Gender and Work: Reconsidering Women Legal Professional's Identity and Space

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Abstract

This study problematizes existentialism of Indian women legal professionals. Prior empirical works suggest that women lawyers face myriad challenges in creating and sustaining their own legal identities within their own professional ambit which, so far, has remained men's strong hold, since its inception. Within this profession different social associations are to be maintained in order to progress. These associations are conjoined to the male lawyers, excluding the female lawyers and keeping them away from the internal culture of the profession, thus also showcasing the unacceptability of women within the profession. Women are already at the back foot when it comes to acquiring these associations, the achievement of which requires after work hours socialization to which women may not always engage. Within the workplace female legal professionals are often less recognized as lawyers and more as 'home managers'. Thus different terminologies are associated with women which further hinder their path of progress. The internship under the senior lawyer becomes

challenging as they are often not accepted within these chambers on the basis of their expected incompetency. Even if accepted the female lawyers are bestowed with mundane work. The professional interaction that takes place within the workspace involving the stakeholders often project the women under a discriminatory light, focusing on their care giving and nurturing roles more than their professional expertise. As a result women legal professionals are marginalized within the profession. The situation is further aggravated due to covid-19 pandemic, due to which face to face interaction has reduced and virtual courts and the work-from home are the 'new normal'. The present study delves into the dilemma faced by women legal professionals as they strive to survive within the profession whose interaction and association patterns tries to eliminate them.

Keywords: *Legal profession, Women legal professionals, interaction patterns, professional associations, work space, covid-19*

Introduction

According to a report by Ministry of Statistics and Programme Implementation Government of India (dated 31st March, 2020), 22 percent of women in urban areas were engaged in different categories of paid employment in 2019[i]. With paid work being dominated by men, the women are already marginalized. As legal professionals women are yet to make a strong presence within the profession. With legal profession being dominated by men the representativeness of women is limited. With maximum lawyers being self employed, the nature of the profession requires intense challenges to be met in order to move up the ladder and become successful. For the women the challenges are numerous, the apparent professional challenges are extended further when they are exposed to the idea of creating a space within the legal profession. This becomes further difficult as they struggle with the idea of gender based encounters within their professional ambit. Their professional interactions are often seen through gendered lens, making it appear in a negative light. Under the present situation created by the pandemic they encounter further challenges like maintaining their space within the legal profession and their identity as legal professionals. This article discusses the challenges confronted by the women legal professionals regarding their professional life and identity.

About the legal profession in India

Code of conduct for the legal profession, in India has been set by the Bar Council of India. For lawyers in India, the usual custom is to practice in one court, occasionally practicing in more than one court (Ganguli 2020).[ii] In India the Judiciary is a single integrated system, with the Supreme Court at its apex. There is one High Court in every state, below which there are the District and Sessions Court. On completion of their LLB, lawyers enroll with the State Bar Council, after which they have the freedom to practice in any court within the domain of the Country. In India the legal profession carries autonomy as majority of the lawyers represent clients in the courts themselves (Sharma 1982a: 542-543).[iii] The Legal Profession involves the study of law, a period of apprenticeship under an established senior lawyer, maintaining relationship with others in the court, finding a clientele and working with autonomy as well as observing the rules set by the authority (Sharma 1982b: 557).[iv] Earlier in India the legal profession was meant only for the male. Women entered the legal profession only after the Legal Practitioners (women) Act, 1923 came into existence. The Government of India passed a Bill on 21st March 1923, which became a law in the same year 2nd April. With the Legal Practitioner's (Women) Act it was affirmed that "no woman shall, by reason only of her sex, be disqualified from being admitted or enrolled as a legal practitioner or from practicing as such" (Mishra 2015: 84-85).[v]A complete lockdown was declared in India by the government since 24th March, 2020, owing to the current Covid-19 crisis. The lockdown also shut the Legal System, imposing alternative ways to run the system. In order to avoid the physical hearing of the cases the legal system has been operating through virtual courts (Modak and Gokhale 2020).[vi]

