

A New Passage to India: Women in Profile

Host Intro:

In our continuing series *A New Passage to India*, we look at issues, emergent and existing, through conversations and through the experiences of women involved in them. Some of these women have been instrumental in bringing about socio-cultural and legal changes in India, and have broken through male bastions such as the police service and the judiciary to rise to the top. Some are activists and others are victims of sexual or domestic abuse now uniting on a common platform. And the young ones, they are watching, following in the wake of these change makers of India. These women have fought terrorism, tyranny and a closed cultural mindset against women's education and advancement. These are women rising.

For this story *Breaking Barriers: One Woman at a Time*, Charu Saxena pays a visit to the home of Mrs. Leila Seth, the now retired first woman Chief Justice of a state in India and the first woman High Court judge of New Delhi. She is now on the boards of HelpAge India and the Population Foundation, both major issues for the country.

Saxena:

At 77, Mrs Seth is a highly energetic and vivacious conversationalist. Eminently graceful in a sari, a shining red double bindi livening her forehead, and bangles on both her wrists that clink continuously in sync with her thoughts, she embodies the entire female race of traditional India. And yet, she is far from traditional.

As a person of many firsts, not just in India but even abroad, she was the first woman to win a gold medal in the London bar exams as well. The choice of this profession however, was accidental, because her prior thought was to become a Montessori teacher. She happened to join this particular course because the careers encyclopedia of that time said that all one needed to become a lawyer was to attend ten dinners and no classes.

It was an attractive option with one little child in the lap and another on the way. She says when she finished her law degree, only one woman had achieved renown in the profession in England, and that was two years before her.

Seth:

There was one woman who had become a recorder in England and there was a sensation about the whole thing. This was in 55, I think. And I passed my exam in 57. So, I was the first woman to come first in England, you know. They had never had a woman do that before. So, I had a lot of publicity as well. I was called mother-in-law: having one child, and I had my second child 3 months before the exams. It wasn't easy, but it wasn't hard. I think if you're mentally wanting to do something, then things work out. But you know you're young and you can do a lot. You have energy to do things and you want to do things. You do them.

Saxena:

Mrs Seth was also fortunate in having a supportive husband, who during her exams actually cooked, which for an Indian husband was and even now is, to a large extent, unusual.

Her real test however, came when she was back in India, looking to start in a practice, without any fathers or uncles in the law profession. She finally managed to acquire an appointment with a Mr. Choudhary who was considered one of the best lawyers of Calcutta at the time.

Seth:

When he saw me he said- Young lady- obviously he should have known why I was there- but he said young lady, what do you want?

I said: I want to join your chambers.

He said: You know, I think this is not a profession for young women, women should get married.

So I said, Mr. Choudhary, I am married.

Then he said to me, well if you're married, you should have a child. That's very important.

So, I said, well, I have a child.

So, he looked at me and said: you know if you have a child, it's not fair to have a single child. You should have at least 2 children.

So I said: I have 2 children.

So he said, you are a persistent young woman. Come and join my chambers. You'll do well at the law. So I joined his chambers and we went on from there.

Saxena:

About a year later, as her husband transferred to the city of Patna, Mrs. Seth moved with him. Here, she became one of two women lawyers in the city. The other, Dharamsheela Lal, was much senior and established. But, Mrs Seth's real confidence, she says, came from arguing a case against the other female lawyer in court, on the issues of rape.

Seth:

She was appearing for a alleged rapist, and I was appearing for the prosecution. And you know I was really awkward- I didn't know how to handle such a case and didn't know how to use all these words- when I found how open she was when she discussed this- open intercourse, or how deep the penetration was and all that - I just thought to myself, its quite easy. It's quite clinical. You don't have to think about it- the whole scene and such- and I won that case. And of course the whole court was full- here are the only two women lawyers and they're going to argue a case against each other- on a subject like rape.

So you can imagine what kind of courtroom tension there was, and when I won it- I suddenly felt- why, I am as good as her- why can't I say all these things? I had prepared but the confidence to say them, I learnt during that argument which went on for two days. The strength to say it- because I was saying to myself, how will I say it, how will I describe it, you know? I knew what I wanted to say, but I was afraid inside of how

actually to say it you know- in a room full of men, you know? So, it helped me that she was so vociferous in the way she attacked it- strong in her arguments.

Saxena:

But you can argue a case with force only when you're convinced that the other person is not guilty, she says. But even in cases like a death sentence, she would try and find some argument, some legal aspects to get the sentence changed into imprisonment for life. She remembers a case when she wasn't able to do so.

Seth:

And I can tell you I couldn't sleep for days before and days after. I felt it was my responsibility that this man doesn't get executed gets only a life sentence, but I couldn't do it. And I was really very unhappy about that whole situation. When I was younger I did think the death penalty had some detrimental effect. As I have grown older, I definitely don't think so. There should be no death penalty.

