



# RELIGION, ETHNICITY AND GENDER PARITY: A FIGHT AGAINST UNDER-REPRESENTATION

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## Abstract

*In a world, where the course of current and future national and international affairs is a derived impact of the decisions of the International Adjudicating and Monitoring bodies, it is rather appalling to see that representation of women at the International Bench is considered highly impertinent. The decisions of these bodies, act as commandments shaping the landscape of our future generations, despite this enlightenment the representation of women at these International Institutions remains immoderately minimal. This paper seeks to analyze the current state of gender disparity at the international bench, rooting from the barriers and social hostilities posed by religion at the national level. Gender disparity emerging from religious bigotry being the focal point of this paper, I aim to highlight India's nominal representation at the International level.*

**Keywords:** Gender, Socio-cultural context, Gender Equality, Gender mainstreaming, Gender disparity

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## DEFINITIONS AND CONCEPTS INTEGRAL TO THE PAPER

### I. GENDER

Gender and parity, separately are two basic but integral terms, each defining phenomenon critical to our social existence. Black's Law dictionary defines gender as "defined difference between men and women based on culturally and socially constructed mores, politics, and affairs."<sup>1</sup> Gender as perceived by the United Nations entails much more than just delineating between male and female. It is construed as a description rather than a defined difference between the two sexes, diverging into tangents such as race, class, age, ethnic group, etc. This socio-cultural variable gives rise to certain specific gender roles<sup>2</sup> and by virtue of the existing social compulsions, adventitiously defines norms of acceptability allowed and valued in a woman/man/girl/boy. This relationship between gender and other crosscutting variables like race, class, age, ethnic group, etc. can be explained by virtue of the Grundnorm concept of Jurisprudence, which was contrived by an Austrian jurist named Hans Kelsen. The Grundnorm is considered as the highest norm and it exists through its acceptance by the society as the reason for the authority of all the other subsisting norms<sup>3</sup>. Gender being the Grundnorm here, rest of the norms like race, class, age, ethnic group etc. cannot not be explained, without presupposing the existence of the Grundnorm i.e. Gender. Gender is a part of the extended socio-cultural horizon and plays a vital role in defining norms expected to be followed, valued and accepted by the society at large. The United Nations Commissioner for Refugees defines Gender as a part of the broader socio-cultural context intending to adopt a more holistic approach by covering in its ambit race, class, age, ethnic group etc.<sup>4</sup>

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<sup>1</sup> Black's Law Dictionary Second Edition. Available at: <https://thelawdictionary.org/gender/>.

<sup>2</sup> Gender Statistics Manual, Integrating a gender perspective into statistics (2015). [Online] Available from: <https://unstats.un.org/unsd/genderstatmanual/Glossary.ashx>., United Nations Statistics Division – UNSD, Global Gender Statistics. **Gender Roles** - Gender roles are social and behavioral norms that, within a specific culture, are widely considered to be socially appropriate for individuals of a specific sex. These often determine differences in the responsibilities and tasks assigned to women, men, girls and boys within and outside the private sphere of their household.

<sup>3</sup> Graham Hughes, Validity and the Basic Norm, 59 California Law Review 695 (1971).

<sup>4</sup> U.N. High commissioner for refugees, handbook for the protection of women and girls 12 (2008), Available at: <http://www.unhcr.org/47cfa9fe2.html>.

## II. GENDER PARITY

Parity is described as the state of maintaining equality between two entities<sup>5</sup>. Gender Parity is mostly misconceived to be synonymous to Gender Equality. Although it is a numerical concept related to Gender Equality it cannot, however be considered a synonym for the same. Gender equality is to be considered not just in relation to women and men but also in intersectional terms, attentive to the ways that gender intersects with class, race and ethnicity, sexuality, place and other significant axes of difference<sup>6</sup>. Gender parity is a numerical concept which is concerned with relative equality in terms of numbers and proportions of women and men, girls and boys<sup>7</sup>. Gender Balance is described as Human resources an equal participation of women and men in all areas of work, projects or programs<sup>8</sup>. Gender balance is a term that can be used in place of gender parity interchangeably. Gender Equality has more profoundness to it; it entails several verticals, which can further be classified into quantitative and qualitative aspects. Gender parity forms a part of the quantitative aspect of Gender Equality<sup>9</sup>; an offshoot of the main stem i.e. Gender Equality. Gender Equality means that the gender of a person will not govern the rights, responsibilities and opportunities an individual is to undertake rather it implies that the interests and rights of all persons irrespective of male or female will be valued equally. Equality ensures that the needs, perceptions, interests and rights of women and men be given equal weight in decision-making, thereby ensuring stability and balance in the long run. The quantitative vertical is mainly concerned with equitable and numerical parity, while the qualitative aspect is concerned with achieving equitable effort and influence in establishing and inculcating development strategies and outcomes for women and men. In his oath of office, the Secretary-General António Guterres of United Nations made it abundantly clear that achieving gender parity is an urgent need and a personal priority. He values the contribution of women and supports the same with immense enthusiasm. Gender Parity is an essential prerequisite to attain sustainable development. A few lines from the oath have been produced below:

“ Gender parity at the United Nations is an urgent need – and a personal priority. It is a moral duty and an operational necessity. The meaningful inclusion of women in decision-making increases effectiveness and productivity, brings new perspectives and solutions to the table, unlocks greater resources and strengthens efforts across all the three pillars of our work.”<sup>10</sup>

Sustainable people-centered development calls for equality between women and men as an integral prerequisite, hence it is safe to conclude that equality between women and men is seen both as a human rights issue and as an essential requirement for attaining sustainable development.

## III. GENDER MAINSTREAMING

United Nations Statistics division defines gender mainstreaming as the process of evaluating the implications of policies or programs for women and men, in all areas and at all levels. Gender mainstreaming started as an intergovernmental mandate through the Beijing Platform for Action at the United Nations Fourth World Conference on Women in 1995, and was again endorsed in the Economic and Social Council (ECOSOC) Agreed Conclusions in 1997<sup>11</sup>. The directive for gender mainstreaming was considerably strengthened following the Outcome of General Assembly special session to follow-up the Beijing Conference.

It is recognized as a global strategy focusing on the design, implementation, monitoring and evaluation of policies and programs in all political, economic and societal spheres in a way that men and women gain equally and disparity is not perpetuated. The ultimate goal is to achieve gender equality. Gender Mainstreaming is a globally accepted strategy for promoting gender equality.<sup>12</sup> Mainstreaming involves ensuring that gender perspectives and attention to the goal of gender equality are central to all activities.

<sup>5</sup> Black's Law Dictionary, Second Edition (Online), Available at: <https://thelawdictionary.org/parity/>.