Review of Literature

In India the availability of literature on the legal profession is not substantial, due to the shortage of survey. Nevertheless, the focus of early research in the field was regarding the autonomy and challenges that the profession carries. According to an early study on women legal professionals in India, the 1980's saw a surge in the number of women who entered the legal profession. However there was noted difference between the female and male lawyers in

terms of their professional achievements, as a result of the male lawyer's dominance in the profession is viewed as structural constraint and the attachment of domestic roles associated with women viewed as the cultural constraint (Sethi 1987: 36-46).[vii] The globalization era saw the increase in the law firms, women in these law firms may have achieved professional up gradation, though it cannot be said that they enjoy workplace autonomy (Ballakrishnen 2013: 1261-1286).[viii]

Studies regarding women in the legal profession conducted in different countries have reported on different patterns of discrimination. A study conducted in Ontario, Canada reported on the struggle for survival of the women legal professionals in the male dominated paradigm, which demands undisturbed devotion to work on full-time basis. Women faced internal struggles pursuing these paradigms thus unable to make successful careers while balancing the demands of motherhood (Leiper 2006: 79-101).[ix] Another study conducted in law firms reported on women not being considered for leadership position neither credit for their work. As women are not given networking opportunities they are unable to garner new cliental (Hayes 2011:1-2).[x] In India legal firms, were not ready to invest into women's talent, as highlighted by a study conducted in certain cities of India (Makhija and Raha 2012: 89).[xi]

For women in India maintaining work-life balance has always been a challenge, not only in the legal profession but other professions as well. The work-life balance stresses the societal role expectations of women in India and the self identities that the women themselves associate with their profession. It is observed that women's choices related to their career are dominated by the familial expectations.

Research Methods

This paper is a part of the larger research project which is being undertaken at present. Hundred female lawyers who practice within the premises of the Calcutta High Court had been interviewed in 2019. To collect the data from the samples the snow-ball sampling method had been used. Thus semi-structured interviews were conducted through personal acquaintances. As the pandemic

spread in India forty-five of these hundred women lawyers were contacted. Depending on their willingness to participate and their accessibility, they participated in this present study and thus were interviewed between June to July 2020, for the second time. The second phase of the interviews was mainly telephonic conversation owing to the lockdown declared by the government to control the spread of novel corona virus.

After transcribing the interviews manually different codes were developed. Significant themes were recognized from these codes. This is an exploratory study and thus inductive method was followed in order to recognize different themes, patterns and categories. For the coding process grounded theory was utilized. The grounded theory method aided in formulating a comparative analysis, which were in accordance to the themes that were prepared. As the study of covid-19 and its impact is a recently developed area to explore, grounded theory was preferred. The names of the respondents have been changed keeping in mind that their anonymity had to be maintained. Also it was assured that the valuable information shared by the respondents would be used for the purpose of research and its related publication.

Analysis

According to Galenter (1968) Indian legal professionals majorly practice in courts and thus have freedom and autonomy. The image of a lawyer associates the person with the practice in the court.[xii] The legal practice necessitates professional socialization which requires internship under a senior, relation between junior and senior lawyer, relationship with judges, cognitive process and working customs furthermore the professional orientation and conduct (Sharma 1982a: 557).[xiii] Thus the profession becomes challenging.

The idea of gender does not comply with the idea of knowledge and skill required in the legal profession. The women lawyers, who were interviewed mostly did not believe that as a professional, gender can stop them from achieving their goals. For most respondents the profession requires understanding and comprehension, which is not related to gender and the women lawyers perceive themselves to be only legal professionals. Nonetheless experiences differ on this subject. Twenty-

seven- year-old, Natasha, who practices in various fields of law, remembers her experiences during the initial years in the court,

> "A lot of times I have experienced a negative impact, because I am a woman. In my initial years of practice I have faced situations like not being given briefs, not respected, and even looked upon as an object."

