

## WOMEN IN THE LEGAL PROFESSION: CHALLENGES AND OPPORTUNITIES

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**Abstract:** In recent years women have been making great strides in the legal profession with female law students outnumbering male students in law faculties in Universities as well as the Law College in Sri Lanka. However, despite the high numbers of women entering the legal profession in Sri Lanka, this is not reflected in the number of leadership positions and high-profile roles taken on by women Attorneys-at-Law. The legal practice is largely dominated by male attorneys in Sri Lanka. In addition, women comprise almost one-third of the total number of judges and have served as Chief Justice. This under-representation of women in the legal profession can negatively affect women's rights and access to justice as well as detract from the justice system's overall effectiveness. It is apparent that the majority of women law graduates do not pursue careers as practicing lawyers, prosecutors or judges but tend to seek employment in the private sector companies and other financial institutions and organizations. The aim of this article is to discuss the challenges and women's experience in entry and retention in the legal practice. The paper is focused on two-panel discussions conducted in two districts in Sri Lanka, during my tenure as a gender specialist in a justice project. The discussion is based on the experiences shared by the Panellists and the feedback collected from the women attorneys and the female law students who attended the panel discussions held in the two districts. This paper explores the experiences shared by the women attorneys and suggests new approaches in overcoming the barriers.

**Keywords:** women lawyers, challenges, legal profession, law students, opportunities

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*Aristotle thought that women were weaker and impulsive than men. Plato had a better reflection of women's abilities. He thought women could equal men as philosophers and admitted them in his Academy.*

*The argument was advanced that books destroy women's brain. However, in support of women, Juan Luis Vives wrote *The Instruction of a Christian Woman* and Sir Thomas Elyot wrote *The Defence of Good Women*. St. Jerome advocated restricted education to women and nunneries were opened for women. However the upper-class women enjoyed these facilities and the lower-class women continued to suffer under men's subjugation.<sup>i</sup>*

### Background

Essentially, in any country, the legal system is what provides a regulatory framework to govern the external behaviour of its people. It's what protects the rights of people and also imposes duties on them. For these reasons, the legal profession is one of the most important professions in any civilized society cohabitation. While upholding the rights of people, the legal profession was hostile to women in the early days; where the law was practiced only by men. On one hand, the profession protects the rights of people, on the other hand, violating the rights of women in the profession.

Looking at history, women were excluded from the legal profession simply by non-acceptance and non-admission. The first woman to practice law during colonial times was Ms. Margret Brent. Ms. Brent was recorded in history for her demand to vote in Maryland Assembly twice: once herself as a landowner, then as an attorney representing Lord Proprietor, where authorities denied both her requests<sup>ii</sup>. The doors opened for women to enter the legal profession in 1872 when Illinois brought legislation to remove sex disqualification and Myra Bradwell was able to practice in 1872. Although Bella Lockwood was admitted to the Supreme Court of the District of Columbia (1873) she was denied the right to practice in the Supreme Court of United States till legislation was passed in 1879. The first Indian woman to practice law not only in India but also in Britain, Cornelia Sorabji was initially denied to study in Bombay University because she was a woman. Cornelia was the first female to study law at Oxford in 1892, thus Oxford refused to recognize her degree after she finished her studies. When India welcomed female lawyers in the 1920s, Cornelia opened her practice in Kolkata and cleared the obstacles for future female lawyers.<sup>iii</sup>

The freedom for women in Great Britain commenced in the early nineties with the introduction of the Sex Disqualification (Removal) Act 1919 which opened many professions to them. However, the women in Sri Lanka were permitted to be admitted or enter the legal profession only after the introduction of the Sex Disqualification Removal (Legal Profession) Ordinance No. 25 of 1933. The above discussed are some of the instances of strong women lawyers' arduous battles to gain entry into the legal profession in the past.

