



Review Paper

Difficulty in dismantling the patriarchal structuring of the legal profession

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Abstract

The research studied 60 women lawyers from urban Kolkata. Most of the respondents interviewed were into solo practice in the High Court at Calcutta. The study finds how the discrepancy is embedded in the very system of the judicial practice. In spite of the laws existing in the country favouring the women, the women lawyers in this very profession are continuously in a struggle to prove themselves. So the amazing part of the profession is that the women lawyers themselves cannot protect themselves in various ways when the laws are to safeguard the rights of all the women across the country. The problems of over-assessment is a typical characteristic noted in the study where the women in spite of her potential is compelled to be under pressure to prove themselves repeatedly as generalized ideas regarding the marital obligations and child birth has been seen as negative attributes of the study. The rigidness amongst the male lawyers to incorporate the women lawyers in their similar networking platform is noteworthy in this context. The patriarchal bound is deeply percolated in the structuring of the legal profession often acting as a major hindrance to the growth of the women lawyers in their profession.

Keywords: Difficulty, Dismantling, Patriarchal, Structuring, Legal profession.

Introduction

Male exclusivity has been challenged by the first women lawyers in the legal profession decades back. In several surveys women have admitted their strategic position which is changing but they are still seen dubiously about their potentialities. Gender bias is discriminatory upon the employee. It affects her potentiality, demoralizes her and in various cases the company loyalty is at stake. Gender biases affect ones productivity level. The stereotypical views on women's abilities affect the annual turnover as well. Studies have showed that every two out of three women lawyers have agreed that they are not considered equal to their male peers.

It also confirms that 37 percent of the respondents did make career changes due to the negative biases. It is pertinent here to mention that a recent study note 38 percent of women lawyers themselves have agreed to have been never equal with their male colleagues. The fear to denounce them is always easier with incidents of sexual harassment which resists the guardians to let their daughters and others to enter the profession¹.

In this respect, when the discrimination is on the basis of gender in the legal profession it is important to quote, "discrimination against women? – There is none: there is no woman."² This asserts that discrimination is a reality in this field of profession and this is referred in case of Wales and England. Such remarks were regular to the women lawyers to encounter and likewise the scenario has challenged them often in their initial years of solo practice.

Initial years of practice and over- assessment of the women lawyers by her seniors and colleagues

Private practice is usually not a very easy task for the women lawyers as per the statistics underscores. Several studies show that compared to the number of the women lawyers enrolling themselves in the profession the women surviving in the profession is only its half after a few years. It has been repeatedly found in this study of the primary source as well as the other secondary sources that family crisis and the strain they encounter after having kids is a common reality to all the women lawyers. Today's women lawyers have learnt to combine family, marriage and their rewarding careers. It poises them with role conflicts in some instances. It has been stated that "the work cycle of the typical lawyer is incompatible with fertility-birth-child rearing-lives of all women's lives"³. As Epstein in 1993 mention that, it is important to locate the reason for the absence to subtle encounters of glass ceiling. He mentioned that even after the allowance for the women to practice and study law, the reservation in quotas limit the entry of the women lawyers in important positions where the men in the profession continue to take decisions. It is not that women were exclusively excluded but a kind of homogeneity of the litigators were tried to be maintained. For the reason, as the men controlled the decision making places in the legal firms, they preferred the men only in the same place and so the women's potentialities were either questioned, disbelieved or unaccepted. She always struggles to prove herself in the profession and as well as at home. On an interview a study mentioned that a lady professor from a law school said that their children certainly

affect their career choice. It has been quoted that “female traits are detrimental”⁴. The female traits might be positive for rising in the career like being good listeners, being with less ego and others but these same traits are unwanted traits in case of the women lawyers. There are several instances where women were barred from entering the profession where women have really struggled to make their place in the profession. It is due to the family organization that restricts the women’s entry to the profession. The solution to the women lawyers once they enter the legal profession is to discard the feminine traits. The women are considered ill-fit in the stereotypical image of a lawyer with the characteristics of aggressiveness and argumentation. These are often condemned in women.

Studies have repeatedly stated that women lawyers have a tendency to leave their jobs in the law firms or their legal practice in their first five years of practice or hiring. The gender discrimination is strongly prevalent in their pay roll. They get lower pay at each levels of promotion. This has been confirmed through a survey conducted by the NAWL (National Association of the Women’s Lawyers) in the year 2005.

In this connection, I intend to locate through the narratives of the women lawyers, how and in what way the cause behind the discrimination is rooted in their homes.

Narrator No. 45: My father was in this profession but I got no help from him. He never wanted his daughter to come to this profession. To him it was not a good place for the women.

This apprehension amongst the fathers in the same profession did not develop in one generation and in one single country or context. This has a backdrop.

Another narrative shows how the choice of the senior counsel has always been limited to my respondents.

Narrator No.45 says: There are hardly any senior female counsel. And the male senior counsels do not want to take us.

Narrator No.12 further says: He is my relative. Everyone felt I would be safe else people worried for me at home.

The age-old stereotypes exaggerate the differences between the men and the women. It further defines the women to be more unfit and unsuitable for the higher designated work and overemphasizes on the hostile climate in the work environment. In this context, the respondent’s narrative show how the women interviewed, all suffered in the initial years of their practice. They complained that their years of gestation are longer in comparison to their male counterparts.

