



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

FEMINIE CONSTRUCTS : FROM PAGE TO COURTROOM – ICONS OR ILLUSIONS

Presented to the Lit Law 2024 and
Student Research Society of KES Shri. Jayantilal H. Patel Law College

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Lit Law 2024 Call for Papers (Scriptum Legis)

**FEMININE CONSTRUCTS : FROM PAGE TO COURTROOM -ICONS OR
ILLUSIONS**

ABSTRACT

The interplay between empowerment and stereotyping in the legal profession and literature exposes the systemic biases that continue to confine women within patriarchal constructs. This paper critically examines how feminine constructs, shaped by historical, cultural, and societal norms, influence perceptions of women in law and their representation in literature and media. Despite significant strides, women remain underrepresented in leadership roles, as highlighted by Justice Hima Kohli's observation of no woman being appointed Attorney General or Solicitor General in 75 years. By exploring the dual realities of progress and persistent inequities, this study advocates for structural reforms, inclusive narratives, and equitable representation to foster genuine empowerment.



INTRODUCTION¹

"Women in law are not just breaking barriers; they are reshaping justice with empathy and strength."

-Justice M. Fathima Beevi

In the context of literature and the legal profession, "feminine constructs" refer to the societal and cultural ideas, stereotypes, and roles assigned to women that shape how they are portrayed and perceived. In the legal profession, feminine constructs influence how women are judged in terms of their competence, authority, and emotional resilience, often subjecting them to biases rooted in historical gender norms. These constructs are not just reflective of societal expectations but also help perpetuate them, limiting women's representation to a spectrum of idealized icons or oversimplified caricatures. Analyzing these constructs reveals the tension between empowerment and stereotyping in shaping women's roles in both fictional and real-life legal settings.

The evolution of the Indian legal profession represents a nuanced interaction of historical, cultural, and social forces, particularly with respect to the inclusion of women. A domain historically monopolized by men, the profession has witnessed progressive, though incremental, strides towards achieving gender diversity. The journey of women in Indian law has been marked by profound challenges, ranging from legislative impediments and societal biases to deeply rooted perceptions regarding their competence in the legal arena. Despite these hurdles, women have made remarkable advancements, transitioning from being perceived as symbols of societal aspirations to becoming pivotal contributors to the legal framework.

The enactment of the ***Legal Practitioners (Women) Act of 1923*** was a watershed moment, recognizing women's right to enter the legal profession for the first time. However, the path to true acceptance and equity remained fraught with obstacles, as evidenced in cases such as Regina Guha's, where outdated ideologies questioned the legitimacy of women's roles as legal professionals. Nevertheless, pioneers like Justice Anna Chandy, who in 1937 became India's first female judge, and other trailblazers such as Justice Leila Seth and Justice Fathima Beevi, broke barriers and redefined the scope of women's participation in the judiciary.

¹ Pti (no date) No woman lawyer made Ag, SG in last 75 years: Ex-SC judge Hima Kohli, The New Indian Express. Available at: <https://www.newindianexpress.com/nation/2024/Oct/25/no-woman-lawyer-made-ag-sg-in-last-75-years-ex-sc-judge-hima-kohli> (Accessed: 16 January 2025).

Despite these advances, the representation of women across the legal profession, and particularly within the judiciary, remains disproportionately low. The enduring challenges of gender inequality underscore the complexity of this issue, as historic inequities continue to influence contemporary realities. This study examines the trajectory of women's engagement with the legal profession in India, exploring whether their increasing prominence reflects substantive progress or remains largely symbolic.

By critically analyzing the contributions of women in the legal sector and addressing the persistent barriers they face, this paper interrogates the concept of "*feminine constructs*" in the legal domain. Are these constructs emblematic of genuine empowerment, or do they perpetuate illusions of equality in a predominantly patriarchal system? Furthermore, this research emphasizes the necessity of institutional reforms, including initiatives like a 33% reservation for women in the judiciary, to achieve meaningful gender parity. In tracing the journey from legislative recognition to professional representation, this study seeks to uncover whether women in the Indian legal landscape embody true progress or remain confined by entrenched inequalities.

