

The Leaky Pipeline: Addressing Gender Exclusion in India's Cadre of Justice

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Abstract

The Supreme Court of India, often referred to as the Temple of Justice, has failed considerably in ensuring gender equality within its ranks despite its splendid achievements in many sectors. This article examines the underrepresentation of women in the Court, which is the guardian of the Constitution. It explores the structural, institutional, economic, cultural, and patriarchal factors contributing to this underrepresentation. Very little focus is given to the pipeline for women from lower courts to the Supreme Court being a leaky one, and to the gender inclusion that can help and has helped in many judicial rulings. Using Collegium records and available data, including the recent dissent by Justice B.V. Nagarathna against the appointment of two judges to the Supreme Court, surpassing many senior judges, this paper traces the reasons behind this lacuna in the higher judiciary. Case studies of terminated women judges and collegial selections substantiate the gender exclusion in the upper court. It's paradoxical that a body meant to uphold gender inclusion has become a gender exclusionary body, warranting attention and reform.

Keywords: Temple of justice, Gender inclusion, Underrepresentation, Pipeline, Collegium records

Often called the temple of justice, the Supreme Court of India acts as a guardian of the Constitution, which is meant for the people. It holds both constitutional authority and moral legitimacy. However, it is unfortunate that this hall of justice struggles to be gender inclusive. This striking reality shows that the protector of the Constitution is one of the most gender-imbalanced institutions in the world's largest democracy. Despite its claims of supporting women's rights and equality, the conscience keeper of the nation reflects a glass ceiling and a hidden patriarchal outlook.

The Leaky Pipeline

Since its inception, women's representation in the Supreme Court has been persistently low. Statistics from the 1950s indicate that only 11 women have been appointed to the Supreme Court, making up less than 4% of the total number of judges. An article titled "Where Are the Women Judges?" published by Outlook India confirms that among the 268 judges appointed, only 11 are women. Currently, the Supreme Court operates at its full strength of 33 judges, but only 2 of them are women, which is a mere 6.6%. For the past 75 years, there has not been a single woman among the 51 Chief

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Justices. Women in India became eligible to practice law in 1923, with Cornelia Sorabjee being the first to graduate in law. Even lower courts are not free from this issue; in India's high courts, less than 14% of judges are women. This situation reveals that the so-called pipeline is leaking, creating a significant gap in the internal structure. Not a single woman is consistently advancing, even over the course of a year, to address this gender exclusion. This leads to a serious consequence: the judiciary does not reflect social diversity.

The Structural and Institutional Barriers

Many factors, both known and unknown, contribute to the underrepresentation of women. The metaphors of the glass ceiling and leaky pipeline highlight the severity of a system that disproportionately favors men. As mentioned by IndiaSpend (2025, para. 6), "The absence of institutional support to help lawyers balance their professional and personal responsibilities makes it harder for women to sustain long-term careers in litigation, which is the traditional path to becoming a judge". As we emphasize a citizen-centred approach in a democracy, the large number of pending cases in the judicial system remains a significant barrier. The saying "justice delayed is justice denied" holds true. The doctrine of laches prevents a layperson from seeking judicial help for personal matters after a certain delay, suggesting it is their civic duty to approach the court on time. But what if the judiciary itself causes the delays? Isn't that a form of injustice? Several factors contribute to this problem. Some scholars argue that the Indian judiciary's bureaucratic structure, inherited from the British colonial system may be a reason for its slow response. Along with this the appointment process under the collegium system. System is fraught with issues, as the seniority of judges, often women, is influenced by a masculinized institutional culture. A gender-inclusive approach is largely absent within the system.

The Curious Case of Justice Nagarathna and the Question of Merit

Justice Nagarathna, a woman judge of the Supreme Court, recently expressed dissent, highlighting ongoing controversies. The Supreme Court Bar Association noted that since 2021, no women judges have been appointed. Justice Nagarathna, the only female voice in the collegium, pointed out that two male judges with less seniority were elevated over two qualified women candidates. This reflects a gender-biased interpretation of merit, where less senior men can overshadow capable women. The concept of merit cannot be separated from institutional culture. If a woman were not part of the collegial system, would India recognize this important issue? Would a man stop such unjust practices affecting women? Who knows? Justice Ruth Bader Ginsburg of the U.S. Supreme Court once said, "Women belong in all places where decisions are being made." It's time to evaluate this statement.

When the Supreme Court Falters, the Constitution Trembles

This situation is highly paradoxical. An institution meant to protect equality is often the most unequal. The underrepresentation of women represents not only an injustice to the entire community but also a betrayal of democratic ideals. The case of Justice Pushpa Ganeswari, who faced severe criticism over her ruling in a sexual assault case under the POCSO act, illustrates the point. The rapid and harsh backlash against her career and the collegium's decision to withdraw her appointment raise questions. Did male judges with similar controversial rulings face such severe consequences? Probably not. This demonstrates the double standards in how women are treated. The leaflet *Double Standards in Judicial Accountability: The Case of Justice Pushpa Ganeswari* (2022) serves as a reference (Satish Ragde v. State of Maharashtra, 2021). Additionally, Justice Vijaya K. Tahilramani's transfer from Chief Justice of the

Madras High Court to the Meghalaya High Court without her consent shows the challenges women face in a non-supportive environment.

Conclusion

It is highly paradoxical and troubling that the Temple of Justice, which is supposed to uphold constitutional principles, remains a place of gender exclusion. Addressing these major issues requires changing the overall structural and institutional flaws that exist. Though citizens may seek justice in different ways, the roots of their journey are the same. “The Supreme Court stands committed, consistent, and compassionate—a custodian of the citizen’s cause.”

Let me finish with the timeless words of Justice B.V. Nagarathna: “The judiciary is the guardian of the Constitution, and its conscience must forever remain awake to the needs of the people.” These words remind us that justice cannot be static; it is a promise to all citizens in the world’s largest democracy!

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