A study demonstrated that women never have an equivalent “old girls network” that the men have. This keeps them devoid of the support in the networking during their progress in their career aspirations. With only a few women lawyers at the senior

levels the junior women lawyers find lesser women seniors as role models. Studies have suggested that more men than the women wanted to remain in this profession for the full time. In this context it is important to state here that, women lawyers always face a limited scope to nurture their potentials in comparison to their male counterparts. This stereotyping emerges from their own families where their entry in the profession has often faced challenges. The data collected for this study has reaffirmed this and where the respondents have faced problems to enter and then survive in this profession. This gets so severe when they are made to do typically ‘easy’ and grunt jobs in all less challenging assignments. Proper mentoring opportunities are also limited for the women lawyers. Quite recently, the American Bar Association found out that 55 percent of the white women complained about their limited access to rainmaking or opportunities to develop clients whereas the men never complained upto 3 percent about this restriction⁵.

With her motherhood, a woman lawyer is subtly forced to learn to juggle the multiple roles that she is supposed to balance. It was interesting to note that Law Council of Australia noted the women in the profession to have joined the ‘men’s only club’⁶. The report elaborately justifies how half of the women lawyers have been discriminated on grounds of gender against 10 percent of men. The most common form of discrimination is always the family and the career responsibilities which she is believed to not being able to ignore. Several studies denote that it is not unusual to find the women lawyers who have admitted that they have experienced the incidents of unwanted advances, with commoditization. This generalization affects the life of the women lawyers where the studies have showed how the women tend to miss four days in school per month.

During the 1920s and 1930s several restrictions were there for the women lawyers to enter the profession. The Second World War created immense shortage of lawyers even when it has been stated that several law firms demanded a male member⁷. The women lawyers at that covered up for the shortage. There are instances where the stereotypical views of gender cause the supervisors in many cases to engage in illegal practice for debarring a candidate from promotion due to gender. This is often due to their grounded age-old resentment towards women that they would be unable to handle any problem with force or for the general belief that men are more powerful than the women.

Narrator No. 43 said, “It is often generalized that we don’t have time. That’s wrong. I might manage but my female colleague might not. If you marry and have kids you might not. But I did not marry. Does that mean I will not have a family? But I can certainly work more than my female colleagues still I hear that I won’t be able to manage.” From this narrative, it transpires that a woman is always expected to follow a norm of the society and for which she is either directly or indirectly discriminated. As per the study, the lack of a comparator in respect to equal circumstances even though the hypothetical standpoint is same.

The woman always needs her assessment always in comparison to certainly a 'male' and then a 'while male.' Consequently the resultant effect is gender pay gap, sexual harassment and glass ceiling in the most common instances.

The various sources justify the subtle existence of discrimination on basis of gender in the profession of law. Often it has been found that the specific gender roles and because of the related expectations, the gender based discrimination is more experienced. To understand how the discrimination is socially constructed and that it almost alienates the women in the profession, it is necessary to locate how it starts from their very own families.

In this context, the respondent's narrative show how the women interviewed, all suffered in the initial years of their practice. They complained that their years of gestation are longer in comparison to their male counterparts.

Narrator No. 12 said, "I could not find a senior who would teach me and give me matters. I know there are many reputed counsels in the Calcutta High Court who do not take female juniors still. It is very difficult to start your individual practice."

Narrator No. 44, "It did not help even when my father is from the same profession. He was so reluctant to guide me. He was more bothered how I came to court, with whom I spoke and how I dressed than teaching me to handle cases. He always said that he has a reputation but that was never so for my brother. Whatever I could achieve from the profession, I have done that on my own. Some of my male colleagues have helped me. It is always not that all the men are bad to you. Today my father discusses matters with me. I cannot forget that." All these narratives indicate that the specific cultural legacy and the societal expectation who disregard women to rise in the ladder of power in the profession. There are enactments of laws which has forbidden all kinds of discrimination.

"Mc Glynn points out, that human capital theory is a mask for discrimination. The potential for motherhood is inherent in women as a class and thus there is always the potential for a reduced commitment in the eyes of the profession"⁸. This suggests how women have been generalized to have less commitment leading to lesser scopes of progression for the women lawyers and seen to bear low in the assets of human capital.

This shows how the women lawyers faced discrimination from their families and then from other male seniors. The struggle is evident everywhere in the study. Again some of the male counterparts help them succeed too. So it is still important and common to secure a male support in the court premises and make their practice easier and except one out of all 44 law practitioners had or has a male senior.

In this restriction to find a female judge in Calcutta High Court, Narrator No. 46 said, "Families don't allow mostly practicing

under a male senior and there are hardly any female senior counsels at least in the Calcutta High Court. So there is hardly much option for female judge nomination". So the families are often responsible for the low number of judges.

So it can be said that the records show that women are disproportionately failing to attain high positions in their workplace. It implies that women are not available in huge numbers in the high level positions even when they are in great numbers in the lower hierarchy. Karsten notes that for qualifying a promotion, the board members mainly comprising of the male seniors do not allow the women to be promoted who are not 'feminists' but are 'one of the guys'. It refers to the fact that only if the capable women become like the men in all their practices and gives more time like the men; they come in the preference list of the board.