LITERATURE REVIEW²

I. VICTORIAN ERA

In traditional literature, women are often limited to archetypes: good mothers, submissive wives, or deadly sirens. These stereotypes restricted the range of representation but also served to define social expectations, creating stereotypes that described women as innately emotional, dependent, or morally inferior. Historically, these images have determined legal policies to support the male chauvinistic mindset. For example, the characterization of women as subordinates or incompetent to take a rational decision appealed to doctrines in law, such as coverture, under which the marital woman lost her identity and merged with that of her husband. In similar fashion, the access to property or education was barred under such

² (No date) Synopsis women empowerment.pdf. Available at: <https://shodhgangotri.inflibnet.ac.in/bitstream/20.500.14146/12911/1/synopsis%20women%20empowerment.pdf> (Accessed: 15 January 2025).

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descriptions, further establishing inequality, as portrayed in feminine constructs of literature laid the groundwork for how women were perceived in positions of authority, often reflecting societal norms that limited their roles. In Shakespeare's *The Merchant of Venice*, Portia's intelligence and legal acumen are celebrated, but only when she disguises herself as a man. This reinforces the idea that women's capabilities could only be acknowledged by masking their femininity, reflecting Elizabethan norms that excluded women from public and professional spheres. Similarly, the symbol of Lady Justice, often depicted as a blindfolded woman holding scales, embodies ideals of impartiality and fairness, yet ties these qualities to an idealized version of femininity—graceful, restrained, and silent. While Lady Justice appears empowered, she is also a construct that aligns women with virtue rather than active agency. These portrayals reveal a tension between celebrating women's potential and confining them within societal expectations, a theme that continues to resonate in discussions of women's roles in law and leadership today.

II. MIDDLE AGES: REINFORCEMENT OF GENDER NORMS IN LAW AND LITERATURE³

During the Middle Ages, literary portrayals of women largely reflected and reinforced prevailing patriarchal norms, influencing their status in law. Women were often confined to archetypes like submissive wives, virtuous mothers, or dangerous seductresses. These depictions echoed societal perceptions of women as emotional, dependent, and morally inferior, legitimizing their exclusion from power and autonomy. Legal doctrines like coverture exemplified this dynamic by merging a woman's identity with her husband's, denying her property ownership and legal agency. Literature of this era, such as Geoffrey Chaucer's *The Canterbury Tales*, mirrored these norms, often romanticizing female submission or portraying strong women as threats to social order. These narratives normalized women's marginalization, shaping societal and legal structures that entrenched inequality.

III. MODERN AGE: A LITERARY PUSH FOR EQUALITY

In contrast, modern literature has played a critical role in challenging gendered stereotypes and advocating for women's rights. Feminist authors like Virginia Woolf (*A Room of One's Own*)

³ Sharma, I. (no date) Representation of women in the Indian legal system: A historical and contemporary analysis, Edu.in. Available at: https://pure.jgu.edu.in/id/eprint/7404/1/JLSR_Ishita-Sharma.pdf (Accessed: January 15, 2025).

and Henrik Ibsen (A Doll's House) exposed systemic oppression and demanded legal and social change. These works humanized women as complex individuals, questioning laws that restricted their autonomy in marriage, education, and employment. Such depictions influenced societal attitudes, eventually driving legal reforms like voting rights and reproductive freedoms. Today, literature remains a vital tool in interrogating cultural norms, contributing to the ongoing fight for gender equality in both society and law.

QUALITATIVE ANALYSIS: EMPOWERMENT VS. STEREOTYPING⁴

KEY THEMES IN LEGAL FICTION

Legal fiction often navigates a delicate balance between portraying empowerment and perpetuating stereotypes, particularly in its depiction of women in the legal profession. These works frequently present women as symbols of moral virtue, yet they are often relegated to secondary roles or overshadowed by their male counterparts. For instance, in Harper Lee's *To Kill a Mockingbird*, Scout Finch is portrayed as an insightful and observant character who embodies innocence and a strong moral compass. However, her role remains peripheral compared to her father, Atticus Finch, who is positioned as the central figure of justice and action. Similarly, modern portrayals, such as the television series *The Good Wife*, focus on the struggles of women lawyers as they navigate systemic sexism, power dynamics, and societal expectations. These narratives delve into the multifaceted challenges faced by women in the legal profession, from proving their competence to balancing personal and professional lives.