Such experience had been reported by many women lawyers. Sangeeta, a thirty-seven-year-old criminal lawyer faced similar circumstances. In her own words,

> "When I had started my career there was a general vibe that I may not be competent because I am a girl. I could feel it in the manner that my senior treated me. Today I have gained almost 12 years of experience in the field, just by showing my sincerity to the profession."

There were many women lawyers who have had difficulties in being accepted within the senior's chamber. Respondents' ideas of gender are associated with negativity and also attach the male lawyers with superiority. They find male lawyers to get more options and choices within the profession and thus later progressing faster in their careers. Manvi, a twenty-nine- year-old criminal lawyer, had the same feelings,

> "At times I cannot help but feel that male lawyers are lucky. They have received more opportunities and encouragement. They can plan their career. Here, I have been fighting with my family to continue with my profession but not getting married."

In India, women's choices depend a lot on parental outlook. They are socialized in a way that makes them believe in giving priorities to others' want and desire and make compromises for the family. Women's ideas are shaped according to the experiences that they gather. In this context Dorothy Smith's proposal of standpoint theory can throw some light. She emphasizes on the idea that certain standpoints can facilitate in assessing the power structures within institutions

that form women's daily activities. Smith uses the term 'bifurcation of consciousness to show that a separation exists between the world that is actually experienced and the dominant view of the world to which one has to adapt (in this case masculine point of view). Subordinate groups are conditioned to view the world from the dominant group's perspectives, which is entrenched in every institutions and practices.[xiv]

> "There is negative atmosphere that prevails with us. First we have to balance family and also the profession, this proves very difficult for us. I also feel that men get more exposure and thus they are more experienced. The clients prefer male lawyers; they may not want to come to us thinking probably that we are better home managers than lawyers."

Bacik and Drew (2006) share the opinion that the legal profession attaches the idea of professional progress with such factors that favor the progress of men and on the other hand hinders the path for women, since it becomes difficult to maintain a proper balance between family and professional life.[xv]

Sunderesan (2014) is critical to the problem of work hours since it is not limited.[xvi] Extended work hours are the requirement in the legal profession, which includes more than the court hours to incorporate chamber time or meeting with seniors. Since the profession is vastly dependent on cognition, it entails a process of discussions, readings and referring. Maintaining this work schedule is difficult for women due to their commitments at home. Thus the work hours act as hindrance for many. Sweta, a thirty-seven -year -old civil lawyer, says

> "The profession demands that you spend long hours working. In the beginning of my career it was fine. But once I had my daughter things started changing, I have to pay attention to her, the elongated work hours hinder my responsibilities to her."

Giving full attention to the profession can be challenging especially for those who have to look after their children. The extension of working hours is not only a cause of worry for the women.

Keeping up with the social distancing norms the Calcutta High Court has not been physically functioning. Its virtual operation results in the disposal of minimum number of cases. Not every lawyer has a case that they are attending to, thus limiting their finances. Women at present are facing the burnt as their time is spent in doing the domestic work. Many respondents opine that this is a greater cause of worry. They feel a loss of space and identity. In this regard, thirty-six-year-old criminal lawyer, Raima exclaims,

> "So I am doing everything in the house except cooking. Household work takes away most of my time. Right now I am more of a house maid than an advocate. Before spread of the corona virus I was lawyer who had sufficient number of cases in hand and the will and ability to sustain myself. But now I feel that I am a total housemaid. So if I am going to be housemaid, then what was the point in getting a degree and building my career over the past nine years! For nine years the hard work, the savings-everything is getting drained out."