Employers sometimes expect their women employees to look after their children and challenging matters are gradually transferred to their male employees under this typical gendered idea.

It cannot be denied that women were not allowed to enter the Bar Council till the 1920s. Though with time their numbers grew yet United States experienced acute shortage of the lawyers in the country during the Second World War. It was odd to read that during the Second World War, US relied on the women lawyers on important cases like finance and others whereas these women competent lawyers were out of their positions on return of the male lawyers⁷. Daicoff refers to the 'lawyers' personality'. In his study conducted in 1992 indicated that the 81 percent of male lawyers are treated as 'thinkers and the women lawyers are treated as 'feelers'. This curtails the chances for the women lawyers to opt for cases that require more of analysis, precision and diligence. The challenging cases become limited to the women lawyers leading to their depression in their career. Women have certainly entered the profession but the alarm is to note that they do not rise at each step of the ladder at the same rate like their male counterparts. Studies reveal that the two-third of the lead attorneys are men and rest are the women. They fairly do well when they work for the government than in cases where they are the defendants in civil as well as in criminal cases⁹.

Narrator No.. 23 said, "It is totally a male profession. To fit in here we girls really need to be like them. We might try hard to be like them but we are seen differently and that is mostly because of odd timings of the chamber".

The study showed that late night conferences are regular and common amongst the advocates. The conferences often take long to get over. More than any other problem, the commutation gets very difficult. The factor of security cannot be denied in this case. The families get bothered, so does the senior which ultimately limits the prospects of a capable and flourishing lawyer. It is because the conferences do not take place always in

the same lawyer’s chamber that is when solicitors and other advocates sit on same matter. This leads to several biases and which even influences the women lawyers regarding their lady juniors and on asking them, all have showed the same reason of security factor of the young lady juniors.

Table-1: Women layers and their struggle for assisting senior counsel.

Total number of women lawyers	Number of women lawyers having junior	Number of lawyers having female juniors
60	14	11

Only 31.11 percentages of the women lawyers have junior lawyers working under their supervision and most of these women lawyers have a female junior lawyer. Some have full faith in the responsibility of her juniors; some said on basis of performance, cases are allocated to them. Some showed striking biasness, like:

Narrator No. 32 said, “Till now, she is good, you wait, let her get married”.

Narrator No. 55: “They come, work, learn. But mostly leave the profession after they have their kids. That gets difficult for me. It takes time to train her and then when she leaves after learning my every detail, it becomes a problem”.

This shows the women lawyers themselves after attaining seniority do not prefer women lawyers and apprehend their performance after their marriage.

In the contrary, Narrator No. 36 said, “I give my keys of my car to them, if there are late conferences. I have asked them to learn driving and carefully drive else I do not think women are incapable of doing anything today”.

The study showed that there is a mixed view amongst the seniors about their lady juniors.

The women lawyers in their post –pregnancy period are often generalised that they would not be interested in more of cases because they are new mothers but that is never so for the new-fathers. This often acts as a trouble for the capable women lawyers. The flows of interesting and challenging cases often get limited to the women.

As networking is very important to grow the number of clients and cases, the women lawyers face a setback. This might happen immediately after her marriage or childbirth. The unspoken disapproval by the clients and the colleagues take place when the women lawyers remain absent. This affects their career. 75 percent of women working in law firms say that maternity breaks had an adverse affect on their careers¹⁰. In several cases it has been generalized that women prefer to work in flexible schedules than to work in pinnacle posts of several

law firms reason being their family commitments and other obligations. A 2000 Catalyst study indicated that only 2 percent of the 500 CEOs are women. In this context Rhode stated that women lawyers prefer to work in flexible schedules else higher positions in any firm is more demanding than the other locale positions. Rhode summarized the following as barriers to women lawyers and his study indicated the following: i. Gender stereotypes, ii. Workplace structures that do not support a balanced life, iii. Lack of support to fulfill the societal expectations, iv. Sexual Harassment, v. Gender bias in judicial system¹¹.

Even when the law firms manage to give scopes to the women lawyers to work efficiently through flexible hours of service they fear that they might be affecting their own opportunities for the advancement in their career.

Apart from the other factors women need to satiate the role of an expected women employee in regard to their looks. The Black women chemically treat their hair to make it straight and that often affects their skin but to meet the expected look of a slender European woman with straight hair, The Black women try to wear their looks artificially. So this has become an archetype of the ideal professional employee who is a woman and all women in the workplace are expected to meet the same standard. So like one’s gender, one’s appearance may even influence the evaluations in regard to one’s job evaluation.

The appearance-based bias is often closely knitted with the several assumptions based on age-old practices of the society. In many studies of the psychologists, it has been found that a gender stereotypes are often responsible for the sexual harassment and several other negative outcomes associated with the various forms of harassment experienced by the women lawyers in the profession. It was surprising to locate that in many cases the Black or even the non-coloured women lawyers remain silent when they feel that they are subject to sexual harassment. The silence is because they are scared to offend their male co-workers. They often do not file a complaint. They feel that it would make the others feel that they are inviting unwanted sexual intimations. The jezebel stereotype often makes the women in a position where others are unable to trust the women and especially the Black women with the white men whom they require to rise in the ladder. Glass ceiling is a distinct but subtle form of discrimination. Glass ceiling is a fact for the women but few women are affected doubly.

