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Q2

Discuss the desirability of greater representation to women in the higher judiciary to ensure diversity, equity and inclusiveness.

UPSC Civil Services Mains 2021 · GS II · 10 marks · Executive and Judiciary

Structure, organization and functioning of the Executive and the Judiciary - Ministries and Departments of the Government; pressure groups and formal/informal associations and their role in the Polity.

Core demand of the question

- Discuss the desirability of greater representation to women in the higher judiciary to ensure diversity, equity and inclusiveness
- Honour the official stem. Discuss Supreme Court and High Court benches, not only subordinate courts
- Keep the explanation within a 10-mark length

Revision summary

Women remain under-represented on Supreme Court and High Court benches despite a large pool at the Bar.

Diversity improves judging in gender, family and workplace cases; equity and inclusiveness are **Articles 14-16** values the Court itself enforces.

The filter is informal networks and seniority practice, not a constitutional ban.

Publish data, widen the district-judge and senior-advocate pool, and name gender diversity as a collegium criterion.

Inclusion is about legitimacy of the Bench, not about a single judicial ideology.

Introduction

The higher judiciary speaks the Constitution for the whole Republic, yet women remain a thin minority on the Supreme Court and High Court benches. Greater representation is desirable because diversity, equity and inclusiveness are conditions of legitimacy, not ornaments on an otherwise male collegium.

Body**Why representation is desirable**

- Diversity of life experience on the Bench improves the quality of judging in cases on workplace harassment, family property, reproductive autonomy, and the POSH framework; a homogenous court systematically under-sees those facts.
- Equity demands that women, who are half the citizenry and a rising share of law graduates and advocates, are not filtered out at the point of elevation to the High Court and the Supreme Court.
- Inclusiveness is a constitutional value read with **Articles 14, 15 and 16**; a court that enforces those Articles while remaining almost all-male weakens its own moral authority.

- **Visible women judges also change the pipeline:** juniors, litigants, and court staff treat the courtroom as a shared public space rather than a male guild.

The present gap

- India has had distinguished women judges from Justice Fathima Beevi onward, yet the Supreme Court has never approached gender parity, and several High Courts have gone years with few or no women judges.
- Collegium elevation still leans on seniority at the Bar and on informal networks that historically favoured men; there is no constitutional bar on women, but there is a structural filter.
- Justice Indu Malhotra's Sabarimala dissent and later benches on **Article 15** show that women judges do not vote as a bloc; the case for inclusion is about perspective and fairness, not about a guaranteed outcome.

How to get there without lowering the office

- Publish gender-disaggregated data on recommendations, elevations, and residual vacancies, so the Memorandum of Procedure is not a closed male conversation.
- Widen the pool from district judges and from women senior advocates, and make transfer, housing, and parental-leave practice compatible with a judicial career.
- **Recommendation:** treat gender diversity as an express collegium criterion alongside seniority and merit, as several **Law Commission** and parliamentary committee notes have already urged.

Flow diagram

Pool of women lawyers and DJs -> Collegium elevation
Collegium elevation -> Diverse High Court and SC benches
Diverse High Court and SC benches -> Diversity equity inclusiveness
Diverse High Court and SC benches -> Legitimacy of constitutional judging

Conclusion

Greater representation of women in the higher judiciary is desirable because a constitutional court that is diverse, equitable and inclusive judges better and is believed more. The gap is structural, not a shortage of women lawyers; the collegium and the Memorandum of Procedure must treat gender as a criterion of a complete Bench.

Facts & figures

Justice M. Fathima Beevi

First woman judge of the **Supreme Court of India (1989)**, which showed that the barrier was practice, not text.

Articles 124 and 217

Appointment provisions for the Supreme Court and High Courts; they are gender-neutral and therefore place the gap on process, not on eligibility.

Collegium and MoP

The living appointment method after the Judges Cases; the place where diversity criteria must be written if they are to bite.

POSH Act, 2013

Workplace-harassment statute whose fact patterns reach the higher judiciary and need benches that take women's evidence seriously.

Law Commission / parliamentary notes

Repeated official concern that the higher judiciary does not reflect the gender composition of the Bar.

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