<sup>6</sup> Yuval-Davis, N. 2006. “Intersectionality and Feminist Politics.” *European Journal of Women's Studies* 13, no. 3: 193–209, Shields, S. 2008. “Gender: An Intersectionality Perspective.” *Sex Roles* 59: 301–11, Valentine, G. 2007. “Theorizing and Researching Intersectionality: A Challenge for Feminist Geography.” *The Professional Geographer* 59, no. 1: 10–21.

<sup>7</sup> Glossary, United Nations Statistics Division – UNSD, *Global Gender Statistics* (supra).

<sup>8</sup> Glossary, United Nations Statistics Division – UNSD, *Global Gender Statistics* (supra).

<sup>9</sup> IMPORTANT CONCEPTS UNDERLYING GENDER MAINSTREAMING [2001], Available at: <http://www.un.org/womenwatch/osagi/pdf/factsheet2.pdf>, United Nations Women, concepts and definitions OSAGI (The Office of the Special Adviser to the Secretary-General on Gender Issues and Advancement of Women (OSAGI) is headed by the Special Adviser on Gender Issues and Advancement of Women and comprises a Principal Social Affairs Office in charge of [Gender Mainstreaming](#) and the [Focal Point for Women](#) in the Secretariat. This Office was created on 1 March 1997.)

<sup>10</sup> Antonio Guterres, United for Gender Parity, Available at: <https://www.un.org/gender/content/strategy>, Secretary General Antonio Guterres's oath of office dated 12.12.2016

<sup>11</sup> Fact sheet, UN Women, The Office of the Special Adviser to the Secretary-General on Gender Issues and Advancement of Women (OSAGI) Available at : <http://www.un.org/womenwatch/osagi/pdf/factsheet2.pdf>

<sup>12</sup> Gender Mainstreaming, United Nations Entity for Gender Equality and the empowerment of Women

Gender mainstreaming strategy requires that attention is given to gender perspectives as a fundamental part of all activities across all programs and does not necessitate separate women’s projects and components within work programs and existing activities in the work programs. This process thereby ensures that the needs, priorities and perspectives of both men and women are placed more centrally in development, research, advocacy and implementation of all policies and programs.

## GENDER DISPARITY ON THE INTERNATIONAL BENCH

### THE SETBACK

International Courts and tribunals play a fundamental role in shaping the outlook of our future generations. In a scenario like this, it is only fair that men and women are equally represented. Women amount to 49.556 %<sup>13</sup> of the total population of the earth and it is highly disconcerting to note that the representation of women at these international governing and adjudicating bodies remains exceedingly minimal. Although some international bodies have made progress since their inception, these advances are not foolproof and do not suffice as sustainable measures for attaining gender parity.

On analyzing the state of gender parity at some of the International bodies, the following statistics come to light. The International Court of justice (ICJ) has had only 4 women representatives since its inception in 1945. Similarly, The International Tribunal of the Law of the Sea (ITLOS) has seen only two lady judges, since its establishment in 1994<sup>14</sup>. Likewise the Inter-American Court of Human Rights, started with seven male judges, and it was not until 1988 that a woman judge joined the Court. After her, another woman was not appointed till 2004. In 2007, out of seven judges three were women, which followed to an all male composition in 2013. Another woman judge did not serve at the I-A Court until 2016. It is crucial to note that within the major international tribunals, women’s participation accounts for a meager average of 17% only.

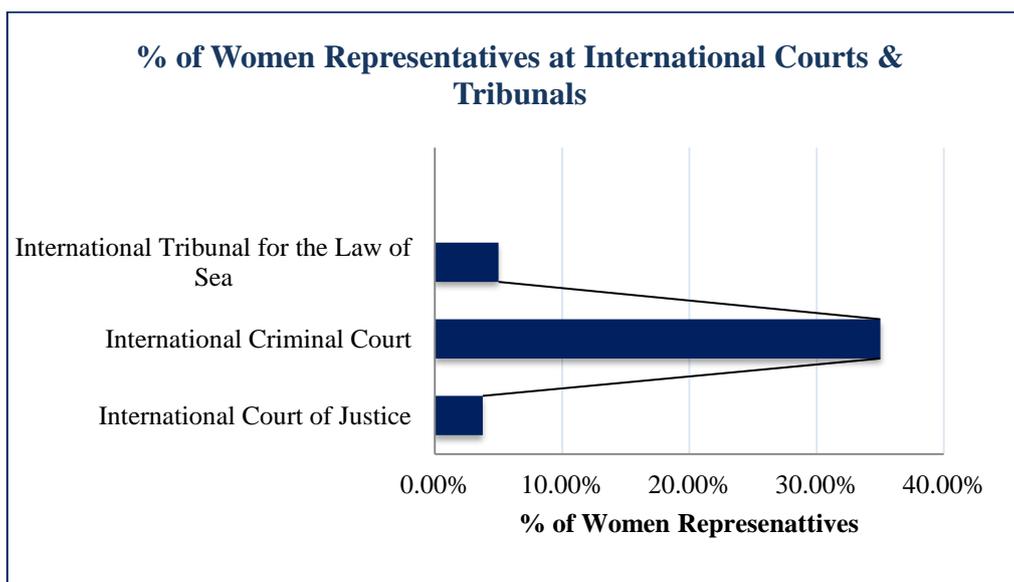


Figure1. Chart showing percentage of women representatives at major International adjudicatory bodies<sup>15</sup>.

Gender parity in itself is not a non-attainable concept; it is the sustainability of the same that poses an obstruction. The challenge lies in sustaining parity, once it has been attained. A majority percentage of these international governing and adjudicating bodies fail to emphasise on the importance of gender parity and thus fail to sustain it, even though they have achieved it at some point. The International Criminal Court (ICC), for example, experienced a similar situation in 2002, when it became the first female-majority international bench, followed by a return to underrepresentation few years later. The current ratio which persists is 6 female judges to 12 male judges.

Available at: <http://www.un.org/womenwatch/osagi/gendermainstreaming.htm>

<sup>13</sup> Percentage of female population, world Bank Open Data, Available at: <https://data.worldbank.org/indicator/SP.POP.TOTL.FE.ZS>, World Bank Open Data.

<sup>14</sup> Members, The International Tribunal of the Law of the Sea (ITLOS), Available at <https://www.itlos.org/the-tribunal/members/judge-neeru-chadha/>

<sup>15</sup> Statistics from GQual, A Campaign for Gender Parity in International Representation. Available at [https://www.cejil.org/sites/default/files/gqual\\_english.pdf](https://www.cejil.org/sites/default/files/gqual_english.pdf).