The law reforms and the growing access to different professions have developed with expanding opportunities to the women as well since the nineteenth century. Fay mentions that “law was in the midst of dramatic transformation from a gentleman’s profession defined on basis of social class, contacts, and dinner parties in the nineteenth century to a system based on educational credentials and competitive examinations”¹².

The rational bias theory on basis of several findings showed that the higher authority or the people with power discriminate more

against the women at the apex than the ones at the lower echelon of any sector or organization. Habib refers to the Brick wall and the effects of glass ceiling in the case of administrative services in Bangladesh as well. The attitudinal and cultural impediments are the most common ‘presumed’ roadblocks for women. It has been referred to as presumed roadblock because in many cases the women are not responsible for their experience of biasness. Many women lawyers in this context have already proved themselves to be as competent as their male colleagues in attaining their place with their contemporary counterparts. Their experience of discrimination is solely because they have been generalized with other women for not being able to dedicate themselves to the profession. Studies show that women lawyers are without a good mentor in usual times and that pervades them from assigning with challenging cases. This makes the scenario difficult for the women professionals in the field to steer against the ‘accepted’ gender stereotyping of the potentialities of the women, be it in any profession like in the legal field. This affects the performance level of the women lawyers and likewise the generalized assumption of the women being ‘soft’ and ‘tender’ cannot handle the business law and courtroom stresses. This affects their careeristic growth and leads to the notion of lack of commitment with low visibility. This in turn reinforces the idea of women’s ‘no win situation’¹³. They struggle harder to break the notion of them not having the ambition to grow in their career.

There are several laws today that safeguard the rights for the women in their workplace. The African women have changed the ‘wheel’ of action and several changes in the new legislative laws have been enlisted. Very little has been made to shift laws for the women’s sexual autonomy and reproductive capacities because laws still do not favour abortion, prostitution and homosexuality. The ‘scarcity hypothesis’ creates strain and work family conflict in many cases. This affects the caliber testing of the women lawyers in respect to the legal profession. Work and family life conflict has referred to problems of absenteeism, lack of job and personal dissatisfaction and intensions to leave work from the organization they are associated with.

It was interesting to note that the gender stereotypical views heavily affect the women in the profession. It has been analyzed by Hahn and Clayton in the year 1996 that passive attorneys tend to earn and win cases lesser to the active attorneys. Strangely when the women aggressive attorneys are more successful yet the similar advantages are not do not get the similar advantages like their male counterparts who are into aggressive practicing in front of the bench. It can be noted that the male-dominated professions like that of the medicine, law and business once when has been captured by the women impart more honour and prestige to them. The prestige enjoyed by them is certainly more compared to the women who are associated with the typical female-dominated profession like nursing, teaching etc. This is about the prominent difference that

is noted in many studies where women have proved themselves in the male dominated profession.

Several records in the table show how women gradually move out of the private practice. Table 2 states:

Table-2: Working settings of working men and women¹⁴:

Gender	Men	Women
No. of respondents	334	124
Percent of class working in private practice	75	86
5 years after graduation	62	75
15 years after graduation	42	59

Table-2 refers to the gradual removal of women from the profession. It is true that even though the practice of the men and the women lawyers are closer today in terms of their percentages yet the gap is still there between the two sexes. It is quite likely because the women had a restricted entry in the profession from the time immemorial. It is interesting to note that right from the initiation the men are more in the practice and with time the men and women percentage comes closer but there is always a gap between the two sexes. Even when the numbers have diminished for the men as well the women percentage is certainly low.

The women lawyers often encounter certain road blocks in their path of professional advancement. They apply their individual strategies to fight with it. Their career orientation makes them reluctant to report about or even acknowledge the existence of sexism at work. These are common for the women to face mostly when they are working in tokens. These are often done to break their confidence at the work field. According to Padavic I. and Reskin B.F. ‘dominance, men find sexual harassment to be a very easy way to dominate the women at work and more generally the society’¹⁵.

Mothering and career break in the women lawyers

According to many researchers visibility and the performance pressures come due to continuous surveillance. It might affect one’s performance and decrease the feeling of comfort. There are problems of ‘polarization’ and ‘group boundary heightening’ in many cases. The dominants in the group might try to emphasize on their culture and tend to remind the ‘tokens’ of their differences. The fact of ‘role entrapment’ cannot be denied either¹⁶. The expected and sanctioned gender roles emphasize on the women to be associated with their household chores and their duty of taking care of their children. Once they step out of their houses and try to prove them themselves in their work fields, they actually spend more time outside their homes. Then their male colleagues often ask them about their

families, children. This actually surprises them and they tend to make their fellow colleagues feel guilty about giving more time to their profession and lesser to their families. At times the women lawyers themselves do not want to do any better than their present status.

Narrator No. 56 said, “No, people kind of guess that I can’t make it, so they don’t say”.

Again Narrator No. 11 said, “I can’t leave my kids here, they have their boards this year. I am not that keen to earn that much either”.

Narrator No. 35 said, “I can hardly give her (daughter) any time, it’s just at night. After this if I leave for outstation.....I can’t. Mothers can’t just do anything they want”.