Saxena:

Though today, Mrs Seth has another concern: Corruption in the Judiciary, which she says was almost unheard of a few decades ago.

Seth:

I'd say about 30 yrs ago or 40 yrs ago, we had one corrupt judge in the whole of the district court system, but today you can't say that. There are many more. And a corrupt judge in the high court or the Supreme Court would be unheard of, but you can't say that today. But the whole thing is that where do you get judges from? They are lawyers, members of society. So, if society doesn't have moral standards and high ethical standards, then you are bound to get lower standards in politics, in bureaucracy, in the judiciary. It's bound to affect every limb of society.

Saxena:

Even so, she stresses, when one becomes a judge and takes the oath, those words ring in your mind all the time. And even those who don't have high standards, probably feel they have to raise their standards a bit- because so much depends on them; people's lives, people's liberty and their happiness.

Mrs Seth had practiced in the Supreme Court and the High Court for about twenty years, when she was first asked to become a Chief Justice. And the then current Chief Justice asked her to come and meet him.

Seth:

When I went to see him he had a long sofa, longer than this- and I sat down at one end and he went and sat right at the other end- and then he was trying to talk to me in a very confidential way- but you know, across the sofa!

Saxena:

Most of them were considerate, however. But, initially they found it difficult to adjust to her role as a judge in their domain, asking her to take over the arrangements of their tea parties. So, that attitude of woman in the house, woman in the office, was definitely present. But Mrs Seth gave a firm ruling against any such suggestions.

Seth:

And I am told that the day before I was sworn in, there was a lot of talk amongst the judges, as to whom I should sit with- because normally a new judge sits with a senior judge, and normally I should have sat with the Chief Justice, but the Chief Justice was like: Oh Baba! that sort of thing, thinking that I have to sit with a woman! And after court, you sit in his chamber, and doors close, and you drink tea together and discuss the case- so he thought, its an air-conditioned court, so the doors will be closed I suppose- I think that he thought this was too much for him! So he opted to sit with another judge, and said she should sit with somebody else.

For them it was very new- they were worried about- the Lunch room conversation- they thought now this woman is coming we'll have to be very careful about what we say or do, and they were all apprehensive of a woman coming into their domain, in that sense.

Saxena:

It did not take Mrs Seth, who was brought up liberally in a house full of brothers, to quickly become comfortable with her new colleagues. There were many issues to focus on instead, one of which was to unify the separate bodies of personal laws for different religious groups, particularly, the Hindu, the Muslim and the Christian.

Mrs Seth affirms that with the Hindu marriage act, the Hindu adoption act, and the Hindu succession act after independence, things have become much more equal for Hindu women. Making a law for the majority is always easier, she says. Making a law for the minority is always difficult unless the minority itself wants it.

Seth:

And the minority always feels that our religion is in danger. I went to Pakistan. It was a meeting about women and their laws. And I found that the Muslim laws in Pakistan have changed and become more advanced, whereas the laws for the Hindus have remained pre-independence- because they also find it difficult to change the minority laws. Opposite problem.

Saxena:

Even though the Indian constitution directs that there should be a uniform civil code, the political vibrations work against the effort. After retirement Mrs. Seth joined the law commission where she agitated for years to have the Christian divorce law amended to make it equal for men and women.

Seth:

Charu Saxena
saxenacharu@yahoo.com

And I think about 4, 5 years ago, the Christians then moved towards it and its been changed. So you see until the community itself demands it, despite all the efforts that the law commission might make or the general public might make it doesn't work out.

Saxena:

As part of the board of HelpAge India, Mrs Seth helped pass an Act, where as a reaction to the current times, children have been called upon to look after their parents, and if they don't they will be held liable. Initially, when the Act passed in Himachal when she was Chief Justice of that state, the Muslims were excluded from it, because they agitated that it was against their religion. Realizing that it was a mistake, she insisted that this time when the national act was being passed it would include the Muslims.

Seth:

I mean these mullahs and these people make noise for nothing. They don't realize how much it's important for old people, for women.

Saxena:

As a chair of the Commonwealth Human Rights Initiative, Mrs Seth also pushed to get the Right to Information Act passed, which actually came into effect a few years ago. Mrs. Seth gives the credit to another female activist, who helped to bring it about first in the state of Rajasthan. When for the first time in India, citizens now had recourse to fight against governmental corruption.

Seth:

I'll have to give the credit to Aruna Roy, who first brought it into Rajasthan, I think, and we were able to see that it will make a difference, its already making a difference and it will make an even greater difference when there's transparency , when you know what people are doing, why they are doing it! Find out and you can correct it, you know. So I think it's wonderful.

Saxena:

Today however, Mrs. Seth wants to devote all her energies into things like education, and to problems of ageing and the growing population in India. Next on her agenda, however, is a book: Constitution made simple for children.

I'm Charu Saxena from New Delhi, India.