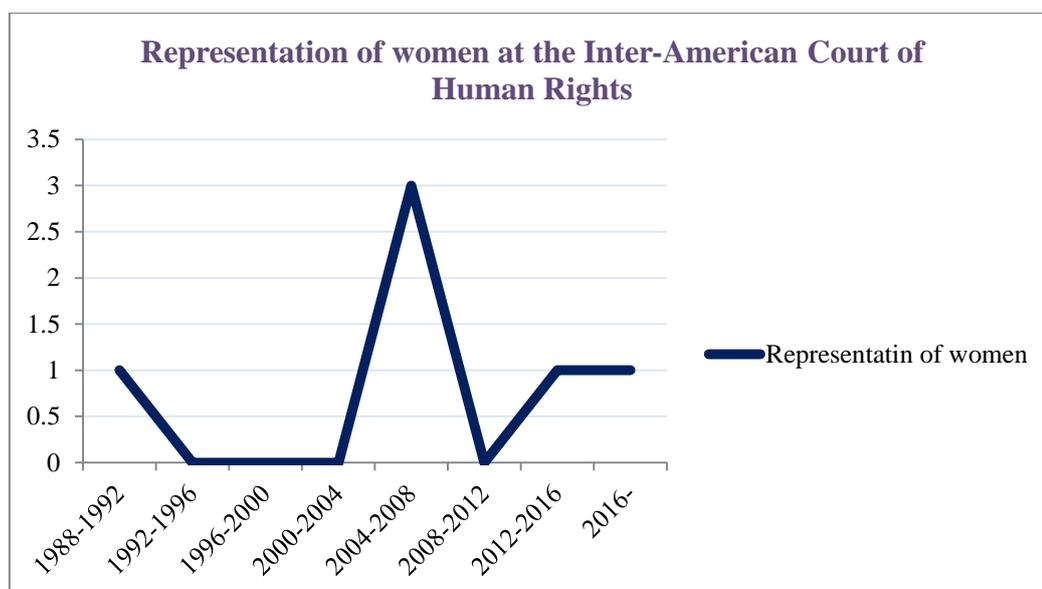


Figure 2. Chart showing the variation in the % of women over years at the Inter- American Court of Human Rights.

Increasing knowledge and awareness about the problem is an important first step to ensure a wider outreach in this fight to attain gender parity at the International Bench. However, it is imperative to understand the indispensable need to take bolder steps to curb gender disparity. Changing the picture will require a concerted effort, to analyze in the depth the various factors, which withhold women's participation at a national level resulting in the sparse representation at the International bench. Religious Intolerance, amongst other factors being a major catalyst at a national level, plays an important role in the unequal representation at the international level. Further, steps need to be taken by diverse actors such as mandate holders, Government representatives, opinion makers, and humanitarians etc to not only create awareness but to also introduce the public to policies and strategies to curb social hostilities and make way for gender parity.

The decisions of these adjudicating bodies have a major impact on the peace and security at a regional as well as global level. The idea is to attain a balance at the international bench to ensure equal representation, and work towards sustaining the same by implementing policies, mechanisms, or actions that ensure progress is not only achieved, but also sustained.

Gender Equality is a constituent element, essential to the definition of sustainable development. Existence of sustainable development cannot be presupposed without the subsistence of gender equality. Gender Equality needs to be addressed and sustained in ways that fully realize the human rights of women and ensure gradual transition to holistic sustainable development. The need to address these two challenges has never been more pressing. As we move towards the post-2015 development agenda, the UN Women World Survey not only discusses the importance of each challenge, but also the need to address both the challenges together<sup>16</sup> i.e. Gender Equality and Sustainable Development. The importance of gender equality has been discussed in great detail in various UN declarations and outcome documents. In the Beijing Declaration and Platform for Action 1995,<sup>17</sup> for example, the governments came together to combine gender concerns and perspectives into policies and programs to achieve sustainable development. The concept of substantive sustainable gender equality emphasizes the importance of human rights, capabilities and the ways these intertwine and overlap.<sup>18</sup>

## RELIGION AND GENDER DISPARITY

What is religion? Religion is subjective. To some it plays a pivotal role in defining the meaning of life and the boundaries of existence. It can be described as a pathway to identifying one's sense of being. The Latin word *Religare*<sup>19</sup>, is the source behind the word now called "Religion". *Religare* in simple terms means "to bind fast". Religion is synonymous to faith and faith is the power that binds people together. In times like this where so much power is placed in this etymology it is rather appalling to see the same being used as an excuse for exposing the

<sup>16</sup> World Survey on the role of women in Development 2014, UN Women, Gender Equality and Sustainable Development, Available at [https://sustainabledevelopment.un.org/content/documents/1900unwomen\\_surveyreport\\_advance\\_16oct.pdf](https://sustainabledevelopment.un.org/content/documents/1900unwomen_surveyreport_advance_16oct.pdf)

<sup>17</sup> Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995 (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

<sup>18</sup> Goldblatt, B. and K. McLean, eds. 2011. Women's Social and Economic Rights. Cape Town: Juta.

<sup>19</sup> STUDY GUIDE: Freedom of Religion or Belief, (2016) University of Minnesota, Human Rights Library, Available at: <http://hrlibrary.umn.edu/edumat/studyguides/religion.html>

world to social hostilities. Religious intolerance is a major catalyst in perpetuating social upheaval, gender disparity being one of them.

It is highly unsettling to realize that religion plays a major role in instilling the sentiment necessary to regenerate gender disparity. Religious freedom is the one of the possible panaceas to curb gender disparity at the national level, thereby ensuring parity nationally and gradually at the global level. The right to believe or not believe is inherent in religious freedom. Freedom of religion or belief is an expansive right that includes the freedoms of thought, conscience, expression, association, and assembly<sup>20</sup>. The knowledge of the fact that religious intolerance is a major contributor to such social evils should be an alarming awakening for the mankind at large to take necessary steps and work towards eradicating gender disparity.

To reaffirm faith in the equality of rights for men and women is a basic principle imbibed in the preamble to the charter of United Nations.<sup>21</sup> As per Article 1 enshrined in the charter, one of the key purposes of the United Nations is to achieve international cooperation in fostering and encouraging respect for human rights and for fundamental freedoms for all without distinction as to, inter alia, religion and sex.<sup>22</sup> The charter persists as the first international instrument to recognize the importance of discussing equal rights of men and women, thus making this matter of ethics contractually binding on all governments of member states and the United Nations.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted in 1979 by the United Nations General Assembly, to define what constitutes discrimination against women. It is commonly known as the international bill of rights for women. Countries that ratify the Convention on the Elimination of All Forms of Discrimination against Women concur to take concrete steps to curb discrimination against women. As envisaged by the United Nations, the CEDAW is an agenda for action that demands the ratifying nations to ultimately attain full compliance.