Narrator No. 15 said, “Before I leave for the court every morning I make sure I do some of the household chores, then my mother- in-law and my maid manages”.

All these show how the women lawyers are always under pressure to keep up to the role expectations. She tries to enlarge her periphery but does not deny her roles as a mother, a wife or a daughter- in-law. So she prefers to balance her tasks at home and at the court. The unmarried lawyers are free of these obligations most commonly except the few cases where she has old and sick parents to look after. She then has to check everything at home even when she is dependent on her maids. Even after this effort the women lawyers are often under severe doubt. Their efforts are under question because it is generalized that they are not responsible towards their work because of their expected gender roles at home. This refers to their ‘role entrapment’ where a woman in spite of her potentialities is trapped in roles of a good family maker and a good lawyer. Narrator No. 16 have said how she has faced questions from their male colleagues like “Wouldn’t it be late for you? I mean the conference might take really long?”

A narrator of 50 years of age said, “How will you manage going back, we can manage but a lady might be in trouble. The days are not good”.

In this connection the fear of insecurity is common amongst the guardians and the women lawyers themselves even when they want to work. The reports on LSUC mentions that women in the legal field have complained in their workplace upto 78 percent than the women lawyers complaining upto 62 percent in 2003. The complaints reported are given in Table-3¹⁷.

There is a mixture of worry for her and a way to discourage her to continue with her practice, because a lawyer is certain to have late night conferences regular phenomena for them.

The narrator no. 46 said, “My senior does not give me all types of cases. He is supportive but very choosy in giving cases to me.

I can’t deny he gives them to my male fellow mates. I know, I have to travel to get back home and so I leave early and the chamber is actually in the full swing from 9pm when I leave by 9.45pm daily. They automatically get more important matters which I miss to make an impact in my career.”

Table-3: Percentage of complaints received from women in legal profession.

Basis of complaints	Percentage
Based on sex	50
Based on disability	26
Based on race	16
Based on sexual orientation	5
Based on age	4

So the narratives show that even though the formal barriers have been dismantled, the overt and subtle forms of discrimination and exclusion on basis of gender cannot be negated. Women have challenged the system and continuously contested with the growing number of their enrollments in the law schools. However, women remain on the margins of power and privilege in law practice. This is often because of the generalization that women are weak, incompetent and cannot take up responsibilities. Unfortunately the narratives are from the educated lady professionals who have already survived in the profession for more than 10 years yet, their potentiality has been questioned in the name of societal expectations. The educational and professional achievements might not be same for all the women of all the social, economic backgrounds but their responsibilities at their household chores is the same for ages.

For example the entrance of the women in the Canadian legal system was started in the year 1895 but it was limited until 1942¹⁸. In United States, women started to enter the profession of law after the post- Civil War period. The dominant belief system at that time held that women's natural domain of activity was the private sphere, where she was only to take care of her family and children while men's “natural” sphere was the public domain comprising of law, business, and ideas. The women lawyers had to really struggle to make their entry steady in the profession heavily occupied by the male lawyers already accepted as a part of the legal profession. With a different mental framework the women lawyers with a different ideology actively took part in the politics, playing leadership roles in the campaign for women suffrage and for other issues of progressive social welfare including the law on labour reform. So the struggle was right from its inception.

In one picture, women are under-represented in the private practice of law as per the Canadian statistics. While on the other, women as solicitors are seen less in our country and

worldwide. The trends of partnership practices are particularly weak in small firms. It suggests that in the male-dominated profession like the profession of law where the men are working for longer days are more resistant to modifying the work roles once assumed by men and women in the small law firms^{18,19}. In the study conducted in the Calcutta High Court, many of the respondents mentioned it to be a 'male profession'.

Studies of salaries and fees among Canadian lawyers and my collected narratives demonstrate that substantial gender differences exist there as well in other countries. As per the human capital theorists the women lawyers are presumed to work for lesser hours and prioritize family over their work for their commitment towards their work but the male lawyers are presumed to be more committed towards their families only when they are spending more number of hours working outside and being a bread earner. Consequently the women lawyers are less awarded than their male counterparts. The area of practice and specialization is often a reason for the low earnings of the women lawyers worldwide. Women lawyers are over-represented in the bottom ranks of the judiciary or the profession of law. The contour of structural change is taking place in the legal profession. The several law firms are hiring more of the lawyers and keeping the women amongst them at the base of the pyramid whereas the authority, decision making policies and power are all in the hands of the handful number of the senior males who have worked for years together. The women find it easier to balance it well in between family obligations and workplace in limited work hours are coming in more in numbers in here¹⁹.

Narrator No. 40 of 48 years from Kasba said, "Women have family obligations, full time to career is difficult, automatically the women cannot make it. She else has to leave everything and work like the men."

Again Narrator No. 30 of Dumdum Jawpur said, "It is more challenging for the women. Because it is a free practice, you have to find time to build your PR (public relations). You have to be assessed more by your clients and other male colleagues else cases will not reach you."

