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## Qualitative Study on the Litigant behavior of Advocates in Pakistan

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**Abstract:** Investigating advocates' litigant conduct is an intriguing goal of the current study. The psychological component of litigant behaviour, particularly in advocates, is revealed by this qualitative study. A total sample (N=10) with an equal number of licensed advocates (n=10, 5 men and 5 women) was purposefully chosen. With the aid of earlier literature, the interview protocol—a semi-structured questionnaire—was devised to delve deeply into the litigious behaviour of the participants. The extensive interviews were done, recorded on tape, and then written down. Interpretative phenomenological analysis (IPA) was utilised to identify themes from the majority of the data in order to determine the litigant behaviour.

**Key Words:** C.JS, Pakistan, police, Legal Executive, Jails, Indictment, Probation & Parole

## Introduction

### Overview of the Literature and Introduction

A party's reputation is frequently harmed by lawsuits, according to Parella (2019). Even if a company litigant loses a court case, litigation can still boost its reputation. This is because a multitude of stakeholders, such as suppliers, investors, employees, customers, and even local communities, provide resources to firms (Jaffery & Salanik, 1978). These parties' impressions of the corporate parties may be impacted by the litigation's publicity, which may then affect their choices over whether to offer or withhold their respective resources (Edward, 2014). These actors altered their perceptions of the business plaintiff, and the ensuing actions are what led to the financial benefit that the court may not directly provide due to these actors who altered their opinions about the business plaintiff and the subsequent activities that led to those altered opinions.

### Litigant Conduct

Compared to other, more derogatory phrases like whiny, paranoid, and aggressive, this one is more

neutral. The term "litigant" is used to describe a person, not to imply the cause of their behaviour or their level of psychological functioning.

An individual who uses the legal system egregiously and excessively for a primary non-legal objective is referred to as an obsessive litigant. Although there is typically a legal justification for their claims, it should be stressed that this justification does not supersede the client's needs. We also point out that this is a collection of typical obsessive behaviour traits rather than a single trait. A process participant can overdo just a few of the aforementioned traits and yet fit the definition of an obsessive process participant.

Litigants are people who continually file claims that are ultimately judged to be weak or unsubstantiated, burdening the legal system. You have probably dealt with or heard of such a procedure if you are a litigator at some point in your career. You wouldn't have any trouble conjuring up a tale of at least one individual often appearing at the doors of legal offices and courtrooms, each time armed with a fresh grievance against someone or some group of people. The price or effects for some customers, revenge for

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real or imagined insult or injustice is more important than litigation occasionally.

### **Historical Analysis of Plaintiff's Behavior**

The idea of obsessive process behaviour has been well-documented throughout history, even if it goes by many names in various professions and regions of the world. In a recent two-part paper on the history of this conduct, Benjamin Levy<sup>2</sup> covered the historical roots and regional variations in the conceptualisation and study of excessive litigation. He outlined the development of paranoia querulans and litigation party mania in France and German-speaking nations in Part I of his article. He covered the history of argumentative behaviour and difficult litigation in Part 2 of the article within the United States<sup>3</sup>. We will recap and elaborate on the Levy reviews before going further into our own conceptualisations of these litigants.

Trialophilia was later referred to as troublemaker delusion, or process delusion, by the German psychiatrist Johann Ludwig Casper. According to Casper, everyone intensely resents challenges to their fundamental rights, whether they are genuine or imagined, and will go to court to defend those rights when required. The classification of delusions of the process as a subtype of paranoid or paranoia, a disorder in and of itself, or a variation of another mental illness came up for discussion. The German psychiatrist Emil Kraepelin departed from prior iterations of the work that combined process delusions with paranoia and paranoia when he produced Psychiatry.

Several early French scientists seemed to consider these actions as problems emerging from one's interpretation of an event rather than as signs of ingrained personality flaws. Additionally, Benjamin Ball integrated the existing theories on the features that he thought were shared by all obsessive litigants, including graphomania, unrelenting activity, exceptional tenacity, personal passion, and abuse of reasoning. Persecutee-persecutors vanished from the scholarly literature not long after the linked idea of delusional thinking fell out of favour with many French researchers in the late 19th century.