### ***Women in the legal profession in Sri Lanka***

It is observed that in recent years the legal profession has undergone significant change, with rapidly rising numbers of women among its membership. The barriers to entering the legal profession as mentioned above in this article were bravely fought and women's entry to the legal profession seems to have disappeared and the number of females graduating from law schools increased in the past decades. At a discussion with a senior academic of the faculty of Law, University of Colombo, it was revealed that more than 80%, sometimes 95% of the student bodies in law schools in Sri Lanka are females. Yet, the justice sector of Sri Lanka is dominated by men. As of today, there are only 2 women judges in the Supreme Court and only 3 out of 12 judges in the Court of Appeal and only 3 out of 31 members in the Executive Committee of the Bar Association of Sri Lanka are women.

### **Purpose**

An array of scholarly articles and reports are available on challenges and gender discrimination in the legal profession in many countries, however, there are no research studies available on women in the legal profession in Sri Lanka. Hence it is an interesting task to find out what sort of challenges women lawyers face in the legal profession in Sri Lanka. The purpose of this paper is to provide an overview of the issues that emerged during the panel discussions on the challenges women lawyers face in the legal profession and the recommendations in overcoming such challenges.

This paper is a reflection of my experience where I facilitated a series of forums for women in the legal profession; to share experiences and information; discuss remedies and ways forward and as a platform for advocacy on women taking on greater and more varied leadership roles within the legal profession. In this paper, the discussion is focused on two-panel discussions conducted in two

districts, Colombo and Kandy in Sri Lanka. The two events opened for all with emphasis on women lawyers and law students where approximately 200 women lawyers and law students participated. The first discussions held in Colombo consisted of a panel of successful and established women attorneys working or who have worked in a wide range of fields including the judiciary, the corporate sector, and international development. The panelists spoke about the challenges and hurdles they faced in their journeys to leadership positions within their chosen fields. The perspective was very much an individual and personalized one which allowed the audience to engage more with the experiences and insights being shared. The panel of the second discussion in Kandy consisted of senior practicing women lawyers and past presidents of the Kandy Bar. The Colombo discussion was more focused on the challenges while the Kandy discussion was on overcoming the challenges women lawyers face in the profession. The discussion opened with questions on panelists to share their personal experiences.

### **Limitations**

As noted above, this paper focuses on the two-panel discussions with a representation of 200 women lawyers and law students, rather than the legal profession more generally. In addition, given the timing and methodology of this paper, it sets out challenges that emerged and initial recommendations only and is fairly limited in its ability to consider those findings and recommendations in greater depth. It is to be noted that, there are many opportunities for further research in this area; this paper is intended to provide an eye-opening and starting point for such research. Future research would benefit from recruiting much larger samples of women lawyers to discuss qualitatively their experiences and challenges in the profession. It would also be interesting to conduct a comparison of larger samples of women lawyers with respect to urban versus rural settings or bar associations as well as the private practice versus the public sector.

Back in the 70's to the present day the profession has undergone many changes including bureaucratization and increased specialization. From the personal experiences shared by the panel, it emerged that back in the 70's the legal profession was a world dominated by men and filled with stereotyped attitudes. The context was such that there were no fundamental rights, no human rights, and there was nothing called women's rights, and women had to face many challenges and hardships to climb up the ladder.

Gender bias attitudes prevent women from pursuing their dreams and therefore have to face many hardships owing to the lack of gender sensitivity in the system. One of the panelists sharing her personal experience stated as follows;

“I have asked myself what is wrong with me and have tried to be a man in order to survive the field. It was very demoralizing and hurtful. It was a world dominated by men and filled with stereotyped attitudes that I had to endure. But the more I was pushed, the more I became tougher. When life gave me lemons, I made lemonade, sold the glasses, and made a profit out of it. Challenges are there for a purpose, it is to build your character. We must all face them with courage, resilience, a good attitude and a good sense of humour”.

As noted by the panelist above, the majority finds gender bias attitudes demoralizing. The picture the law students see as a lawyer is different once they enter the profession. Law students are taught only to think as a lawyer but not the realities of the legal profession. Once entered to the profession many do not see that being a woman is not a barrier to the profession. A recent study by the American Bar

Association's Commission on Women in the Profession and the Minority Corporate Counsel Association shows that women are more likely than their male counterparts to be interrupted, to be mistaken for non-lawyers, to do more office-house work, and to have less access to prime job assignments. My personal view is that insight to the profession is very much needed before entering the profession.