The above narratives show how the time management is always are factor for the women who are into the workforce. So the women in several studies have showed how they have a tendency to switch to new jobs whenever they get better job options. They have found that women lawyers were more satisfied with the payments they received after work than the men lawyers. It suggests a contradiction between women's poor work conditions and their levels of satisfaction. It refers to their lower pay, less autonomy and reduced authority in law practice²⁰. It is clear that reaching to the higher echelons of the profession is not at all a 'cake's walk' for the professional women. It was interesting to note that the women lawyers entered the profession more in number but cited the family responsibilities and general dissatisfaction with the practice of

law, while men were more likely to cite improved employment opportunities. So it shows the difficulty for the women to stay back with the profession if they are not employed because individual practice demands a lot of time. As per the Canadian Bar Association, 1993 (p74), the reports reveal that a vast majority of women lawyers confront barriers to career advancement. This is evidenced in the patterns of access to articles, jobs, access to areas of legal practice, work allocation, remuneration and access to partnership. This is the picture elsewhere as well which is confirmed by the narratives taken for this study here in Kolkata.

Table-4: Tendency of the lawyers to change their type of work.

Total number of women lawyers into service	Number of women lawyers who shifted from individual practice to job	Number of women lawyers who have one/more member in their family from the legal profession
16	2	28

Table-4 gives us a clear picture that the 63.33 percent of women lawyers have at least one member in the same profession. This is a great advantage to a young lawyer who gets the initial briefs from the family to support them. The built chamber is another help to them which many respondents have agreed to in the study. In the contrary, it is seen that less than 30 percent of the women lawyers are into the profession who do not have a background. The two women who shifted to service accepted that they could not make their two ends meet inspite of giving their full time and energy. They felt that if they had a background, it would have easier for them.

There is a huge connection between the hidden assumptions about the functioning of laws of the nation and the societal roles of men and women. it was interesting to refer to what Mossman²¹ quotes in the work of Kay¹⁸, "these two 'hidden' assumptions constrain the 'choices' available to women lawyers, by contrast with male lawyers, creating a gendered experience of lawyers: women lawyers make 'choices' about work and family in the context of pressures not faced by most male lawyers, 'choices' which do not occur in a neutral or equal context"²¹. It cannot be denied that midcareer is a particularly interesting stage to focus on for professional women because it is often the period during which they struggle to juggle between their children and expectations related to their high performance at their work. So it can be easily stated careers for the women professionals suffer mostly because of their family obligations and this often acts as one of the greatest barriers to women's equal participation in the paid work force.

As per the 'Supply-side explanations' given by the human capital theory mention that men and women choose different jobs because of the division of labour already existing in the family dependant on gender²³. Women tend to prioritize family over their career and anticipate that this responsibility will

constrain their involvement in any kind of paid work. The strangest part is the women who still manage to prove themselves at par with their male colleagues overcoming all kinds of biases of gender, are generalized that they would ignore their work for family too. This gives them a setback and they face continuous testing in the process and hardly can establish their trustworthiness in their ambit of work. So automatically, the expectations about their career lead men and women to invest differentially in education, training, and job-related tasks.

The response of my respondents regarding their senior counsels showed how few of them could find a female senior. Many said that they have very few senior women counsels to look up to. Like the narrative denotes:

Narrator No. 40 said, “At the Calcutta High Court there are no women senior counsel in my knowledge”.

Narrator No. 30 of Dumdum said “Women want stability and the initial years of practice do not give that. Then the girls have their marriage, children. They need to establish themselves before that. Without a background it’s difficult.”

Narrator No. 47 said, “ Women senior counsels or judges at the High Courts are made on basis of experience , the kind of challenging matters they have handled till date and heavily due to the nomination and not on basis of any examination like in case of the lower courts. There are hardly any women at that senior level who are can manage to get that senior gown or develop that public relation to get that nomination from her male colleagues because they are many in number.”

This actually gives the picture that it is quite much dependent on the others or specifically the male colleagues to determine one’s ability, one’s potentiality. That notes how their token position is an upsetting stand for the women. They are always under the system of assessment which is silent and subtle and which is totally in the hands of the male colleagues who nominate them to become the judges. As Jacobs referred in 1989 in his demand-side explanations that though many social scientists focus on the discrimination that pervades the path of the women in their time of entry to the profession whereas to the others the discrimination generates inequality after the point of entry²³. Further explaining this Jacobs said in 1989 itself using the metaphor ‘revolving doors’ argued that educated women have grown their chances to experience a high degree of mobility. This mobility does not restrict them to enter sex- neutral or female – dominated profession or even any male-dominated profession. So the ultimate point is that the efficient, educated woman is not barred from entering and continuing to work in any male-dominated profession, like in the legal profession. In other words the women may enter in high paying, male-dominated profession but the untold, subtle coercive forces embedded in the system of their workplaces gradually fitters them out, once again re-establishing the ‘old-boys’ network’ in the upper echelons of the occupation. As per Epstein and others

in their work of the year 1999, mentioned efficient professional women encounter many hostilities in their workplace and encounter glass ceilings which often forces them to abandon their present job allocations and forces them to move into part-time or low- prestige work.

