

## Accidental Equality

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Date : October 19, 2021

Swethaa S. Ballakrishnen, [Accidental Feminism – Gender Parity and Selective Mobility among India’s Professional Elite](#) (2020).

Structural forces, including workplace organization and policies, are a documented cause of inequality. These forces disproportionately burden and therefore contribute to the underrepresentation of women and lawyers of color in positions of power and influence, systematically reproducing the male, Caucasian hierarchy atop BigLaw’s equity partners. The lingering impact of these structural forces—counteracting the effectiveness of diversity, inclusiveness, and equity initiatives—has been a problem for BigLaw leadership for years. But what if, contrary to conventional wisdom, structural forces can instead increase—or at least not disadvantage—equality? In [Accidental Feminism](#), winner of the American Sociological Association’s Distinguished Book Award from the Sociology of Law Section, University of California at Irvine law professor Swethaa Ballakrishnen explores this very intriguing question.

Presenting original empirical work collected in 2011-15, Ballakrishnen documents how, without adopting well-intentioned equality policies, India’s elite large law firms have become “accidental” feminist organizations featuring gender parity in their senior and equity partner ranks. According to the book, this surprising development was the result of a confluence of circumstances, “structural conditions that fortuitously have come together to create environments of emancipation for . . . women lawyers.” (P. 2.) First is organizational novelty: India’s elite law firms are, relatively speaking, young institutions, relying on a neoliberal attorney workforce educated in progressive law schools. Thus both the lawyers and the law firms are comparatively open-minded, even supportive of gender equality in the workplace. The second condition is globalization complete with an influx of capital and increased international demand for Indian legal services. Third and relatedly, accidental feminism depends on a receptive interactional global audience – India’s BigLaw are locally organized institutions doing work for global entity clients. Fourth, these conditions are all taking place in a particular cultural moment of close-knit family units and a caste-dependent labor force, which supplies women (and men) equity partners with affordable housework and childcare support system. Hence, Ballakrishnen establishes that India’s BigLaw’s feminism was accidental but not random.

*Accidental Feminism* is a must-read for anyone interested in competition and equality in the contemporary practice of law, and its findings raise a trove of fascinating questions that will intrigue practicing lawyers as well as scholars of the legal profession, only a few of which can be explored here.

To begin with, is accidental equality likely to take place in America’s BigLaw? Ballakrishnen’s analysis suggests not – or at least not as a function of the same mechanisms that seem to work in the Indian context. For example, whereas India’s BigLaw firms are new institutions recruiting lawyers educated in modern law schools embracing neoliberal values, many of America’s BigLaw firms are century-old institutions with a long and documented history of exclusion and discrimination, recruiting lawyers educated in old traditional elite law schools, which appear to do what they can to distance themselves from the teaching of any values, let alone neoliberal values.

Moreover, rather than facing ample steady demand for their services like their Indian counterparts, America’s BigLaw firms are operating in an increasingly competitive and unstable market emphasizing profits-per-partner that seems to undercut other commitments, equality included. Finally, while the commitment of global entity clients to gender equality should be acknowledged,<sup>1</sup> it ought not be overstated. The commitment may be sufficiently deep-seated to support gender parity in India’s BigLaw and among the ranks of general counsel in Fortune500 corporations, but not to successfully tackle gender inequality among America’s BigLaw’s equity partners and in the C-Suites and Boards of

corporate America.

While accidental equality is an unlikely result in the United States, *Accidental Feminism* does question the well-intentioned yet unsuccessful diversity, inclusiveness, and equity policies that America's BigLaw firms have been pursuing for a generation. That India's BigLaw firms did not set out to become feminist institutions but ended up producing gender parity suggests that the American obsession with intentionality as a cornerstone of understanding equality and inequality may be distracting and possibly unhelpful. Perhaps, implies Ballakrishnen, battling discrimination and devising diversity, inclusiveness and equity programs, equality advocates in the United States would be better served to focus less on intentionality and more on actual equality results, parity included. (P. 170.)

Speaking of parity, inquires Ballakrishnen, is it a desirable objective? In the American context, in which women lawyers and lawyers of color are systematically underrepresented in positions of power and influence, parity may plausibly and intuitively stand for greater equality, at least until we begin to approach it. The reality of parity practice in India's elite BigLaw, however, forces an important and necessary introspection. Is gender parity among equity partners, for example, desirable? Are there opting in and out circumstances under which gender overrepresentation or underrepresentation among the professional elite might be appropriate? What might substantive gender equality in the workplace look like if the discourse moved past getting to parity?

And at what price ought we pursue parity? *Accidental Feminism* is a well-researched, well-written, nuanced book and Ballakrishnen is appropriately careful not to celebrate India's BigLaw's accidental feminism as a success story. Recall their pointing out insightfully that one factor explaining gender parity among India's professional elite is its reliance on familial networks of support and the subjugation of a caste-dependent labor force. To be blunt, a necessary condition for and a price to be paid for professional equality among the elite appears to be the subjection of underclasses and persistent inequality among those who serve the elite.

At the same time, perhaps the deep *inequality* in Indian society, which helps explain greater *equality* among India's professional elite, may open the door to greater equality in the entire unequal Indian legal profession, and, down the road, Indian culture, for example, with childcare support policies replacing caste-dependency. Here, one is tempted to consider an American analogue: the very discrimination of America's elite old-guard White-Anglo-Saxon-Protestant white-shoe large law firms led to the [rise of Jewish law firms](#), which in turn ushered in an era of greater equality within BigLaw and subsequently the entire legal profession in the United States.

Within and outside of the legal profession, the diversity, inclusiveness, and equity discourse in the United States is at crucial moment, see, [here](#) and [here](#). Swethaa Ballakrishnen's *Accidental Feminism* makes a timely, important and constructive contribution to it.

1. Damon J Phillips, [Organizational Genealogies and the Persistence of Gender Inequality: The Case of Silicon Valley Law Firms](#), 50 *Admin. Sci. Q.* 440 (2005).

Cite as: Eli Wald, *Accidental Equality*, JOTWELL (October 19, 2021) (reviewing Swethaa S. Ballakrishnen, **Accidental Feminism – Gender Parity and Selective Mobility among India's Professional Elite** (2020)), <https://legalpro.jotwell.com/accidental-equality/>.