The lack of security in transport in night was a significant issue that impugned upon the skills of budding female lawyers who can't afford to have their own vehicle to travel home. A barrier, that still hold women back from growing in their careers as much as men. Although the student population is dominated by women, all the committees comprise of men, due to the very reason of women and girls' difficulty in staying outside for late hours.

Work-life balance is another important issue that emerged in the discussion. This has been discussed in many research studies and scholarly articles and journals (Rhode 2002) and flexibility in parental childcare leave (Cunningham 2001). It was firmly stated by a panelist that;

“A woman must not have to handle marriage and career and children all by herself. Shared parenting is where we must go next if we are talking about gender equality”.

It has been proved that when both parents put into the life of the child, the child has a high IQ. However, majority of women lawyers experience difficulties in building up the profession after childbearing /maternity leave mainly because of lack of family support from husbands/lack of shared responsibility. Many reports from bar associations and law societies in the west have advocated policies regarding workplace family accommodations, but nothing of this nature is to be found in the legal profession in Sri Lanka. Nonetheless, flexi-time, part-time work, paternal leave are some measures already in place in some private organizations but some have not necessarily been implemented in the corporate sector in Sri Lanka. Striking a work-life balance is seen as a major obstacle interrupting the career of women lawyers in Sri Lanka.

A panelist from the corporate sector opined that, there is no glass ceiling, and that we create our own ceilings. However, there exist increasing pressures on both men and women in today's society and the institutional structure should be in place for women to achieve work-life balance.

Women as litigators have to face many challenges. When it comes down to going to courts daily, being faced with the opponent in court, satisfying the client and the expectation of winning all the cases becomes a real challenge. Being a litigator involves a lot of dedication and time, which is extremely stressful. The task is even more difficult for a lawyer retained by a client in the private sector. On the other hand, this is more challenging for married women lawyers without any family support. Women decide to stop practicing for sometimes and resume work because of various reasons, mostly those related to the family. Although most women join the legal profession as the first choice most of them opt out soon after marriage. Most women lawyers see this as a step back. This is a common <sup>iv</sup>scenario in Sri Lanka where many women lawyers prefer jobs in the corporate sector, banks or take up other occupations once they get married and start a family as they find it difficult to strike a work-life balance in the legal practice. Unlike in legal practice, there are no setbacks resuming work in the corporate sector or banks after childbirth. As explained by Kannan (2013) women lawyers often choose an exit strategy when faced with the dilemma of choosing between work and family obligations. Women lawyers leave their jobs more often than men, because women lawyers have

more family responsibilities. It can be argued that balancing their homes and work is a challenge for women in all professions given that the burden of domestic duties invariably falls on the woman. As described by Houque<sup>v</sup> in his paper, success in the legal profession depends on how much time one can give not only during court hours but also thereafter at homes or at chambers in the evening. In this job, there is thus virtually no scope for a woman with a child to take even maternity leave. As explained by him, the women lawyers with family responsibility or children in culture-bound Bangladeshi society find it very difficult to continue with the legal practice. The family often insists on her either quitting the job or finding an 'easy job'. As revealed by Maunganidze and Bennin in their study, many women lawyers in Zimbabwe have to deal with "rules" and "restrictions" imposed by their husbands which affect their professional abilities.

What makes it especially challenging is the fact that the legal system is engineered from the point of view of men (Kannan 2013). Women lawyers find it difficult to build up the practice after childbearing mainly due to the time factor and unsupportive husbands. As described by Rhodes 2001<sup>vi</sup> (Unfinished Agenda) generally it takes exceptional dedication for women to juggle competing work and family responsibilities in an unsupportive working environment.

Gender bias and inequality is common to all sectors. "Sri Lanka, compared to other countries is very sophisticated. In the present times, no one would directly come to you and say 'I don't like you because you are a woman'. These things happen very subtly.