Despite this treaty, religion poses as a major hindrance in the path to attain gender parity. Some of the reservations imposed by member states have been produced below:

**Saudi Arabia:** In case of contradiction between any term of the Convention and the norms of Islamic law, the Kingdom is not under obligation to observe the contradictory terms of the Convention.<sup>23</sup>

**Israel:** The State of Israel hereby expresses its reservation with regard to article 7 (b) of the Convention concerning the appointment of women to serve as judges of religious courts where this is prohibited by the laws of any of the religious communities in Israel. Otherwise, the said article is fully implemented in Israel, in view of the fact that women take a prominent part in all aspect of public life.<sup>24</sup>

**Maldives:** The Government of the Republic of Maldives reserves its right to apply article 16 of the Convention concerning the equality of men and women in all matters relating to marriage and family relations without prejudice to the provisions of the Islamic Sharia, which govern all marital and family relations of the 100 percent Muslim population of the Maldives.<sup>25</sup>

**India:** i) With regard to articles 5 (a) and 16 (1) of the Convention on the Elimination of All Forms of Discrimination Against Women, the Government of the Republic of India declares that it shall abide by and ensure these provisions in conformity with its policy of non-interference in the personal affairs of any Community without its initiative and consent.<sup>26</sup>

These restrictions modeled as religious reservations demonstrate the reluctance of the governments at the national level, to overcome the religious barriers and take steps to curb all practices, which are based on the idea of

<sup>20</sup> Ghana N., Women and Religious Freedom, Synergies and Opportunities (2017), United States Commission on International Religious Freedom, Available at :<https://www.uscifr.gov/sites/default/files/WomenandReligiousFreedom.pdf>

<sup>21</sup> Preamble, United Nations, Available at: <http://www.un.org/en/sections/un-charter/preamble/index.html>.

<sup>22</sup> Short history of Convention on the Elimination of All Forms of Discrimination Against (CEDAW), UN Women, Available at: <http://www.un.org/womenwatch/daw/cedaw/history.htm>

<sup>23</sup> United Nations Treaty Collection, ratifications, declarations, and reservations to the Convention on the Elimination of All Forms of Discrimination against Women, Available at :<https://treaties.un.org>.

<sup>24</sup> United Nations Treaty Collection, Vol. 1249, P. 13, Available at: [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV8&chapter=4&lang=enUnited#32](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV8&chapter=4&lang=enUnited#32)

<sup>25</sup> Ghana N., Women and Religious Freedom, Synergies and Opportunities (2017), United States Commission on International Religious Freedom, Available at :  
<https://www.uscifr.gov/sites/default/files/WomenandReligiousFreedom.pdf> .

<sup>26</sup> Ghana N., Women and Religious Freedom, Synergies and Opportunities (2017), United States Commission on International Religious Freedom, Available at : <https://www.uscifr.gov/sites/default/files/WomenandReligiousFreedom.pdf> .

the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.<sup>27</sup> These reservations have agonizing ramifications, which extensively restrict women's rights.

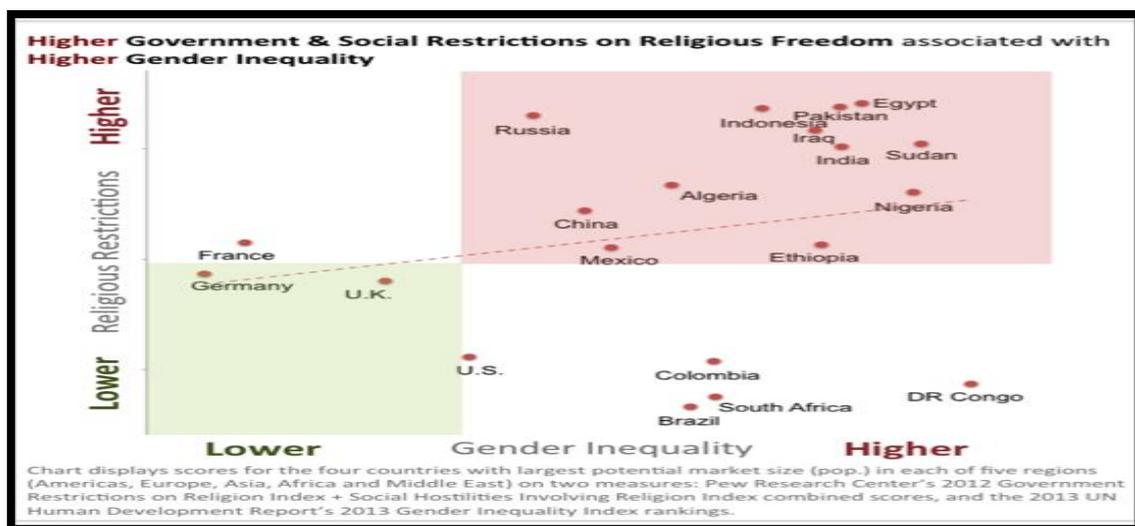
Importance of Religious freedom in holistic sustainable development is also highlighted by virtue of a study conducted by the researchers from Brigham Young University and Georgetown University. The study stresses on religious freedom as an important factor to be considered in the possible solutions for attaining gender equality and also emphasizes on the importance of religious freedom as a pathway to more stable economies. The study clearly demonstrates definite linkages between religious liberty and economic stability. Religious freedom also makes way for gender parity and the gradual empowerment of women by ensuring participation of minority groups, including women to engage in and contribute to the economy. For any solution to be practically successful it will have to deal with challenging issues of the modern world like social hostilities, which are a derived impact of religious intolerance as a prerequisite. The chief of the social society section, of UN Women, Lopa Banerjee, strongly agrees that religious organizations have a strikingly major role to play in overcoming race, gender, class based discrimination.

“Faith-based organizations, institutions, and communities have a pivotal role to play in both interrogating, challenging and proposing alternative power structures so that we can work across race, class, and gender so as to leave no one behind.”<sup>28</sup>

-Lopa Banerjee, Chief, Civil Society Section, UN Women

### RELIGIOUS FREEDOM, THE PANACEA: A STUDY

By virtue of an approximate analysis of 25 countries<sup>29</sup> facing religious restrictions, varying from minimal to high degrees of religious intolerance, I aim to stress upon the notion that religious intolerance is directly proportional to gender disparity. Religious freedom is an important factor to be considered in efforts to strengthen economies, attain gender parity and empower women. Furthermore, the paper aligns the fundamentals involved in achieving Gender Parity with an emphasis on a global campaign for Gender Parity (GQUAL) led by Viviana Krsticevic, Executive Director of the Center for Justice and International Law (CEJIL)<sup>30</sup>.



**Figure 3: Chart showing the levels of religious restrictions and gender inequality across countries in the year 2013, demonstrating the fact that, higher religious intolerance leads to higher gender inequality.**<sup>31</sup>

As is apparent from the chart above, majority of the countries with higher religious restrictions and intolerance, inevitably have higher percentage of gender inequality. This graph provides us with a fair understanding of the linkages between religion and gender. The countries with relatively low religious and governmental restrictions

<sup>27</sup> Convention on the Elimination of All Forms of Discrimination against Women. New York, 18 December 1979, Chapter IV, Vol 1, Available at: [https://treaties.un.org/doc/Treaties/1981/09/19810903%2005-18%20AM/Ch\\_IV\\_8p.pdf](https://treaties.un.org/doc/Treaties/1981/09/19810903%2005-18%20AM/Ch_IV_8p.pdf)

<sup>28</sup> Report on Religion and Gender Equality, UN Women, Available at : [http://www.partnerreligiondevelopment.org/fileadmin/Dateien/Resources/Knowledge\\_Center/Religion\\_and\\_Gender\\_Equality\\_UNWOMEN.pdf](http://www.partnerreligiondevelopment.org/fileadmin/Dateien/Resources/Knowledge_Center/Religion_and_Gender_Equality_UNWOMEN.pdf).