### **Psychological Perspective on Litigant Behavior**

Obsessive process behaviour is mentioned in the Diagnostic and Statistical Manual of Mental Disorders (DSM) and the International Classification of Diseases of the World Health Organization, despite being a neglected subject in the psychological literature (ICD). The DSM-5, a more current edition of the DSM,

contains delusions of persecution in which the sufferer continually pursues legal recompense<sup>0</sup>. The ICD-10 classifies paranoia querulans as a distinct persistent delusional disease, which is one in which the delusions are accompanied by schizophrenia symptoms or persistent hallucinations of voices<sup>11</sup>. These definitions are all interchangeable with how the German psychiatrist described process delusions. However, little psychological study has been done in the US on this idea.

The two main international diagnostic guides for mental illnesses identify litigant conduct, and current psychological research points to commonalities between American obsessive litigants and those in other nations. However, treating obsessive litigants in the United States has not received much attention from mental health doctors. Levy presented a theory about why persistent in this nation, litigants are rarely regarded as abnormal. Levy's theory relates to how litigation is portrayed in popular media. Extensive litigation frequently involves meritorious legal matters and is conducted by well-adjusted people in many well-known novels and movies.

Different ways have been used by different professions to describe ongoing litigation. Medical professionals have identified it as lawsuit paranoia and troublemaker paranoia, whereas the legal term for it is vexatious litigation. A person who demonstrates multiple of the following traits is generally described by these phrases:

- Submits pleadings on a regular basis.
- Has a life that revolves around the progression and development of litigation.
- If you keep getting bad outcomes, don't give up.
- Submits pointless or baseless briefs or motions.
- Invests a lot of time in court cases.
- Is a recognisable and dependable presence
- For clerks, judges, and attorneys.

Finds that the resulting client-attorney relationship is mission-driven when the attorneys more or less empathise with their client, probably for psychological reasons. As a result, the client has no influence over the situation, so a settlement is never possible (the obsessive court filings of the litigants). The obsessive litigant wants his purported agony, humiliation, and harassment to be shown throughout court proceedings. Therefore, if he thinks accepting a fair settlement offer will end the dispute and diminish his chances of getting the alleged rationale, he will reject it. His odd reason to sue at all, i.e., to have his alleged persecution witnessed rather than to settle disputes, is

a direct cause of the failure to come to an agreement. No doubt, such drive results in an endless hunt for the unconditional love he so desperately seeks, bringing him closer and closer to the narcissism and self-esteem that have been hurt by witnessing and acknowledging his anguish.

### Earlier research on litigant behaviour

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Currently, less research is being conducted in this field of study. It is examined in relation to other aspects; for instance, it was discovered that the certiorari procedure could not be treated as an independent process; rather, it is fundamentally dependent on and inextricably linked to the actions of the parties who file the case with the Supreme Court (Mak, Andrew & Sidman, 2013). An investigation by the European Union revealed the voluntary procedural implementation of a CJEU decision in a preliminary ruling procedure. It is new to the study of the CJEU, national courts, and the preliminary ruling process to consider the necessity for a national court decision, which is a frequent but frequently disregarded strategic action. As a result of the transposition bias, which states that national courts would frequently incorporate ECJ decisions in their rulings, which alters the probability structures of litigants, theories are targeted at predicting and examining when such litigation behaviour occurs. Knowing when plaintiffs desist improves general knowledge of the little-studied implementation phase and may have significant ramifications for our comprehension of how legitimacy in court evolves (Nyikos, 2003).

Shestowsky (2018) provides findings from the first longitudinal take a look to ask civil litigants prospectively what criteria they plan to bear in mind whilst deciding on legal strategies and then retroactively investigate the criteria used to make the choices.

The maximum commonly referenced ex-ante standards are attorney's advice, price, and time. The retrospective motives additionally include those elements, but the list is narrower and more sensible.

Litigants who initially indexed a preference to lessen charges or follow their legal professionals' advice have been later drastically much more likely to file the usage of approaches for these reasons, suggesting the stability of those standards. However, the same stability did not happen for other criteria. Implications for enhancing protocols for counselling litigants about manner are mentioned.