Despite their intent to highlight empowerment, such portrayals often expose the duality of women's experiences in the legal field: they are celebrated for their resilience and intelligence but still operate within systems and narratives dominated by traditional power structures. For example, fictional narratives may showcase women's triumphs, but these victories are often framed as exceptional rather than indicative of systemic progress. This tendency mirrors real-world biases, where women's achievements are frequently seen as anomalies rather than reflections of their capabilities. Such themes in legal fiction underscore the pervasive societal biases that continue to shape perceptions of women in the legal profession, even as these works

⁴ The challenges faced by women lawyers in India (2024) The Legal Quorum. Available at: <https://thelegalquorum.com/the-challenges-faced-by-women-lawyers-in-india/> (Accessed: January 15, 2025).

strive to celebrate their empowerment. By reflecting these dual realities, legal fiction provides valuable insights into the ongoing struggle for gender parity in a profession historically shaped by male dominance.

LEGAL MEMOIRS AND MEDIA⁵

Legal memoirs, particularly those authored by accomplished women in law, serve as authentic chronicles of the struggles, resilience, and victories that define their journeys. Ruth Bader Ginsburg's *My Own Words* is a striking example, offering a deeply personal account of her experiences as a legal pioneer. Through her memoir, Ginsburg highlights the systemic barriers she encountered as a woman in the legal field and the strategies she employed to overcome them. Her story is both inspirational and instructive, shedding light on the structural inequalities that persist and the resilience required to challenge them. Memoirs like these provide invaluable perspectives, inspiring future generations of women to enter and thrive in the legal profession while navigating its inherent challenges.

In stark contrast, mainstream media often struggles to capture the complexity of women's roles in the legal field. Female characters are frequently reduced to archetypes that, while recognizable, fail to reflect the depth of women's experiences. Common portrayals include the overly ambitious attorney who sacrifices personal fulfillment for professional success, the femme fatale who relies on charm rather than intellect, or the virtuous victim who triumphs despite overwhelming adversity. While these depictions aim to celebrate women's resilience, they inadvertently perpetuate stereotypes by confining female characters within limiting molds. These archetypes fail to account for the diversity of women's experiences and the nuanced challenges they face in balancing professional ambition with societal expectations.

This disparity between the authenticity of legal memoirs and the often one-dimensional portrayals in mainstream media underscores the importance of fostering narratives that accurately represent the contributions and struggles of women in law. Media portrayals, while influential, risk reinforcing outdated stereotypes unless they evolve to reflect the realities of women's lives and careers in the legal profession. Authentic storytelling, whether in memoirs

⁵ Lucas, J.M. and Ordeniza, S. (2023) "Representation of women in literature through different era," *Technoarete Transactions on Language and Linguistics* [Preprint]. Available at: <https://doi.org/10.36647/ttll/02.01.a002>.

or media, has the potential to challenge stereotypes, inspire meaningful dialogue, and ultimately reshape societal perceptions of women in the legal field.

EMPOWERMENT VS. STEREOTYPING⁶

The interplay between empowerment and stereotyping remains a dominant theme in portrayals of women in legal fiction and media. On one hand, these narratives often highlight women's intelligence, competence, and determination, showcasing their ability to excel in a traditionally male-dominated profession. On the other hand, they frequently fail to transcend societal biases, confining women within conventional roles that undermine their agency. For example, stories may depict women lawyers achieving remarkable victories or making groundbreaking contributions, but these successes are often framed as extraordinary exceptions rather than reflective of broader systemic progress. This framing reinforces the idea that women must overcome extraordinary odds to achieve the same level of recognition as their male counterparts.

Such portrayals are emblematic of a broader issue within the legal profession, where women continue to face significant barriers to equality. Despite increasing numbers of women entering the legal field, they remain underrepresented in leadership roles and face persistent challenges such as wage disparities, lack of mentorship opportunities, and subtle biases in professional environments. Fictional and media representations often mirror these realities, highlighting women's struggles while simultaneously perpetuating the notion that these challenges are inherent or inevitable. This duality complicates efforts to achieve true empowerment, as it reinforces the societal perception that women's success in law is the exception rather than the rule.

Analyzing these narratives reveals the ongoing tension between celebrating women's achievements and addressing the systemic issues that hinder their progress. While fiction and media may provide a platform for highlighting women's contributions, they also have a responsibility to challenge stereotypes and advocate for structural change. Empowerment in the legal profession cannot be achieved solely through individual triumphs; it requires a

⁶ Lucas, J.M. and Ordeniza, S. (2023) "Representation of women in literature through different era," Technoarete Transactions on Language and Linguistics [Preprint]. Available at: <https://doi.org/10.36647/ttll/02.01.a002>.

collective effort to dismantle the biases and barriers that perpetuate inequality. By shifting the focus from exceptionalism to inclusivity, these narratives can play a crucial role in fostering a more equitable and representative legal profession.