<sup>29</sup> Brian Grim; Jo-Ann, (2015) the World Economic Forum's Global Agenda Council on the Role of Faith, Available at : <https://www.weforum.org/agenda/2015/11/religion-holds-women-back-or-does-it/>

<sup>30</sup> GQual, A Campaign for Gender Parity in International Representation. Available at: [https://www.cejil.org/sites/default/files/gqual\\_english.pdf](https://www.cejil.org/sites/default/files/gqual_english.pdf).

<sup>31</sup> Brian Grim; Jo-Ann, (2015) the World Economic Forum's Global Agenda Council on the Role of Faith (Supra).

have comparatively higher rates of gender equality and are better suited for overall sustainable development. Countries like France, United Kingdom, and Germany have minimum to low levels of gender inequality, this can be owed to the low percentage of religious restrictions prevalent in these countries. Countries like India, Pakistan, Iraq, and Egypt have considerably higher percentages of religious intolerance, therefore making them more prone to situations of gender inequality. There is immeasurable amount of social stigma attached to countries with religious restrictions imposed by their respective governments.

In addition to government regulations, in many countries, there are certain religious norms and codes of conduct modeled as social compulsions, imposed by private individuals and groups. Most countries encompass some or the other form of social spitefulness, some of which are mob violence related to religion, forced conversions or terrorist groups carrying out actions in the name of religion. These restrictions and hostilities vary from country to country depending upon the levels of religious freedom and government regulations prevalent in the country. Some countries in particular however have profoundly extensive percentages of social hostilities.

In a study conducted by Pew Research Center, it has been examined that the number of countries in which women have been harassed for violating religious codes of conduct and dress has increased in recent years<sup>32</sup>. For example the mass sexual assault which took place during the ongoing social unrest in Egypt, in the name of the Islamic misogynistic ideology, which punishes women for parting from their homes and considers sexual violence as a cause of disgrace for the victim i.e. women, not the attacker<sup>33</sup>. Similarly, In Pakistan, which happens to be the sixth-largest country by population, ranks highest amongst religion related social hostilities. In December 2017, a church in Quetta, Pakistan was bombed by suicide bombers (militants) as an attempt to target religious minorities, mainly Christians<sup>34</sup>. These social hostilities in countries are on a rise; in 2009 such hostile and inhuman incidents were reported in just 7% of the countries. In the year 2014 the number went up to 25%<sup>35</sup>.

According to Pew Research Center’s report on Trends in Global Restrictions on Religion 2014, Egypt, Indonesia, Pakistan, Russia and Turkey fall in the bracket of the highest percentage of overall restrictions on religion, where religious beliefs and practices are curtailed because of limitations imposed by both, the government and society at large. Although no strong direct connection has been established between government regulations, social hostilities and harassment of women, studies are a proof that harassment of women over religious dress and conduct prevails more often in countries where the religious regulations are regulated by the government.

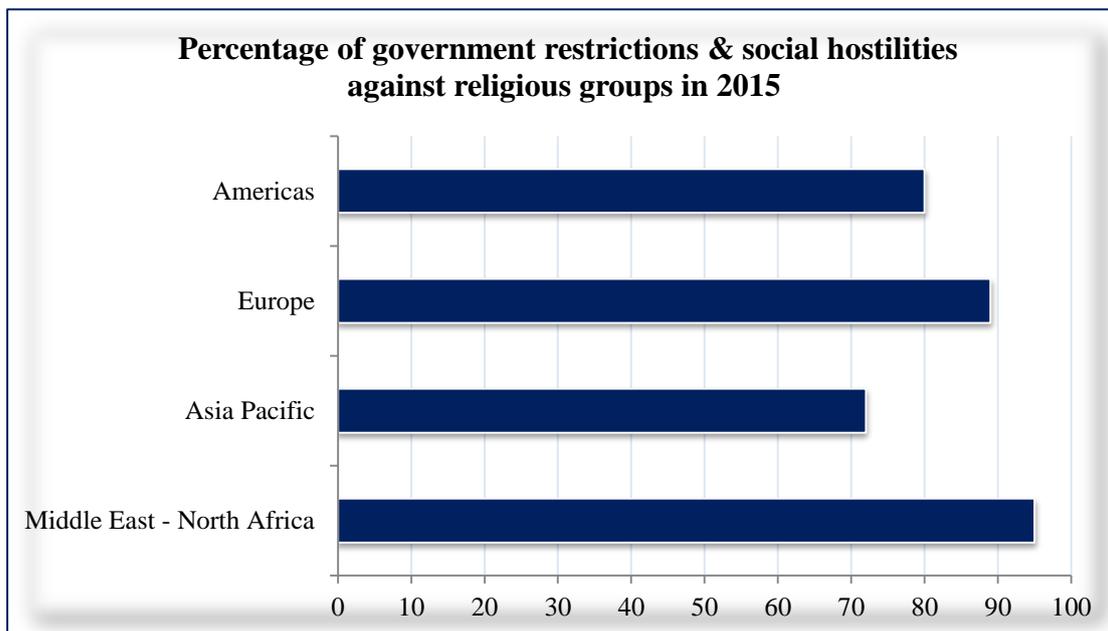


Figure 4: Chart showing % of government restrictions and use of force against religious groups, as recorded in 2015.<sup>36</sup>

<sup>32</sup> Report on Trends in Global Restrictions on Religion 2016, Pew Research Center, Available at: <http://www.pewforum.org/2016/06/23/trends-in-global-restrictions-on-religion/>.

<sup>33</sup> Patrick Kingsley July 2013, the Guardian, Available at :<https://www.theguardian.com/world/2013/jul/05/egypt-women-rape-sexual-assault-tahrir-square>.

<sup>34</sup> Salman Masood Dec. 2017, The New York Times , Available at: <https://www.nytimes.com/2017/12/17/world/asia/pakistan-quetta-church-attack.html>

<sup>35</sup> Report on Trends in Global Restrictions on Religion 2016, Pew Research Center (Supra)

<sup>36</sup> Pew Research Center’s annual study report on Global Restrictions on Religion, published on April 11 2017, Available at <http://www.pewresearch.org/>. Pew Research Center is a nonpartisan fact tank that informs the public about the issues, attitudes and trends shaping the world.

