

Gender Discrimination in Legal Profession in Pakistan

Shazia Hassan

Lecturer (Law), The Institute of Legal Studies (TILS), Lahore, Punjab, Pakistan.

Amara Khanam

Lecturer (Law), The Institute of Legal Studies (TILS), Lahore, Punjab, Pakistan.

Tajwar Waseem Khan

Lecturer (Law), The Institute of Legal Studies (TILS), Lahore, Punjab, Pakistan.

Abstract

Data shows that there is an obvious gender imbalance in legal profession in Pakistan. The study was taken under the objective to find out the main reasons and causes of the gender imbalance in the legal profession in Pakistan. Gender discrimination is mainly considered the major factor behind gender imbalance in the legal profession in Pakistan. For the purpose of exploring the field the researcher framed the research question and collected public opinion through surveys and interviews. The opinion collection through questionnaires was taken from two cities and interview taken from government officers as well as senior lawyers.

Key Words:

gender discrimination,
gender imbalance,
insecure work field, eve
teasing.

Due to limited resources, the researcher selected two district bars of Lahore and Faisalabad. The analysis made from the data collected shows that the legal profession is not gender biased. Females do not feel insecure in the legal profession and there is no harassment or eve-teasing in the workplace. The findings and conclusion shows that gender imbalance is not totally due to gender discrimination but it is one of the many factors that cause gender imbalance in the legal profession.

Background

Every society is characterized by certain compulsions, constraints, impulses & restraints. These undue compulsions and constraints are the manifesto of the negative impacts of the collective thoughts of the people of that society. The process of transformation of such compulsions from negative thoughts is nourished by the socio-cultural milieu of the society, further prompted by pseudo-traditional practices and religious influences. Such transformation confronts society with strong and unchallengeable constraints and compulsions that the weak gender cannot even dare to go against. Discrimination is the sole factor that strikes one's mind while analyzing such compulsions & constraints. When ordinary decisions are influenced by pre-conceived myths (compulsions & constraints) for a particular gender, the resultant outcome is termed as gender discrimination.

Definition

Gender discrimination is defined as biased or preferential attitudes for males versus females. To elaborate for understanding, the term gender discrimination is about maintaining different standards for identical entities e.g. human beings. Male species differ from the females only physiologically and there is no difference in their comparative mental potentials, still the prevalent social/cultural practices are influenced by such discriminative attitudes that nobody dares to alter. Taking the definition from *Collier's Dictionary*, the gender gap is, "*the apparent disparity between men and women in values, attitudes, voting patterns, etc.*" [*Collier's dictionary, 1992:516*]. Women are curbed with limited human rights and privileges awarded for a lot of physical violence and work responsibilities. They are even destitute of their basic rights i.e. right to education, the right to earn living and even the right to live freely.

Since the origin of gender discrimination could be traced with the origin of human beings yet the concept of gender discrimination was signified and indicated preferably in the 20th century. The definition of gender discrimination can be quoted from some other distinguished and authentic sources of literature of the world. Definition of gender discrimination take from the Cambridge Advanced Learner's Dictionary & Thesaurus © Cambridge University Press, "*a situation in which someone is treated less well because of their sex, usually when a woman is treated less well than a man*". [*Dictionary.Cambridge.org*].

Gender Discrimination Scenario in Pakistan

Pakistan is predominantly a male dominated society. Male Chauvinism is hitting the highest point in the social behaviors of the people. The fact could be endorsed with the words of the founder of the country, Quaid-e-Azam. He conveyed his remarks on gender discrimination being practiced in our society in the following words as quoted in the research work of Sanchita Bhattacharya 'Status of Women in Pakistan

["No nation can rise to the height of glory unless their women are side by side with them...It is crime against humanity that our women are shut up with in the four walls of the houses as prisoners. There is no sanction anywhere for the deplorable condition in which our women have to live."...]

Muhammad Ali Jinnah, Father of the Nation

Women are being suppressed and ill-treated by the dominant male gender in the society. Sometimes such discriminatory behaviors are due to biased attitudes of people and sometimes the result of the myths created under centuries old opinionated thought process. While spotting and segregating the avenues where discrimination is made between the two genders, the most important one that strikes the mind is seen as 'Honor Killings'. Another significant example of gender discrimination is 'Marriage with Quran'. Even this ailment is the creation of sick minded Mullah to facilitate feudal thoughts.

