud, a gender justice advocate, who recognised women's rights to equal participation in the workplace and made sure that employment laws took gender sensitivities into account.

5. WOMEN JUDGES IN GENDER-SENSITIVE LEGAL AREAS

Women judges are often more attuned to issues concerning sexual violence, domestic abuse, and gender discrimination. They have brought empathy, understanding, and a deeper awareness of societal challenges when

²³ <https://www.womenentrepreneursreview.com/viewpoint/experts-column/republic-day-6-iconic-women-judges-who-delivered-landmark-verdicts-nwid-4617.html/>

²⁴ AIR, 2017, 9 SCC 1.

²⁵ AIR, 2018, 5 SCC 1

interpreting laws relevant to women's rights. The Indian Supreme Court addressed the application of the law, applicability of justice in nature principle in this ruling statutory power limitations, and the Justice **Fathima Beevi**²⁶ allowed J. Jayalithaa to become Tamil Nadu's chief minister within eight months of her conviction in the **TANSI** land transaction charges. Those found guilty of these crimes usually have their ability to run for office banned for six years. The manner that in the Representation of People Act is interpreted and rights of those found guilty in criminal cases were at issue in this decision, which made it notable.

Domestic Violence Cases: Justice Gyan Sudha Misra, known for her work in women's rights, has authored significant judgments related to **domestic violence** and **dowry deaths**, ensuring that laws meant to protect women were implemented more effectively.²⁷

Justice Leila Seth²⁸ Her strong commitment for equality was demonstrated by her leadership in changing the Hindu Succession Act to ensure daughters' equal inheritance rights of the family property. In *Shakuntala Kumari v. Om Parkash Ghai*, Justice Leila Seth's decision said that a wife's threat of suicide can be construed as being unkind to her husband. In the landmark case of *NG Dastane v. S Dastane*, another bench used the same logic and concluded that a wife is being cruel to her husband with the intention of murdering herself. After the 2012 Delhi rape case, the UPA administration formed the Justice JS Verma Committee, of which Justice Leila Seth was an essential part. After the Committee rejected the hollowing of the 2012 Delhi rape case, the UPA administration formed the Justice JS Verma Committee, of which Justice Leila Seth was an important member. accepted the death sentence and chemical castration as anti-rape tactics. Justice Seth made a significant impression by advocating for Hindus' equal succession rights. All generations were inspired by her efforts to empower women and show off her enormous impact in the legal and humanitarian spheres. The ruling in *S. R. Batra v. Smt. Taruna Batra*²⁹, which addressed marital duties and property rights, illustrated how gender-justice viewpoints shape legal judgments.

Rape and Sexual Violence: Women judges have often been involved in framing a more sensitive judicial approach to sexual violence cases. For instance, **Justice R. Banumathi** has contributed to cases that advocate for the swift prosecution of sexual violence cases, recognizing the trauma and the social stigma faced by victims. Justice R. Banumathi's decisions on matters such as marital rape and dowry death. For example, the development of gender-sensitive legal frameworks has been greatly aided by Justice R. Banumathi's decisions on matters such as marital rape and dowry death.

Empathy and Social Justice: A Gendered Perspective

Women have contributed to judicial decisions by incorporating a gendered perspective, focusing not only on the legal aspects but also the social context. This shift helps address certain requirements and problems faced by marginalized groups, particularly women.

Social Justice Jurisprudence: Female judges have helped shape India's legal landscape by promoting **social justice**. They have often focused on **affirmative action**, guaranteeing that underrepresented groups, such as women and the poor, are given opportunities to participate equally in society.

Poverty and Gender: In several cases, **Justice Ruma Pal** and **Justice Sujata V. Manohar** addressed how poverty and gender intersect, making certain that the rights of impoverished women were not overlooked by legal frameworks that often fail to account for the socio-economic status of victims.

Justice Indu Malhotra,³⁰ throughout her tenure at the Supreme Court, she has issued a sum of important decisions. Her decisions are well-known for their thoroughness, clarity, and shortness.

I. Streamlining Provisions of Affirmative Social Justice

Rajnesh v Neha, (2021) 2 SCC 324.