According to the 2015 annual study on global restrictions on religion conducted by the Pew Research Center, government restrictions on religion and social hostilities related to religion increased in 2015 as compared to the last three years. Government restrictions here include laws, policies and actions, which curtail religious practices and beliefs. In the 2015 annual study, the share of countries with “high” levels of religious restrictions increased from 24% to 25% and countries with high social hostilities increased from 23% to 27%.

Along with the increase in level of religious restrictions and social hostilities, cases involving religious bigotry have also risen in the past years. The global upsurge can be owed to destructive activities like mob violence, religious lynching, forced conversions etc. India has witnessed over 13 cases of lynching in the first half of this year itself.<sup>37</sup> Mob lynching is synonymous to hate crimes and there is an urgency to deal with such horrendous and life threatening acts done in the name of religion. In Europe, for instance, there has been an increase from 9 to 17 countries with reports of religion related mob violence as per the Pew annual study report of 2015, published in 2017. Similar kind of bigotry and hostility has been reported Sub-Saharan Africa, with an increase to 25 countries in 2015 from nine countries in 2014.

The increased percentages of religious and social restrictions imposed by the countries are a bane to not just women but the society at large. No country can prosper without sustainable development, and gender equality is a major contributing factor in attaining the same. These restrictions pose as obstructions in the growth and empowerment of women at the national level. These obstructions at the national level in return prevent them from participating in the world economies. Although there have been fundamental changes which are incorporated in the mandates of major economies, yet these canons of empowerment need to be fostered further to achieve gender balance and justice at the global level.

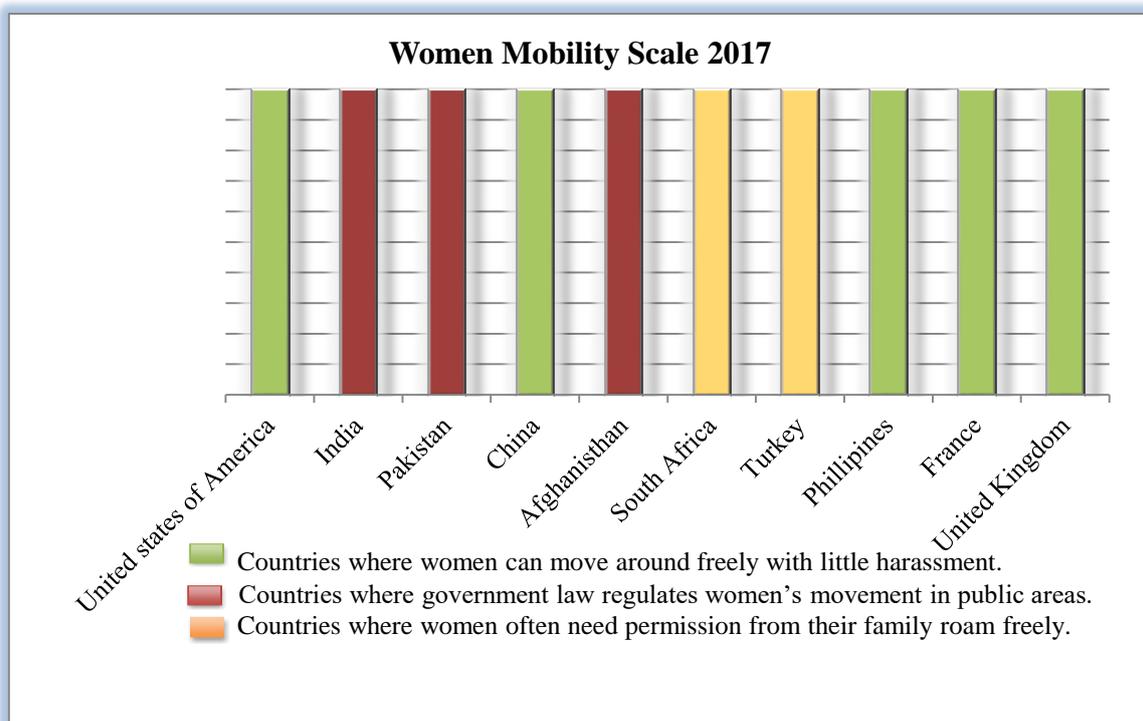


Figure 5: Chart showing the restrictions, varying from high to low in the mobility of women across countries.<sup>38</sup>

The aim to discuss the rise in religious restrictions and social hostilities across the globe is to establish a link between these aspects of social and religious backwardness and gender parity. If we look at the figure above, most of the countries where mobility of women is extremely low also happen to be the countries, which are the most backward in terms of religious freedom. For instance, Right to freedom of movement falls under the definition of a fundamental right in India, yet due to the culture, unsecure environment, social stigma and social unrest prevailing in the country women do not possess the liberty to move freely at their own instance.

Mobility is an issue that is gendered both ways, on the one hand, mobility determines women’s and men’s access to participation in society; on the other hand, women’s and men’s mobility is determined by gender roles

<sup>37</sup>Sneha Alexander, Jency Jacob Article on mob Lynching in India, Published on June 13 , 2018 Available at :<https://www.boomlive.in/at-least-15-deaths-due-to-mob-lynching-in-2018-so-far-ncrb-to-address-data-gap/>

<sup>38</sup> Women Stats Project , scaled 2017 , Available at :<http://www.womanstats.org/maps.html>

and inequalities.<sup>39</sup> There are certain highly influential factors, which contribute to gendering of mobility like the social/cultural norms, access to bare necessities like equal access to education, representation in governmental and economic decision making and government regulations. Mobility is interpreted with a wide threshold including in its ambit the element of physical access to different facilities i.e. constrained (daily) mobility.<sup>40</sup> Therefore it becomes essential that the policy makers and development practitioners ensure that the concept of mobility is equally accessible to both men and women. Mobility forms an integral element of religious freedom and ensures gradual empowerment of women. Therefore by curtailing mobility, the governments are actually limiting the scope for the growth and prosperity of the nation as a whole. It is safe to say that mobility marks a major checkpoint on the road to achieving gender parity.

To solve the issue of gender disparity at the international level it is imperative that the issue is dealt with at the national level first. The ideology is that if we don't make room for women to shine and enlighten in their own country, how will they acquire the experience and exposure to excel globally? In countries like Afghanistan, which are under a perpetual state of war, there is an absence of basic essentials and infrastructure, which ensures prosperity, therefore they need to strive exceeding more to attain the development goals. The countries, which encourage greater freedom and mobility for women, generally have a better stand on attaining gender balance, thereby ensuring that women occupy a substantial if not equal, number of positions in terms of leadership, advocacy and business.

## THE LINK BETWEEN ECONOMIC AND RELIGIOUS FREEDOMS

As discussed earlier religious freedom is an antidote to the problem of gender disparity and also actively facilitates stable economic growth. Freedom of belief or religious freedom is one of the three significant factors related to global economic growth. When we say actively facilitates economic growth, it is not implied that freedom of belief causes economic enhancement but it certainly aids the entire process.