A narrative of a woman lawyer (No. 44) specifically notes that “The time when the lawyers gradually make their footing strong, when people start knowing them , only then the women lawyers are encircled with the shackles of responsibilities at home , that is she is almost trapped in midst of their children and other familial obligations. But the men continue to flourish at the same time and age in the profession and make their footings even stronger when the able women lawyers are left behind in the race.” Subtle and overt discrimination led the women lawyers to change their seniors or face real problem in getting cases after they wanted to resume their careers after their childbirths. Many complained that they were forced to reduce their work hours initially at their chambers after their childbirth whereas their husbands’ work life was never affected. Many had to forgo several lucrative cases only because they could not go out of the station leaving behind their children which mostly men do not refuse.

Table-5: Women and restriction to professional tours.

Total number of women lawyers	Number of women lawyers refusing to professional tours	Number of women lawyers not refusing to professional tours	Number of women lawyers who were never offered to make professional tours
60	20	15	25

It is striking to note from the table that only 58.33 percent of the total universe on study was offered to travel on professional tours either by their clients, solicitors, seniors or their respective law firms to settle important issues. This suggests that women lawyers were felt safe to be kept back in the home town when their male counterparts are going to tours with challenging matters. So the scope is made limited to the women lawyers. Out of the 35 respondents who were offered to travel for work, only 42.85 percent agreed to make such trips. This shows that more than 50 fifty percent of the small population did not want to travel for work. This creates a generalized view for all the women lawyers that they have problem in making professional tours restricting their professional growth and opening more avenues for their male counterparts which often includes those women who are comfortable in travelling.

As cited by Young and Wallace in 2009²⁴, skills and training is always more valued by many employers and clients when it concerns to work in multiple work settings and men can easily gain them because they do not have overriding family obligations like their female counterparts. This certainly diminishes their chance to be valued more at their workplace,

thus reducing their fees or salaries. This also subtly puts them in a situation where they have to take up less challenging cases and likewise reducing their chance to prove their capabilities.

Developing one’s public relation in this profession is very important. So parties, clubs and various other forms of gatherings are common in this profession and especially in case of the ones who are into individual practices. The women lawyers are not very regular in those gatherings for their family obligations. This refers to the Social Capital theory and it refers to the resources that they can accumulate in their process of socializing and networking in the form of knowing and interacting with more of people from different communities^{25,26}. Workers end up enjoying the fruits of support, opportunities, and resources in the form of experiencing the social capital. This in turn enhances their productivity^{19,24,27}. It gives them chance to do and be different and them to be accepted as different. In this reference Epstein in 1995, refers to ‘rainmaking’ where in form of social activities professional client making takes place. It is a very important process for the lawyers. The women lawyers are seen less in such gatherings, consequently they lag behind in their process of ‘rainmaking’ which actually makes them less visible and they are generalized to be risky at challenging matters for their family obligations. The data of the study is revealed here in Table-6.

Table-6: Reasons for the difficulty in ‘rainmaking’ for the women lawyers:

In laws	Husband	Children	Household chores	Health Issues
10	1	27	20	4

The table suggests that when it is a known fact that ‘rainmaking’ is a prime activity in the lawyers’ life; it remains submerged in the lives of the women lawyers due to various unavoidable reasons of their life. The maximum number of women lawyers having children showed their children was the reason to not attend parties and gatherings after the long court hours because they wanted to give their children their time after the day’s work.

It has been commonly assumed and then has been established in some studies that the time spent by the married women lawyers is more than the ones who are not married. It has been commonly believed that one’s productivity at work gets affected with one’s marital status because that adds responsibilities upon the women lawyers²⁸. Often the time allocated for childcare is an intrusion upon one responsibility at their workplace. As per the normative gender expectations as well, the women are expected to spend more time in childcare than the men. Likewise even this study canvassed the same scenario in this part of the world. So across the globe, the women are expected to perform certain tasks in common irrespective of their class, educational background or even race in general. The narratives of my study show how it is so important and certainly more in

case of new born children or when they are really infants. The narratives were:

44 years (Narrator No. 48) of Kasba said “I took a leave of a year. I could not work much for my baby. He needed me. So whatever like work I got, I managed. I was never that careerist ever”.

41 years (Narrator No. 17) of Jawpur said, “I had to keep coming back to the crèche between the court hours whenever I could. I managed to keep him close in a crèche close to my office. I knew I had to work because of my son’s heart problem from his birth. We needed a lot of money but never wanted to leave him”.

Narrator No. 26 of Saltlake said “I take leave from my work during his exams. I can’t give him much of time but I am always updated about all his progresses”.

At this juncture the ideology of ‘intensive mothering’ referred by Palkovitz²⁹ emphasizes on this exact gendered expectation followed by the expectation of the pattern of mothering and certainly which is time taking and self-sacrificing. It is in stark contrast to “independent, self-centered, profit-driven mentality of the workplace, which encourages productivity and financial success”²⁴. Studies show how announcing their pregnancy is a delicate and serious issue of acceptance in the profession. The women lawyers face discrimination and that is prominent in case of hiring and assigning important and challenging cases. This silently confirms the growing chances of curbing a women lawyer to climb the job ladder. At least upto the time their children grow up. Thus they tend to miss all her important young years of investment in the profession and her chances automatically get restricted.

The gender bias that is perceived against the women may be like the ‘situational cue’ which might increase their feeling of belongingness and likelihood on basis of their group membership. They refer their situation as ‘our’ irrespective of their backgrounds. So the period of pregnancy is alarming for the women lawyers.