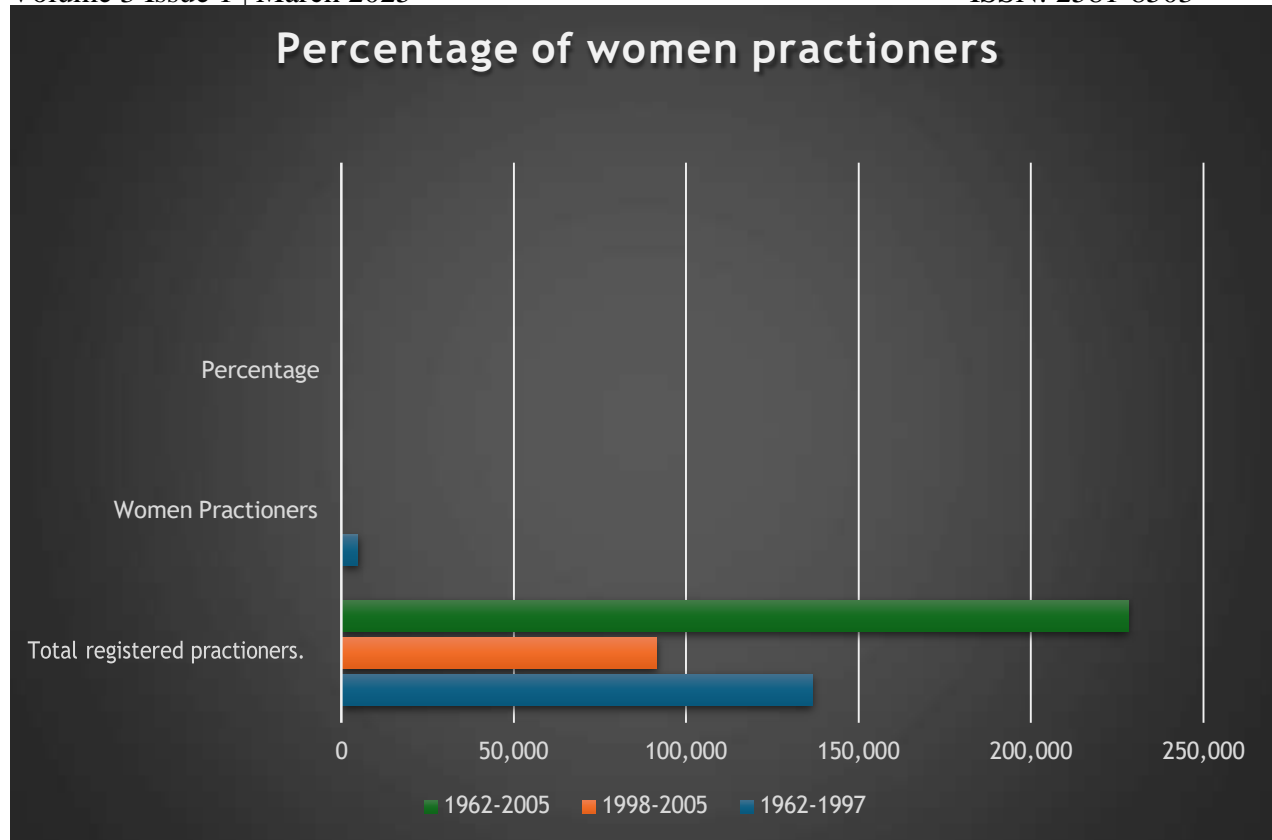
DRASTIC DECLINE: A STATISTICAL ANALYSIS⁷

The entry of women into the Indian legal profession marked a pivotal shift in societal norms, catalyzed by the Legal Practitioners (Women) Act of 1923. Despite this legislative progress, systemic biases were evident as courts like the Calcutta High Court and Patna High Court rejected applications from Regina Guha (1916) and Sudhansu Bala Hazra (1921), citing gender-specific interpretations of the term "person." From 1962–1997, women constituted only **3.12%** of legal professionals in Uttar Pradesh (**4,265 out of 136,635**). However, from 1998–2005, the figure rose to **12% (7,346 out of 91,509)**. Nationally, women's representation remains at a mere **5.08%**, reflecting the enduring male dominance and highlighting the necessity for targeted reforms to ensure gender parity in the legal field. As portrayed in the figure given below:-

FIG 1

Years	Total registered practitioners	Women practitioners	Percentage
1962-1997	136,635	4,265	3.12
1998-2005	91,509	7,346	12.3
1962-2005	228,144	11,611	5.08

⁷ Sharma, I. (no date) Representation of women in the Indian legal system: A historical and contemporary analysis, Edu.in. Available at: https://pure.jgu.edu.in/id/eprint/7404/1/JLSR_Ishita-Sharma.pdf (Accessed: January 15, 2025).