As demonstrated by Bhagya Lakshmi<sup>vii</sup>, the clients prefer men lawyers over women lawyers in India, a similar challenge for women lawyers in Sri Lanka which also surfaced during the Kandy discussion. A panelist who is a senior woman lawyer in the criminal practice opined that, for women lawyers to practice criminal cases, professionalism and self-confidence is vital. Apparently, there are a handful of women lawyers in the criminal practice in Sri Lanka. The general perception is that criminal law is not suitable for women to practice as it requires masculinity. A related obstacle is that female attorneys often do not receive the same presumption of competence or commitment as their male colleagues (Rhode 2001) The Unfinished Agenda). A similar situation was revealed in the study of women lawyers in Zimbabwe, that there is an assumption of competency-based on the notion of "gendered specializations" that is suitability towards certain kinds of law depending upon one's gender.<sup>viii</sup>

As Bhagya Lakshmi pointed out in her paper, women lawyers have to fight their way through sheer sincerity and efficiency, as a radical change in the outlook of clients regarding gender bias is not possible. Similar to India, Sri Lanka too is a male dominant society where gender bias in favour to male professionals. It was observed in the two-panel discussions that women lawyers in Sri Lanka lack self-confidence and leadership skills. In my view, handling multiple tasks is an inherent quality in women; hence it's a matter of acquiring the leadership skills and self-confidence that is needed to overcome the barriers. It is to be noted that junior women lawyers have more space to gain the skills noted above than married women lawyers. If a woman lawyer can equip herself with the necessary skills before marriage and establish herself, chances of being successful in the legal practice are high. As Rikleen<sup>ix</sup> demonstrated in her research, a woman's dual role as a lawyer and mother created enormous hurdles to their success in an environment that was unwilling to support their Herculean efforts to do both well. However, in the research by Hullur and Gudaganavar<sup>x</sup> reflected that the age-

old perception of client's preference to male lawyers is changing gradually in the present environment.

More issues emerged from the discussion held in Kandy where the panel consisted of senior practicing women lawyers. In sharing the experience it revealed that the support received from the seniors 35 years ago was tremendous unlike now. Moreover, lack of mutual support from the women lawyers are also seen as a negative point. Apparently, junior women lawyers are burdened with the workload and not paid a reasonable salary. Most of them appear in courts just to get a date or keep down a case for their senior male lawyers. In addition, the lack of support, mentoring and not being given challenging high visibility assignments are some of the issues raised. This may be due to the assumption that senior attorneys overburdened with work are reluctant to spend their scarce time mentoring women who seem likely to leave. Kay and Gorman demonstrate<sup>xi</sup> Epstein (1992) observes that employers' assumptions regarding women's special personality traits lead employers to offer women work assignments and career opportunities that are generally less challenging or lower profile than those of men. In Sri Lanka, women lawyers are more likely to take up instructing work which is less challenging, over legal counseling. It is also observed that some women lawyers limit their work to instructing work or Notarial practice. The inability to acquire the legal skills that are central to advancement in legal practice pave the way for women to leave the legal practice.

The situation is more favourable for women lawyers when there is a close relative in the family such as a father, husband, uncle or brother who is a lawyer. It has been observed that women who are legal counsels in Sri Lanka come from a solid legal background where they gain the necessary support and mentoring from their family members. On the other hand, there are few exceptional cases without family connections who have become successful legal counsels through hard work and commitment. Rhode (2001) has analyzed the lack of mentoring for female lawyers and concluded:

'The results are that many female lawyers remain out of the loop career development. They aren't adequately educated in their organization's unstated practices and politics. They aren't given enough challenging highly visible assignments. They aren't included in social events that yield professional opportunities. And they aren't helped to acquire the legal and marketing skills that are central to advancements.'

According to research about women legal professionals in India, the number of women in the legal profession is increasing sharply, which is a welcome change in the mindset of society. However, this increase is only quantitative, not qualitative. The fact that most women professionals are not getting enough cases, and consequently have low earnings, is a disturbing fact. This is a similar situation in Sri Lanka where the increase is more quantitative than qualitative.