The most alarming part of the professional change is when competitive meritocracy overrides hyper competitive meritocracy. It is not restricted to the power of excellence but now it is leading to discrimination. It is certainly correct to note that the growing number of women lawyers making their entry in the legal profession is showing their expertise but attainment of the gender equality is still undone. The typical male oriented professional ideology is often responsible for this persistent glass ceiling. The numerous studies substantiate the fact that the number of women lawyers only just does not prove their gender equality because the reality is ever so different. It is because the women lawyers are mostly concentrated in the low-status practice areas and remain under represented in high status legal work. It is interesting to note that women career sacrifices are

not solely due to the individual woman but the employers and the public decision makers are responsible for facilitating the inconvenience for her after her family.

Narrator No. 13 said “We have some quota reservations in case of admission or employment. This certainly helps in the growth of women lawyers but their potentiality is doubted often by the men folk because we have been absorbed under the quota.” It is a common assumption that women would be unable to give that such of sincerity and meticulousness to her work beyond her family. To support the above narrative, Wild notes that women lawyers are not seen worth of any kind of investment in mentorship and training as their male folks. Thus, the gender stereotyping works negatively for the women. They are assigned with paper work than challenging other legal work in the proceedings. The presumption of unavailability in the ‘crunch time’, ie the weekend or holidays or late nights because they are believed to prioritize their family over their legal practice makes the situation more problematic for the women lawyers.

Many women lawyers have accepted that their absence from the court premises can make them forget from the minds of their colleagues and clients, so their presence is very important. So the gap that is often unavoidable to them is due to pregnancy or rearing of their children. Many narratives confirmed during the study that they were in advantageous situation to have their souse in the same profession. It kept them linked with their clients and briefs. It shows that there is a requirement for ‘innovative return ships’ for the women lawyers. It has been located in United Kingdom.

Studies have shown that the experienced women lawyers who have taken career breaks as long as a year even have suggested many others to take the leave in planned ways. To make their return comfortable to the workforce, it has also been suggested by many women lawyers to maintain networks as well. New reports have suggested that the high attrition rate is all due to the rigid work hours and often due to the lack of crèche for them to shift back to their workplace after their childbirth. As per the data collected since 1962 the women “senior advocates” were only 5 out of the 397 designated as “senior advocates.” The ratio today has certainly changed but the ratio is much higher in comparison to the past but the actual rate is low still. There are policy requirements at the workplace for fathering and mothering but they are absent in our country. This automatically entails them with break in their career advancement. The policies fail to address the needs of parenting in the workplace and that becomes a challenge to the women lawyers in several instances. Gender discrimination is severely felt by the women lawyers who are mothers who have complained in the Rainmakers Report that quite a huge percentage of them have referred to encountering questions about their marital status and then their motherhood and that has affected their career in many cases.

The data derived from the research conducted by the Labour Party in 2013 suggest that upto 50000 women lawyers were

forced to quit their jobs because of the leave they had to take for their maternity period. Every time with the focus on the career break of the women lawyers challenges one’s own individuality in times of their performance of roles.

Secondary sources which refer to a survey report mentioned that educated women professionals very reluctantly leave their profession as their last resort in fulfilling their responsibilities in caring and rearing their children. The survey report suggest that time out from their career has certainly ended up in a less successful career for the women lawyers. It certainly demonstrates that the child care responsibilities emphasize on the gender role differences very pertinently existent in the society even though the other reasons are also there. Several researchers have concluded that there are myths regarding the careerist expectation of the women professionals and which has been generalized in many contexts. This is evident to affect the career chances for the women professionals. It has been often sentenced by the age-old societal norms and senior male professionals that mothers who are professionals do not value their career over the men in general and do not prefer much of challenging or high profile work. There are women professionals who have always prioritized their career over their family obligations. In spite of this, the generalized idea about women to be fully devoted to work affects the career advancement of the women lawyers holistically and universally. The Law Council Report of 2014 finds that once the women professionals have been ‘mummy tracked’ it has always been difficult to find challenging cases again. This leads to their boredom in their work and they start opting for part-time work or leave the profession or even avoid the floor to contest against the other opponent as well as lawyers of various matters.

A respondent says that, “I...have chosen to leave private practice and the practice of law (at least for now),” she concludes. “I truly admire all of you that have been able to juggle your career and family and do not envy what a challenge it is trying to do each well”³⁰. This forces her to do it all, ie, for her child and then for her career. In the field of litigation, resuming with one’s career after a break is difficult. Studies showed how competent women lawyers after a break feel relieved after rejoining in a part-time work in matters of litigations. It is solely because that helps her balance between the work of the lawyers and a mother.

Conclusion

Marriage has been a common problem for all the professional whoever has wanted to enter the profession of law. The career break is a common experience for all the women who have children. The data collected show that a break of a year or two has been taken by all the professionals who had children during the childbirth and sometime after it. The nature has bestowed the women with this capability to give birth, but that cannot be the exclusive identity of a woman. The data shows how the women in the profession have struggled to retain their identity

as a lawyer. Their level of commitment and time devotion has reduced in several occasions but they are contended with less number of briefs. The better-halves in the same profession have proved to be helpful for many women lawyers. So the family obligations become bigger with their marital bonding and even more after having children.

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