The data highlights a significant increase in the percentage of women practitioners over time. Between 1962-1997, only 3.12% of registered practitioners were women. However, from 1998-2005, this percentage rose sharply to 12.3%, reflecting greater inclusion of women in the field. Across the entire period (1962-2005), women constituted 5.08% of the total 228,144 practitioners. The increase in women's participation in the later years suggests progress in gender representation, possibly due to social, educational, or policy changes. Despite this improvement, women remained significantly underrepresented overall, indicating a need for continued efforts to achieve gender parity in the profession.

Targeted Solutions to Combat Stereotypes in Literature and Media⁸

1. Promoting Diverse Representation: Legislative and Policy Interventions

To ensure authentic and diverse representation in media and literature, industry standards and policies must be established and enforced. Governments and cultural bodies can implement diversity quotas for publishing houses, production companies, and content platforms. These quotas should mandate representation across gender, race, socio-economic status, and sexual orientation. Additionally, regulatory frameworks could require cultural accuracy reviews for content portraying marginalized groups, ensuring that such depictions are both respectful and free from harmful stereotypes. Professional associations within the media and publishing industries could also adopt codes of ethics emphasizing diversity and inclusion in content creation.

2. Creating Counter-Narratives: Incentivizing Innovative Storytelling

Counter-narratives challenging entrenched stereotypes can be encouraged through targeted funding and recognition programs. Grant schemes and awards can specifically support creators who subvert traditional portrayals of gender, race, or socio-economic backgrounds. Educational institutions and professional bodies can introduce training programs for writers, screenwriters, and filmmakers focused on storytelling that disrupts stereotypes while upholding authenticity. To ensure impactful counter-narratives, collaboration with advocacy organizations representing underrepresented groups can help in crafting narratives that genuinely reflect lived experiences, while also steering clear of reductive tropes.

3. Highlighting Shared Human Experiences: Integrating Legal and Educational Initiatives

Literature and media can emphasize shared human experiences by integrating stories into legal awareness campaigns and educational curricula. Legal advocacy groups and NGOs working on issues such as gender equality and anti-discrimination can partner with creators to produce films, documentaries, or novels that highlight universal themes. Educational policies can mandate inclusive literature as part of school and university syllabi, exposing young minds to diverse perspectives. Legal reforms could also introduce public-service mandates for

⁸ Mishra, S.K. (2015) "Women in Indian courts of law: A study of women legal professionals in the district court of Lucknow, Uttar Pradesh, India," e-cadernos CES [Preprint], (24). Available at: <https://doi.org/10.4000/eces.1976>.

broadcasters, requiring content that emphasizes unity and shared human values, especially in contexts prone to societal divides.

4. Exposing the Harm of Stereotypes: Legal Safeguards and Accountability Mechanisms⁹

Media and literature can directly address the harm of stereotypes by focusing on the tangible legal and social repercussions. Creators could produce content that examines the impact of discriminatory laws, workplace biases, or systemic inequalities. Advocacy for stronger defamation and anti-discrimination laws should be coupled with encouraging creators to highlight real-life case studies of individuals affected by stereotyping. Public broadcasting systems could mandate programming that educates audiences on the societal costs of stereotypes, supported by legal organizations offering pro bono support to those affected by harmful portrayals.

5. Empowering Underrepresented Voices: Structural and Legal Reforms

Empowering underrepresented voices requires structural reforms that prioritize equitable access to media and publishing platforms. Legal frameworks could require content platforms to allocate a fixed percentage of production budgets to projects helmed by creators from marginalized groups. Tax incentives could be offered to publishers and production houses actively promoting diverse authors and filmmakers. Legal protections for creators from marginalized communities should also be strengthened, ensuring they are not penalized or silenced for challenging stereotypes or exposing systemic inequities through their work.