²⁶ <https://www.womenentrepreneursreview.com/viewpoint/experts-column/republic-day-6-iconic-women-judges-who-delivered-landmark-verdicts-nwid-4617.html/>

²⁷ Domestic Violence and Dowry Deaths: Legal Interpretation in India," *Journal of Gender and Law*, Vol. 12, No. 3 (2005).

²⁸ <https://www.barandbench.com/columns/women-of-the-indian-judiciary-justice-leila-seth>

²⁹ AIR, (2007) 3 SCC 169

³⁰ <https://www.scobserver.in/journal/j-indu-malhotras-9-most-significant-judgments/>

Jarnail Singh v Lachhmi Narain Gupta, (2018) 10 SCC 435.

II. Liberty and Criminal Law

Two significant rulings rendered early in Justice Malhotra's tenure set liberty as an important worth that the criminal code could not obstruct.

Navtej Singh Johar v Union of India, (2018) 10 SCC

Joseph Shine v Union of India, (2018) 2 SCC 1

Equality, Minorities, and Religion as Competing Rights.

Important subjects including the harmonizing of inconsistent constitutional rights stayed also fingered by Malhotra J.

The sole transformation of view in the Sabarimala Temple Entry case was brought by Malhotra J.

Indian Young Lawyers' Association v. State of Kerala. (2018) 11 SCC 99

Andhra Kesari College v AP, (2004) 6 SCC 678

III. On Enforcement of Arbitral Awards

Malhotra J. had served as a strong representative in numerous arbitration cases.

***Bharat Sanchar Nigam Ltd v Nortel Networks India*, (2021) 8 SCC 769.**

***Government of India v Vedanta Ltd & Ors.*, (2022) 5 SCC 636.**

The internal panel as Malhotra J leaves, her contemporaries have acclaimed her, with Justice Chandrachud calling her an 'icon'. Women are still notably underrepresented in positions of decision-making, even though their participation in public life has increased. In fact, a relatively small number of women have been, or are part of, the judiciary, particularly at senior judicial leadership positions. Women's representation in the judiciary is key to ensuring that courts represent their citizens, address their concerns and hand down sound judgments. They frequently approach legal interpretation with perspectives and experiences in mind, especially when gender issues are involved. The lack of gender diversity among decision-makers is another factor contributing to gender-biased appointments, as men in most positions of authority lack the benefit of a woman's perspective when it comes to considering the disparate social realities of the two dominant genders.

Women judges may use their knowledge of the social and psychological facets of sexual violence and domestic abuse, for instance, in their decisions. As a result, decisions may become more complex and more representative of the realities that victims of gender-based violence must deal with.

THE POSITIVE IMPACTS OF HAVING WOMEN IN JUDICIARY

The presence of women judges and lawyers will significantly progress in the justice delivery system.

Women judges provide a range of viewpoints, backgrounds, and abilities to the bench.

They have a cultured responsiveness of just how about strategies may distress men and women in another way.

The bigger quantity of women justices pays to the allowed legal system and improves decision-making.

Women's leadership in the field of justice may elevate public confidence and trust for those without opportunity can access the court system.

PROBLEMS FACED BY WOMEN IN INDIAN JUDICIARY

Women face several obstacles in the legal system, despite being more common. These include:

Structural bias and discretionary bias. The main causes of women's low representation in the Indian judiciary will be emphasized in this note, along with a general lack of understanding and compassion for the varying that come with marriage and motherhood. Systemic biases that give some candidates an unfair advantage over others is a form of structural bias found in judicial selection procedures. Biases in such policies can be overt or covert, reflecting social stereotypes based on gender, caste, class, race, ethnicity, and age. The promotion of female judges to the Supreme Court (henceforth referred to as the "SC") is restricted by the "seniority norm," an unwritten appointment criterion that chooses the senior most High Court (henceforth referred to as the "HC") judges for the apex Court. The subordinate judicial level's transfer policy, which forbids a judge from being appointed at their home or their spouse's, is implicitly gender biased since it ignores women gendered private responsibility.