As we tread towards achieving holistic sustainable development, religious freedom can prove to be a disguised asset, which has been overlooked all these past years. The countries with greater freedom in terms of regulations and hostilities showed greater percentages of gender parity, which in turn proves to be a major catalyst in fostering sustainable development. The exclusion of women places half of the world's population outside the realm of opportunity to partner in building prosperous societies and economies.<sup>41</sup>

Freedom of Belief can support our fight towards overall holistic development by ensuring considerably reduced percentages of corruption in the countries, instilling a sense of peace and fostering diversity and growth. By correlating the Pew Research Center's Government Restriction on religion Index 2012<sup>42</sup> and the Transparency International's Corruption Perception Index 2014<sup>43</sup> it becomes evident that countries which support religious bigotry and impose high restrictions on religious liberty sum up to be the most corrupt countries. The data collated and analyzed is merely theoretical and cannot be completely relied on to emit exact results in practical implementation, however it provides us substantial clarity on another possible canon to foster the goal of women empowerment i.e. religious freedom. Some of the boons of Religious Liberty are:

### *Diversity and Growth:*

Increase in the percentage of diversity and growth is one of the positives, which come to surface by virtue of religious freedom. Studies reveal that religiously progressive countries outpaced the world economic growth average from 2008 to 2012.<sup>44</sup> The average of world's average growth in terms of Gross domestic Product was 1.7% and most of the countries with high religious diversity and liberty had a GDP, which outpaced the average by

<sup>39</sup> Citizens and mobility, World Press, Available at: <https://citizensandmobility.wordpress.com/european-policy/buses-are-female-cars-are-male/>

<sup>40</sup> Uteng, Tanu Priya, World Development Report 2012, World Bank, Available at: <http://siteresources.worldbank.org/INTWDR2012/Resources/7778105-1299699968583/7786210-1322671773271/uteng.pdf>

<sup>41</sup> Sustainable Development Goals, Goal 5: Gender Equality, United Nations in India Available at: <http://in.one.un.org/page/sustainable-development-goals/sdg-5/>

<sup>42</sup> Rising Tide of Restrictions on Religion, 2012, Pew Research Center, Available at: <http://www.pewforum.org/2012/09/20/rising-tide-of-restrictions-on-religion-findings/>

<sup>43</sup> Corruption Perceptions Index 2011, Transparency International, and Available at: <https://www.transparency.org/cpi2011/results>. Transparency International is the global civil society organization leading the fight against corruption. With more than 100 national chapters worldwide and an international secretariat in Berlin, they work with partners in government, business and civil society to put effective measures in place to tackle corruption.

<sup>44</sup> Countries with very High Religious Diversity Outpace World in Economic Growth (2014), The Weekly Number, Available at: <http://theweeklynumber.com/1/post/2014/04/countries-with-very-high-religious-diversity-including-china-outpace-world-in-economic-growth.html>.

considerable numbers. By accepting religiously liberal policies, programs, regulations and laws, the countries not only congregate a larger population contributing to growth but also instill the feeling of belongingness.

### ***Lower corruption Levels:***

Another attribute that can be devoted to religious freedom is reduced levels of corruption. According to a study most of the countries which rank highest on the corruption graph have equally higher governmental restrictions when it comes to religious liberty. Religious bigotry fosters social upheaval and unrest, which in turn takes form of violence and incidentally enhances corruption. Corruption extensively slows down the growth and causes widespread grief and anguish.

### ***Foster peace:***

Religious liberty is an important aspect of maintaining peace and order. When religious freedoms are not respected the results can be catastrophic. The economic growth takes a major setback, violence prevails and security is endangered. Religious tolerance plays a major role in instilling peace and ensuring security as a whole.

## **GQUAL: THE CAMPAIGN**

**GQUAL** is a **global campaign** led by Viviana Krsticevic, executive director of the center for justice and international law (CEJIL), which seeks to promote gender parity and highlight its importance in international tribunals and monitoring bodies. It is a campaign devised to change the picture of gender disparity prevalent in the International Judicial Tribunals and make way for Gender Parity. This campaign involved collating data to study the situation of disparity prevalent in the International bodies with a view to raising awareness regarding the same. It fosters the ideology that gender balance is directly proportional to better justice. For Instance, Some of the Statistics from the detailed study reveal that of the 40 individuals who have held positions within the International Tribunal for the Law of the Sea since its inception, only 1 has been a woman.<sup>45</sup> This campaign is based on the ideology that across the globe, there are thousands of competent, qualified women that can fill positions in international tribunals and bodies, and represent a diversity of political opinion, religious belief, and geographic origin that could enrich these bodies.<sup>46</sup> The analysis aims to cement a pathway, already in existence, battling religious restrictions and social hostilities to achieve equal representation at a global front. The study was followed by a formal declaration, which embodies a road map for change and a campaign based on these declarations. The Campaign aims to target the participation mechanisms involving nomination, voting and selection to ensure increased levels of gender parity at International adjudicating bodies and tribunals.

## **FACTORS ESSENTIAL FOR PROMOTING GENDER PARITY**

### ***Nominating in parity:***

Countries should be encouraged to nominate in parity, which will ensure that the number of women nominated is considerably higher and therefore the chances of women being elected evidently become higher. This step alone could result in more representative international tribunals and bodies.<sup>47</sup> The governments should release ordinances, by laws, rules to ensure that the nomination process is just, equitable and upholds the principle of equality of opportunity. Therefore, nominating in parity should be the first important pledge the states should make in relation to achieving parity at the international bench.

### ***Publishing list of candidates voted for:***

Another factor to ensure a legitimate unbiased voting process is to make it mandatory for the state parties to publish all its individual votes for international tribunals and bodies annually<sup>48</sup>. This is to ensure that states are taking efforts to vote for men and women equally. In addition, states should also pledge to vote in parity to help in maintaining gender balance at the international tribunals. Voting in parity is the second important pledge States

<sup>45</sup> GQual Campaign for Gender Parity in International Representation, Available at: <http://www.gqualcampaign.org/about-gqual/>

<sup>46</sup> GQual, Center for Justice and International Law, Available at: [https://www.cejil.org/sites/default/files/gqual\\_english.pdf](https://www.cejil.org/sites/default/files/gqual_english.pdf)

<sup>47</sup> GQual, A Campaign for Gender Parity in International Representation, By Viviana Krsticevic (Supra).

<sup>48</sup> GQual, A Campaign for Gender Parity in International Representation, By Viviana Krsticevic (Supra)

should make. For situations where the position is open to only one member, states could target spaces where women have been underrepresented and declare to vote for women in those tribunals and bodies. Altering the current voting patterns to ensure adequate levels of representation of women can have a lasting impact on the outcomes of elections.<sup>49</sup>

### ***Transparency in nomination and election mechanisms:***

Introducing transparency in the participations mechanism is an integral step towards making the whole process free of gender bias. States should list out all the positions, which are available and call for applications with criteria's of eligibility clearly enlisted. In situations related to nominations, the public should be included through the civil society organizations or professional associations to aid in the nomination process and foster transparency. By making the candidate nominations available for public scrutiny will ensure diversity in the candidate pool and make room for suggestions and debate as to qualifications required from the candidates.