It is observed that career development opportunities are inadequate in Sri Lanka for women lawyers. Young women lawyers are overloaded with work mostly administrative work, which has created less space and opportunities for career advancement. Although there are ad-hoc career development programmes, formal mentoring programmes are nonexistent for junior lawyers in Sri Lanka. This may have been attributed to the low earnings, particularly in the legal practice. As described by Leah<sup>xii</sup> unlike some large law firms, businesses have long realized the benefits of mentoring, which include career progress, motivation, and increased job performance and satisfaction. Providing employees with mentors also helps businesses identify and retain their best employees and encourages creativity

and commitment. However, in the competitive world of the legal profession, mentoring is a necessary but often under-utilized resource.

Sexual harassment exists in any occupation/profession and is also widely discussed in the legal profession in an array of articles, papers and reports. Surprisingly sexual harassment did not emerge as a major challenge in these two-panel discussions. However, it was pointed out that many women lawyers face the displeasure of other lawyers when addressing the court. The response for this from the panel was that the culture that is created is very masculine and patriarchal. Therefore it is important to surround yourself with supportive friends and not be affected by such regressive attitudes. Men are groomed and brought up in a certain way that they do these things inadvertently. My view is, the more you react to regressive attitudes by the male counterparts the more harassment you face. In supporting the response of the panelist, I feel it's also important to develop a firm attitude towards negative remarks and cultivate a healthy professional relationship among colleagues to overcome sexual harassment. A notable comment made by a senior male lawyer was that sexual harassment are not tolerated in that particular branch bar and stern action will be taken on any such complaints.

Another important fact which emerged was that the male lawyers of the same branch bar are in support of appointing a second woman president of that particular branch bar, as they think she is the most suitable candidate for the position. It is observed that there exists a gender imbalance in leadership positions of the Bar Association of Sri Lanka (BASL) and branch bars. What I observe is, despite the fact that there are senior women lawyers who are capable of taking up positions; they are reluctant to come forward.

## **Conclusion and Recommendations**

Women are increasingly entering the profession but have failed to reach higher levels within the profession in Sri Lanka. Survival in the profession is not as easy as entrance as it is a very competitive profession. For most women, success and continuation in the legal practice depends on close relatives in the profession such as father, uncle or husband. It was observed that not all the lawyers enrolled at the Bar are practicing lawyers, many drop-out of the profession after a few years, due to various reasons mostly related to the family.

In the panel discussions above noted, participants found that through sharing the experience of the panellists identifying the challenges and how they overcame the challenges were very informative. In addition the Law students found the forum an insight to the profession. The key challenges emerged during the two discussions were; Gender bias, work life-balance, career advancement and sexual harassment. Interestingly, solutions for the challenges were also discussed including structural changes.

Following are some suggestions in addressing these challenges;

Starting from law students, it is important to give an insight to the profession to the law students before entering the profession. Although a subject on professional ethics is in place, it's important to highlight on Professional Responsibility to the students.

Female students are not aware of the obstacles in the profession. Hence, they need to be alerted to the potential obstacles in their advancements. It was observed from the discussion that the students are unaware of the practice areas. As a result they keep experimenting to get to the correct field and spend a longer time to establish themselves in the legal practice. Therefore discussion forums with senior lawyers in different specialties for the interns will give an insight to choose future practice area.

Provide more time for practical training was also suggested.

In order to address the issue of career advancement of women lawyers, formal mentoring programmes was suggested. The BASL to take initiative to establish a formal mentoring programme for junior lawyers. Grooming young women lawyers is key, to their advancement.

BASL with collaboration with other institutes to conduct career advancement programmes and leadership skills programmes. Also support voluntary women's networks that provide informal mentoring and career assistance.

Gender balance in BASL committees. It was observed that BASL positions were largely held by men. Women lawyers to initiate to take up leadership positions in the bar.

Making the profession more women friendly by breaking down the internal barriers, such as, setting up crèche for the day care of the children of women lawyers.

Finally the women have to identify the barriers that prevent oneself from active practice and find solutions for their own barriers.

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