6. Encouraging Critical Thinking: Legal and Institutional Collaboration

Critical thinking can be fostered by embedding media literacy and critical analysis as compulsory subjects in educational systems. Collaborations between legal institutions and media creators can highlight the intersection of societal biases and the law, helping audiences critically analyze portrayals in media. For instance, initiatives could focus on content exploring issues such as gender disparities in legal professions, wage gaps, and systemic barriers to justice. Legal organizations can also create discussion guides to accompany content that

⁹ Mishra, S.K. (2015) "Women in Indian courts of law: A study of women legal professionals in the district court of Lucknow, Uttar pradesh, India," e-cadernos CES [Preprint], (24). Available at: <https://doi.org/10.4000/eces.1976>.

challenges stereotypes, encouraging audiences to engage with the material thoughtfully and in a structured manner.

7. **Fostering Dialogue and Discussion: Public Forums and Legal Discourse**

Literature and media that break stereotypes can serve as a foundation for structured dialogue in legal and public forums. Government bodies, bar associations, and civil rights organizations can host events, such as film screenings, book launches, and panel discussions, focused on dissecting harmful stereotypes and promoting inclusion. Legal conferences could include sessions dedicated to analyzing how literature and media portray societal biases and their influence on law and justice. These discussions should aim to generate actionable outcomes, such as recommendations for policy changes or strategies to amplify marginalized voices in public discourse.

CONCLUSION ¹⁰

As rightly said by *Justice Hima Kohli*, the glaring absence of a woman lawyer being appointed as Attorney General or Solicitor General in the past 75 years is a stark indictment of the entrenched gender discrimination in the legal profession. This bold admission by a former Supreme Court judge underscores the systemic barriers that continue to undermine women's advancement in leadership roles within the judiciary and legal administration. Despite women making remarkable contributions to the legal framework and justice system, their exclusion from the highest offices reflects the persistence of a patriarchal mindset that questions their competence and authority. Justice Kohli's statement serves as a call to action, challenging the legal community and policymakers to confront these inequities head-on and implement transformative reforms that dismantle the glass ceiling. It is a resounding reminder that symbolic gestures of progress are insufficient when systemic biases remain unchecked, perpetuating a legacy of exclusion that is incompatible with the principles of justice and equality. The exploration of feminine constructs in the legal profession and literature underscores a persistent tension between empowerment and stereotyping, reflecting the

¹⁰ Mishra, S.K. (2015) "Women in Indian courts of law: A study of women legal professionals in the district court of Lucknow, Uttar pradesh, India," e-cadernos CES [Preprint], (24). Available at: <https://doi.org/10.4000/eces.1976>.

societal evolution of gender roles. While women have made remarkable strides in breaking barriers and contributing to the legal framework, the narratives that shape their representation often oscillate between celebration and confinement. Historically rooted biases, as seen in legal precedents and literary archetypes, continue to influence perceptions of women's competence and authority. Legal fiction and media, powerful vehicles of societal reflection, frequently grapple with the dual challenge of showcasing women's resilience while inadvertently reinforcing limiting stereotypes. The systemic disparities highlighted through statistical analyses, such as the minimal representation of women in the legal workforce and leadership roles, emphasize the urgent need for transformative reforms.¹¹

Addressing these issues requires a multi-pronged approach: legislative frameworks that mandate diversity, institutional incentives for authentic storytelling, and educational policies that cultivate critical thinking about media representations. The empowerment of underrepresented voices and the creation of counter-narratives are not merely acts of inclusion but essential steps toward dismantling entrenched prejudices. Authentic portrayals in media and literature can normalize women's agency, showcasing them as active contributors to justice rather than as exceptions to patriarchal norms. Similarly, systemic reforms within the legal profession, such as gender quotas in leadership and judiciary, are crucial to bridging the gap between legislative intent and societal reality.

This study reinforces the idea that while literature and media can inspire and reflect progress, they also bear the responsibility of challenging entrenched stereotypes and advocating for equitable representation. True empowerment in the legal profession and beyond cannot be achieved through isolated victories but requires sustained, collective efforts to deconstruct patriarchal structures. As Justice Fathima Beevi eloquently observed, women in law are not just breaking barriers; they are reshaping justice itself. In this reshaping lies the promise of a future where feminine constructs transcend their limitations, fostering a legal and cultural landscape defined not by icons or illusions but by equality and authenticity. *"It is not due to a lack of qualified women it is due to lack of considered and appointed"*.

¹¹ Mishra, S.K. (2015) "Women in Indian courts of law: A study of women legal professionals in the district court of Lucknow, Uttar Pradesh, India," e-cadernos CES [Preprint], (24). Available at: <https://doi.org/10.4000/eces.1976>.

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