### ***Monitor progress:***

The gender composition of international tribunals and bodies should be analyzed by the Governmental Institutions, Human Rights Council and Human Rights Organizations, both Regional and Global. Such an analysis can provide data, which can be used in devising strategies and developing standards for achieving gender parity in International Representation. The most effective and feasible practices in nomination, selection and voting can be shortlisted and adapted to sustain parity in future representation. The bodies could come out with periodical publications tracking the progress in the entire process; this will facilitate comparing the data with future statistics and foster required action, along with maintaining an official credible record of the statistics. These publications could also include factors affecting membership, such as gender mobility, accessibility and fundamental freedoms to create awareness with an aim to shun down the negatives and promote the positives.

### ***Mechanisms focusing on Collective Outcomes:***

International Bodies and the Assemblies of State Parties play a primary role in devising strategies and developing programs, which foster the spirit of gender parity at the international bench. There have been substantial efforts by some of these human rights organizations to work on improving women's representation at the international front but, these steps do not suffice as measures which guarantee parity. The International Criminal Court for Instance has a voting policy where the States are required to vote for a minimum number of candidates from each regional group, legal expertise and gender.<sup>50</sup>The international tribunals and adjudicating bodies need to include mechanisms, which will result in a collective output to ensure diversity and recognize the extensive relevant representation.

## **INDIA IN THE GLOBAL PICTURE**

Although India falls under the category of the countries with highest restrictions and hostilities in terms of religion, India is at the very nascent stage of undergoing a paradigm shift to ensure substantial, if not equal participation of women. The change has to manifest at the regional level, reaching national level and gradually extending to global boundaries. India recognizes the need to facilitate empowerment of women to ensure that principles of equity and legitimacy prevail, without which the judiciary will lose confidence of 49.556 % <sup>51</sup>of inhabitants of the earth i.e. women.

There is a dearth of female judges occupying positions at the Apex Court of India. It is rather appalling to note that there have been only 8 women judges at the Supreme Court of India, since its inception in the year 1950. On an average, studies show that women amount to less than 28 % of the current strength of judges across the Subordinate Courts, High Courts and the Supreme Court. In spite of this sorry state of the Bench at the Supreme Court, there have been efforts to work towards curing the gender imbalance. Recently after anointing Justice Indira

<sup>49</sup>UN Report on Equal Participation of Women and Men in Decision-Making Processes, with Particular Emphasis on Political Participation and Leadership (2005). Available at: <http://www.un.org/womenwatch/daw/egm/eql-men/FinalReport.pdf>

<sup>50</sup> Coalition for the International Criminal Court. "Procedures for the election of judges to the International Criminal Court". Fact Sheet. Available at: [http://www.iccnw.org/documents/CICCFSElectionsProcedures\\_10May10\\_en.pdf](http://www.iccnw.org/documents/CICCFSElectionsProcedures_10May10_en.pdf).

<sup>51</sup>Percentage of female population, World Bank Open Data, Available at: <https://data.worldbank.org/indicator/SP.POP.TOTL.FE.ZS>

Banerjee at the Supreme Court, the Supreme Court will have three sitting women judges for the first time in its history.<sup>52</sup>

On analyzing the trends, which cause variation in the representation of women, it has been studied that having greater number of women on high posts in the judicial hierarchy ensures higher number of representation of women. For instance, The Bombay High court where Justice Manjula Chellur occupies the post of the Chief Justice, has recorded the highest number of female judges i.e. 11 women judges against 62 male judges<sup>53</sup>.

The impoverished state of women in judiciary is recognized at the regional, national and international levels, yet the canons to foster empowerment have not been successful in attaining substantial representation of women at the threshold. There is a need to modify and transform these obsolete canons of empowerment and devise new strategies, which ensure equal representation. Justice Hima Kohli of the Bombay High court rightly says;

“There can be no women in the judiciary, if there were no women in the legal profession and there can be no women in the legal profession if there were no women in the main stream of our society, who were striving to find a place for themselves under the sun.”<sup>54</sup>

This statement strikes cord with majority of us female lawyers. For any country to achieve the ratio of equal gender balance at the judicial front, there is a need to recognize factors at the very outset which are active catalysts resulting in the imbalance. Factors like fundamental freedoms, right to education, and right to information, mobility, and religious freedom are essential in determining the outlook of our future generations.

The saga of unequal representation in the judicial field continues to the global level. A country that aggregates to 18%<sup>55</sup> of the world population has seen only one woman Judge to be elected to occupy an eminent position at International Adjudicating Organizations till date i.e. Dr. Neeru Chadha was recently elected as a Judge at the International Tribunal for the Law of the Sea (ITLOS)<sup>56</sup>.

The problem of paucity of women at the International Bench has manifested deep and it must work as a wakeup call for all of mankind to understand the dire need to achieve gender parity, which takes us closer to the overall goal of sustainable development people centric development.

## CONCLUSION

The paper aims to highlight factors like religious restrictions and social hostilities as major contributing factors to the situation of paucity of women at the International Bench. By virtue of an intense analysis of the current unsettling trends in terms of representation of women at the International Tribunals, it is hoped that the problem will be acknowledged as a legitimate drawback in the structure of judiciary and rectified over time. We are fortunate to have positive campaign's like GQual which aim to tackle the problem at the threshold and help us recognize that achieving change in the composition of these bodies requires concerted and strategic actions from a variety of global, regional, and national actors, including civil society, academia, public official and government representatives, and the international institutions themselves.<sup>57</sup>

<sup>52</sup> Chief Justice and Judges, Supreme Court of India, Available at: <https://www.supremecourtindia.nic.in/chief-justice-judges>

<sup>53</sup> Pradeep Thakur, Times Of India, October 2017, Available at :<https://timesofindia.indiatimes.com/india/women-account-for-less-than-28-of-total-judges-in-country/articleshow/61329003.cms>

<sup>54</sup> Justice Hima Kohli, Women in the Indian Judiciary 2011, Available at: <http://sowlindia.com/upload/SpeechJusticeHimaKohli.pdf>

<sup>55</sup> The Economic Times, Article published in June 2017. <https://economictimes.indiatimes.com/news/politics-and-nation/indias-population-to-surpass-that-of-chinas-around-2024-un/articleshow/59257232.cms>

<sup>56</sup> Apoorva Mandhani, Times of India, Article published in July 2017, Available at: <https://www.livelaw.in/dr-neeru-chadha-becomes-first-indian-woman-elected-judge-international-tribunal-law-sea/>

<sup>57</sup> GQual, A Campaign for Gender Parity in International Representation, By Viviana Krsticevic (Supra).