The workspace in the modern working culture matters for every professional. The workplace and the workspace is a part of their identity. The idea of creating a workspace within the home has been in existence for a lengthy period of time. The inspiration of work within the home can be traced from the concepts of chambers and study that were kept in the home as a space for male professionals. So the spaces within the home are gendered and at times women are left to look for a space for themselves (Patton 2020).[xvii] Due to the spread of the covid-19 as work from home becomes the trend, professionals are seen as creating a space for themselves within the home to carry on with their work. For the lawyers it is important that they have a separate space for themselves which they can use for attending the virtual court. Not every women lawyer had a chamber for themselves. New entrants especially work with their seniors within their

chambers. Thus it becomes difficult to obtain a proper workspace within the domains of the household. In this context Aprajita, a thirty-eight-year-old criminal lawyer claims,

> "It is difficult to manage a virtual court from home. I feel myself getting distracted at times, due to the presence of my child. I do not have a separate room for myself. The privacy required is not available thus the times I attended the virtual court I had to concentrate hard, but the feel of being in your place of work is missing."

The present situation has also made it mandatory to compromise on the number of cases that a lawyer now handles. Anxiety is associated with the inability to predict the circumstances. According to most of the women lawyers they feel that the non handling of cases today might have serious consequences for them in future. Shreya, a twenty-nine-year- old lawyer, practicing civil and criminal laws, states that,

> "My finances have been brought down greatly due to the less number of cases disposed during the pandemic. I feel that I have lost control of my future and my profession. I am very concerned about this uncertainty."

As earning depends on the lawyers' portfolio, there is wide disparity that develops in the income range of the lawyers. It is not that the disparity did not exist earlier; the Covid-19 situation has however exposed the vulnerabilities of many.

Women lawyers associate their profession with their self-identity. Their profession gives them the much needed independence and also gives them the chance to exhibit their rational side. Many respondents believed that their profession shows that they are capable of much more than managing the home. Valk and Srinivasan's (2011) projected the association of self-identity and profession. They said that when women work outside the home it opens new world, broadens their horizon and social associations and enriches their

experience.[xviii] It is without doubt when the same earned identity is threatened and all the enriching experience are jeopardized, then the individual feels at a loss, much like the women lawyers.

Discussion and Conclusion

The challenges associated with the legal profession have been discussed in numerous studies. M. Galanter (1968) and K. L. Sharma (1982) as well as A. Kharel[xix] (2013) have talked about the autonomous nature linked to the profession. There is a lot of rational thinking involved in the profession; also the difficulties faced during the early phase of the profession shows that the nature and manner of work is demanding. Many of the respondents faced greater challenges when they were not accepted in a senior's chamber, showcasing the unacceptability of women within the profession. Social capital which is compared to social association is conjoined to the male lawyers more than the female lawyers as they score high on this issue. This excludes the female lawyers, keeping them away from the internal culture of the profession.[xx] Similar exclusions are referred to by the respondents that were interviewed. Within the workplace they are often less recognized as lawyers and more as 'home managers'. Thus they are associated with such terminology which further attaches them to the household even when they are in their professional space. Maintaining a certain level of workplace socialization requires longer hours to be spent on work. This builds a conflict between the work and the family.

The acceptance in a senior's chamber is challenging, even if that is fulfilled women lawyers undergo discriminating behavior, including mundane work that they are made to do and being associated with incompetency which is often related with the gender. Gendered socialization and gendered role, stress the fact that women should take over the care giving role. Butler had discussed in her Gender Performativity theory that the gender comes into existence through performance. Performativity comes through repetition, like the repetitions of norms or behavior. Performance is not a single act but a ritualized production leading to an assessment of specific gender. People follow these performances due to the norms of constraints.[xxi]

Women in India are still seen as the primary providers at home making, their career secondary. Women perform dual role, their identity is created along their professional life but they are highly inclined to perform within their family life as they are influenced to do so. The spread of corona virus has put many of these women lawyers out of work, which increases their financial dependence on other family members. So the factors on which gender equality was achieved to a great extent now have the apprehension of trailing. There are increased demands that women lawyers should be considered as part of the legal fraternity. Women too require a workspace which they are unable to locate within their own household, thus making them compromise with their professional life. As per the present context it becomes important that some policies should be considered for the women who are moving out of paid labor. Further research work needs to be carried out in this area. New dimensions can be explored regarding Covid-19 and the condition of female lawyers. These steps and considerations can help in retaining the young female talent within the legal profession.

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