Babcock and Pogarsky (1999) looked at the methodology for analysing how a cap might affect challenged judgements and the pre-trial settlement rate. Then, we introduce that when lawyers take standardised personality tests, the answers frequently differ significantly from those of the general population. The prominent Myers-Briggs Type Indicator (MBTI), for instance, divides people into 16 different personality types, yet practising attorneys primarily fall into only five of them (Dalton, 2014). The Keirsey Temperament Sorter-II is a related test that is referred to as the most popular personality test in the world (KTS-II). Sorts individuals based on preferences in their communication and behaviour. Developed by Dr David M. Keirsey. In the legal field, both the MBTI and KTS-II exams are commonly employed and, in most cases, validate what you previously know. People in the legal profession have different personalities than people in other professions and the general public. The divisions are below:

### Common "Types" of Lawyer Personality

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The five categories of attorneys outlined below are simply rough estimates meant to offer a framework for taking into account personality data about complex people. The list is simply a snapshot of the five personality types that are frequently observed in the legal community, and it should go without saying that it is neither exhaustive nor exclusive. However, bear in mind your legal colleagues and acquaintances as you read these descriptions: Recognise anyone in this room?

#### Personality Type: The Rainmaker

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Unexpectedly, an extrovert who enjoys the give and take of social contacts makes an effective legal salesman. Empathetic, interpersonal, and persuasive people are known as rainmakers. They establish (and maintain) trust because of their self-assured, forceful request. Goal-orientedness and strong egos are further characteristics of rainmakers. Therefore, if their sales pitch is turned down, they get back up and attempt again.

#### The Legal Counsel Personality

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This personality type can be found in a non-profit, a government regulatory agency, a public interest law firm, or any other setting where there is a dedication to serving a larger good. These lawyers' basic ideals centre on harmony, morality, ethics, sincerity, and social justice. Social scientists have noted a shift toward external rewards (money, power, status, etc.) among the majority of law students, but members of the

Advocate group continue to be faithful to internal principles. The idealistic temperament Dr David Keirse described as being defined by the pursuit of truth is something many proponents share, meaning, both personally and professionally.

### **The Personality of the Litigator**

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Individuals pursuing a legal career are rapidly becoming more competitive and results-oriented than the general population through a self-selection process that starts well before law school. Lawyers who specialise in litigation, on the other hand, take these competitive qualities to a whole new level. Additionally, the rational temperament, which values logic, competence, reason, idea mastery, and precise language use, is a major characteristic of these beefed-up lawyers, according to Keirse.

### **Personality Type of the Corporate Lawyer**

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In a business (or other large organisation), practising law demands abilities beyond purely technical proficiency. So-called soft skills are now essential for success in various fields. Trustworthiness, diplomatic abilities, emotional intelligence, and The secret to success for business lawyers are having other interpersonal skills. (Again, for these positions, superior judgement and managerial abilities are assumed.) According to Keirse, corporate lawyers may well have the guardian temperament, a personality type that values structure, order, belonging to a group, and norms.

### **Personality Type: Inspector**

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Let's take a collective look at the many dedicated, technically proficient lawyers that consistently maintain the smooth operation of our legal systems on a daily basis. We refer to this attorney as The Inspector in reference to David Kinsey's assessment of temperament. Keirse used the term "super-reliable" to describe these people, and fortunately, the legal profession is full of diligent individuals who fit this description. The inclusion of inspectors as esteemed members of a Despite this, they might not aspire to leadership posts or the attention that comes with them. (If you stay out of the spotlight, it's simple to forget about these solid experts' efforts. If you know one, you probably make it a point to recognise their consistent contributions.)

### **Research problem**

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The current study attempts to provide light on the psychological factors that influence advocates' litigant behaviour. The qualitative investigation seeks to answer the "what" question.

### **Method**

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This in-depth investigation revealed the psychological underpinnings of litigant behaviour, particularly in advocates.

### **Design of Qualitative Research**

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Phenomenology is the paradigm in use for this study. Phenomenology is a qualitative research approach that stresses real-time personal experience and human cognition (Riviera, 2010).

### **Analyses of Interpretive Phenomenology (IPA)**

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Most Interpretive phenomenological analysis is frequently the method used in phenomenological research (Creswell, 2009). As a result, people are removed from the study's data using interpretive phenomenological analysis (IPA). The most effective way to use this approach is to learn how all phenomena work (Wang et al, 2015).

### **Assumptions**

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1. Both male and female advocates exhibit litigant conduct.
2. Male advocates will portray more litigants than female ones.
3. A particular personality type known as litigant behaviour will be identified.

### **Results**

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The method best appropriate for phenomenological investigations, i. H. interpretive phenomenological analysis, was used to analyse the data. Instead of creating a broad theory, interpretive phenomenological analysis (IPA; Smith, 1996) has been utilised to examine the significance of experience for each individual. Using IPA, researchers are able to analyse participant reports using their personal expertise. Given the assumptions, the analysis produced the following findings using a flexible IPA framework (Harding & Gantley, 1998; Smith & Osborne, 2003).