A crucial factor that this Note Incorporates into its analysis of structural and discretionary gender bias is the role of intersectionality, which acknowledges that women hold multiple identities and may experience oppression from multiple sources differently. For instance, differing socioeconomic, cultural, religious, or sexual-orientation identities will make some women less susceptible to discrimination or unequally placed in opportunities and treatment. Women from urban, higher-caste, higher-class, educated, and legal backgrounds are less susceptible to bias than women from rural, lower-caste, lower-class, uneducated, and non-legal backgrounds. Discretionary bias occurs through the discretionary power of authorities making judicial appointments.³¹

Gender Bias: Even though women judges are contributing significantly to judicial decision-making, they often face stereotypes and biases. Women's inadequacy in the higher judiciary remains a major problem. Women judges may face discrimination when making decisions that contradict traditional or patriarchal viewpoints.

Discrimination in the workplace: Judges are susceptible to sociocultural biases just similar everybody else for they are human. The appointment of women to positions of policy and decision-making may be influenced by explicit and implicit gender bias because of inadequate training.

Underrepresentation at the Highest Levels: Despite the circumstance that more females have been appointed to lower courts, there is still a sizable gender gap because there are so few female judges on the Supreme Court's bench. The diversity of viewpoints in the highest court is thereby limited.

FUTURE DIRECTIONS

As the undertaking toward gender parity continues to grow, the future of women in the Indian judiciary appears bright. Many organizations and groups have advocated for added inclusive policies to promote the increased participation of women in the judiciary at all levels. The following are strongly emphasized:

A. Increasing Representation and Mentorship

To improve women's impact, it is critical to concentrate on increasing their illustration at all points of the judiciary.

B. Institutional Reforms

Addressing gender bias and advancing equality in the judiciary require institutional reforms. This includes revising appointment procedures, implementing gender-sensitive training programs, and developing mechanisms for resolving gender discrimination complaints; and safeguarding that those who enter the judicial profession receive adequate training in equality, the fight against gender violence, and gender-sensitive prosecution.

C. Policy Support for Women Judges

The policy takes into consideration the inclusion of the gender mainstreaming approach and the non-discrimination principle in all related topics of the judiciary institution, including the recruitment, selection, access, and promotion processes of the judiciary branch. Policies, such as family-friendly ones, that promote gender equality and assist women in juggling their personal and professional commitments are becoming more popular. Furthermore, to address the biases and gender disparities identified by the policy itself, the Policy for Gender Equality promotes the use of special measures in the hiring and selection process.

The independence, impartiality, and integrity of the judiciary can all be enhanced by hiring the best possible mix of talent for the judicial workforce. According to the International Commission of Jurists (2013), the judiciary may be seen as legitimate and more capable of upholding equality before the law and provides equal justice for all if its composition, including at the top, reflects society rather than just certain segments of it³². Wider gender gaps throughout the judicial career may result from differences in the goals or career paths chosen by male and female law students.

³¹ Interview with Ret. Judge, Bombay High Court, female, Bombay (Jun. 13, 2018) [hereinafter Interview 1]; Interview with Ret. Judge, Bombay High Court, female, Bombay (Jun. 23, 2018) [hereinafter Interview 6]; Interview with Ret. Judge, Delhi High Court, male, Delhi (Jul. 17, 2018) [hereinafter Interview 14].

³² https://www.icj.org/wpcontent/uploads/2014/05/icj_rapport_annuel_2013.pdf

6. CONCLUSION

Particularly in the areas of social justice, human rights, and gender equality, women in India have significantly influenced judicial decision-making. The legal treatment of gender issues and female's rights has been profoundly influenced by their contribution in historic cases. The growing number of women in India's judiciary is gradually changing the judicial landscape, even though issues with representation and gender bias still exist. The judiciary will be better able to make inclusive and equitable decisions that reflect India's changing social dynamics if efforts to broaden gender diversity are sustained.

Women's influence on judicial decision-making and the advancement of equality in India are vital and intricate topics. Their presence has brought a choice of perspectives to the judiciary, which has influenced legal interpretations and expanded gender justice. As the judiciary advances, the participation of female judges will be essential to establishing a more equitable and just legal system in India. It will take consistent efforts to resolve problems and enhance representation if the judiciary is to continue being responsive to the interests of everyone, regardless of gender. Equal representation of men and women on the bench and in administrative roles may affect how gender-responsive courts are. The diversity and involvement of the courts are enhanced by female judges.