Under-representation of women in judiciary

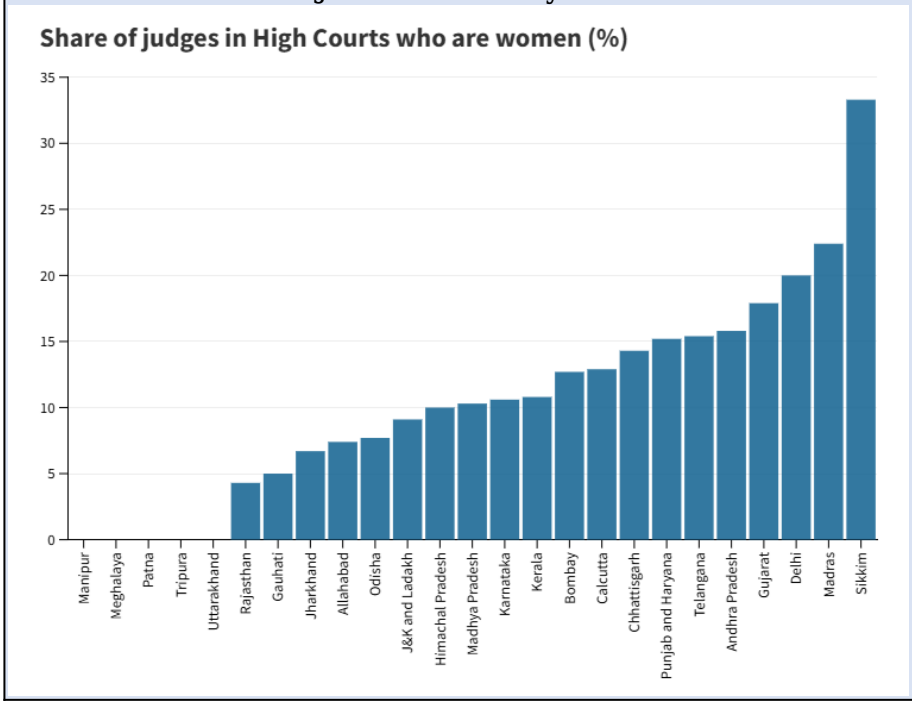
Why in News?

The absence of women in the judicial system almost always revolves around entry-level measures that are aimed at ensuring that more women enter the profession as lawyers/ judges.

What are the reasons for the under representation of women in Judiciary?

Status of women in Judicial System

• Supreme Court of India's "State of the Judiciary" report (2023)
- Women representation in the district judiciary - 36.3%
- Women representation in the High Court – 13.4%
- Women representation in the Supreme Court – 9.3%
- No Woman Chief Justice of India yet.



- **Under Representation at Entry** - Women are drastically under-represented as senior advocates, advocates-on-record, and Bar Council representatives.

  Data published by the Department of Legal Affairs in 2022 show that approximately 15.31% of all enrolled advocates are women.

- **Entry Barrier** - Direct recruitment continues to be a challenge for female aspirants

due to the conditions like minimum period of 'continuous' practice for elevation to the Bench.

- **Funnel Effect** – Low presence at the entry level make only smaller pool of candidates who may be able to establish themselves in the system and be considered for elevation.
- **Retention Barrier** - Even those women who have been included are unable to rise to positions of power.
- **Unsupportive Environment** - Continued career growth becomes difficult in the face of a discouraging and unsupportive environment which fails to take into account their specific needs.
- **Gender Bias** - Unconscious gender bias in courts results in women judges being sidelined in administrative duties.

None of the High Court Building Committees aside from Delhi, Allahabad and Himachal Pradesh currently has even a single woman judge as a member.

- **Lack of women perspectives** – Due to inadequate representation in High Court Registries and judicial academies, women's perspectives and experiences for policy-making are not fully taken into account.
- **Transfer policies** – Insensitiveness of transfer polices to the women's role as primary care taker , makes it harder for them to continue in the realm.
- **Limited Sanitary Facilities**- Multiple courts, including prominent High Courts, lack adequate washrooms even for women judges, let alone for female staff, lawyers, or litigants.

A survey in 2019, by the Vidhi Centre for Legal Policy highlighted that nearly 100 district courts have no dedicated washrooms for women.

- **Inadequacy of Short-term measures** - Ad hoc decisions such as the construction of a single toilet block or a temporary waste disposal bin being insufficient to address women's needs.
- **Family Responsibilities** – Domestic duties of house management, children and elderly care makes it difficult for women to join after pregnancy.
- **Public Private Divide** - public sphere does not cater to the specific needs of women upon their transition from the private sphere to the public.
- **Resource Crunch** - Limited availability of resources make ineffective the efforts taken by courts to improve women representation.

What are the impacts of under representation of women in Judiciary?

- **Bias in Court Decisions** - A lack of women judges can lead to biases in court decisions, particularly in cases involving gender-based issues.
- **Deficiencies in Legal Reasoning -** A lack of diversity among judges can result in a narrow understanding of social issues.
- **Legitimacy of the Judiciary** - When the judiciary does not reflect the gender

composition of society, it can raise questions about its legitimacy and fairness.

- **Impact on Future Generations -** The lack of female role models in the judiciary can negatively affect young women's aspirations and self-perception.
- **Reinforcement of Stereotypes -** The absence of women in judicial roles can reinforce societal stereotypes about women's capabilities and roles in leadership positions.

What can be done to improve women representation judiciary?

- Make the provision to ensure representation in higher judiciary be mentioned in Memoranda of Procedure.
- Implement inclusive policies to enable their entry and retention.
- Ensure the continued support and encouragement and retention of women in the judiciary.
- Provision of family-friendly amenities including feeding rooms and crèches.
- Employment of a feminist lens to recognise the differential needs of women and diminish the impacts discriminatory policies.
- Infrastructural amenities, gender-sensitive recruitment and transfer policies, and adequate training and support are crucial to ensure that the judiciary lives up to its promise of empowering women.

References

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