**Table 1.** Demographic Information of participants in Qualitative Study (N=10)

Participant No	Age (Years)	Gender (M/F)	Educational Level	Socio-economic Level	Litigation found	Personality type	Total work experience in years
1	39	M	LLB	Middle	Yes	Litigator	13
2	40	M	LLM	Upper	Yes	Litigator	11
3	45	M	LLB	Lower	No	Litigator	8
4	32	M	LLB	Middle	Yes	Inspector	7
5	37	M	LLB	Middle	No	Corporate	5
6	38	F	LLM	High	No	Advocate	04
7	27	F	LLB	Middle	Yes	Litigator	10
8	35	F	LLB	Middle	Yes	Rainmaker	17
9	40	F	LLM	Upper	Yes	Litigator	15
10	33	F	LLB	Middle	Yes	Advocate	9

Table 1 shows that the age range of advocates is 27 to 45, while most of them are 30 plus in age. It is found that 50% of advocates have litigant behaviour both in males and females. It is also evident from the data that the more the work experience, there are more litigant

behaviours. While there are high frequencies of advocates with education levels up to LLB. There is a high frequency of advocates with middle socio-economic status (60%).

**Table 2.** Frequency table of Themes and Sub-themes elicited out of In-depth Interviews (N=10)

Themes	Frequency	% of Theme
Personality type	5	50 %
Financial problems	6	60 %
Overcoming Fear	5	50 %
Feelings of insecurity	7	70 %
Survival in the field	8	80 %

Table 2 shows that there are high frequencies on the themes of survival in the field (80%), feelings of insecurity (70%) and financial problems (60%). At the

same time, personality type (50%) and overcoming fear (50%) are also contributing factors extracted from the qualitative data.

**Table 3.** Theme-wise Comparison between Male Advocates and Female Advocates (N=10)

Themes	Male Advocates		Female Advocates		Difference
	F	P (%)	F	P (%)	
Personality type	4	40%	1	10%	30%
Financial problems	4	40%	2	20%	20%
Overcoming Fear	3	30%	2	20%	10%
Feelings of insecurity	4	40%	3	30%	10%
Survival in the field	5	50%	3	30%	20%

Table 3 shows that there are high frequencies on all themes in male advocates as compared to female advocates. The highest difference in frequency is found in personality type (30%). While on the theme 'financial problem' and 'survival in the field' the difference is equally high i.e. 20%. The lowest frequency difference between male advocates and female advocates is found on the themes 'overcoming fear' and 'survival in the field' i.e. 10%.

## Discussion

The current study uses a qualitative methodology to explore the psychological components of litigant behaviour in advocates.

The first presumption compared the trial behaviour of male and female attorneys. Evidence shows that both male and female attorneys engage in litigation conduct. The second presumption was that male lawyers handle a greater proportion of litigants

than female lawyers. The available facts also support this supposition. The findings support earlier research. Some research reveals gender variations in process behaviour, while others are at odds with one another. The majority of research, especially among political scientists, has focused on judicial decision-making and explored whether or not female judges' rulings differ from those of their male colleagues. These studies' findings are conflicting: some claim that women others have found no or very little evidence of a gender effect, at least in some circumstances ([Boyd, Epstein and Martin 2010](#); [Peresie 2005](#); [Songer and Crews-Meyer 2000](#)). ([Segal 2002](#); Songer, Davis, and Haire 1994; [Walker and Barrow 1985](#)).

The last supposition held that a certain personality type might be identified based on processing behaviour. According to the study's findings, there are five different personality types that

makeup advocates. These include the lawyer personality type, the inspector personality type, the entrepreneur personality type, and the rainmaker personality type. At the same time, the litigation personality type is the one that occurs most frequently in lawyers. The study's findings agree with existing research. A similar examination described as the most popular personality test in the world. The Keirsey Temperament Sorter-II is used globally (KTS-II). The David M. Keirsey Personality Inventory, developed in 1978, classifies people according to their preferred modes of expression and behaviour. In the legal field, both the MBTI and KTS-II exams are commonly employed and, in most cases, validate what you previously know. The personalities of attorneys are distinct from those of people in other professions and from the general public. These personality types for lawyers include attorney, litigator, rainmaker, corporate, and inspector.

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