Girls are discriminated at the domestic level. Girls are meant to be seen not heard. The curse of dowry has increased the number of unmarried girls at their parent's home. It remains a primary factor that parents consider their unmarried girls as a burden. Girls are not encouraged to avail higher education opportunities and a very little percentage of girls manage to reach college/university level as compared to boys. Mal-nutrition and poor health facilities result in women with the weaker and more feeble body to work and support society properly. At work places and educational institutions females are harassed badly. A large number of sexual harassment and rape cases are filed throughout the world. Even academic curriculum portrays a clear picture of gender discrimination. In all the above mentioned acts, the sole affectee is the female. In the words of Basheeran Bibi, one of the numerous female victims of violence in Pakistan

["Pakistan was made only for the powerful and for the men. It was not made for weak and poor women like me. What are we worth and what is our status here? Nothing at all ... "]

The legal profession in Pakistan is male dominated. It depicts a clear picture of gender imbalance as females are under-represented. The government of the state does not take female's under-representation as a problem. There exists a wide gender gap among males and females employed/committed in the legal profession in Pakistan. In the words of Justice (R) Fakhrunisa Khokhar

"...a country like Pakistan where women have low social status and a long established pattern of active suppression of human rights by successive governments. She is still considered inferior to man and lacks socio-economic security and opportunities in almost every walk of life including the sphere of law."

Statistical figures pertaining to our research area reveal some interesting percentages. According to the annual report of the Human Rights Commission of Pakistan March, 2016, female judges are just 5.8% of the total higher judiciary in Pakistan.

A similar gender imbalance is explicit in Bars too. Since its establishment, the Pakistan bar council has not had a single female member though the bar association showed little flexibility to select Asma Jahangir as president of the Supreme Court Bar Association. The number of female enrollments in the Pakistan Bar Council is appallingly low compared to that of male enrollments. The basic reason behind gender imbalance is a discouraging environment for female young lawyers in the legal system/set up. The first thing young female lawyers face while entering the court premises is discouraging and taunting behavior of male lawyers especially octogenarians. Such an insecure beginning of the profession trembles the ambition of young female lawyers who brave severe family pressures to reach this level. In most cases they are not even permitted by their families to study law. A large number of female lawyers quit practicing during the early stages of their career and only a fractional percentage reach the level of enrollment as advocates of the Supreme Court.

Efforts should be made and must be taken seriously to ensure gender equality in the legal profession in Pakistan. Law of the land ensures equality to every citizen of the state. Article 25 of the constitution guarantees equality to its citizens irrespective of caste, color, and gender. The "UN Convention on the Elimination of Discrimination against Woman" acceded by Pakistan in 1996 necessitates its signatories to take all possible measures to ensure the full contribution of females in public life. The "Asian Development Bank" insisted on more female judges' appointment and for the purpose allocated approximately \$350 million through a program "access to justice program" suggesting structural reforms in the judicial set up. Beijing Declaration 1995 endorsed by Pakistan where it obligates to

"ensure that women have the same right as men to be judges, advocates or other officers of the court" and "commit themselves to establishing the goal of gender balance ... in the judiciary, including, inter alia, setting

specific targets and implementing measures to substantially increase the number of women with a view to achieving equal representation of women and men, if necessary through positive action”.

Pakistan is a signatory to all the above mentioned and many other conventions and covenants but this is limited to documents only and no measures have ever been by law enforcement agencies. If we are sincere as a nation to eliminate the cult of gender discrimination and genuinely desire to uplift female involvement in the legal profession in Pakistan, we must pursue the efforts through the gender alleviation process and encourage female participation by introducing a quota system for a specific time. Biased gender behavior is a major threat to the legal profession and this issue needs to be tackled seriously.

Objectives

Gender discrimination is a worldwide phenomenon. Not only developing states but developed countries are also fighting against gender discrimination. Biased behavior towards the major portion of the population hinders the development of the state and it handicaps the talent and potential of the people. Though many efforts are made in this area yet a lot is needed to be done on the governmental as well as local and social level. The thinking trends and mindset are needed to be tamed in a way to eliminate discriminatory behavior not only at a higher level but at a very basic level i.e. family and individual.

This research paper is also an effort to draw attention on the discriminatory and biased behavior of the society in the legal profession of Pakistan. The major objectives of this research are

- To find out whether the legal profession of Pakistan is gender biased
- To check gender disparity in bar councils e.g. Pakistan bar council and all the provincial bar councils along with judicial courts of Pakistan
- To look into the real state of affairs in the legal profession of Pakistan while highlighting the discriminating behavior.
- To find out the major causes of discriminatory behaviors in detail
- To highlight the efforts and steps taken by the higher concerned authorities to alleviate and mitigate the effects of gender discrimination
- To suggest suitable and practicable recommendations.

Survey through Questionnaire

To investigate and analyze the hypothesis, the researcher has formulated a questionnaire and did a survey to get data and the opinion of the public. The research question was to investigate whether the legal profession is gender biased or not and the other thing to find out is the cause behind gender imbalance in the legal profession in Pakistan. The population selected for survey purposes is from the Lahore bar council and Faisalabad bar council, Pakistan. Interviews are to be taken from the learned and popular male as well as female concerned high authorities. Along with a questionnaire is prepared to collect the views from female and male lawyers from the Lahore bar council and Faisalabad bar council. Renowned personalities in the legal profession are chosen to interview and take a view on gender discrimination. For data collection, all the bars of Pakistan are contacted to estimate the ratio of female participation in the field since the independence of Pakistan. Following is the questionnaire that the researcher has framed. Now I will explain the formulation of each question then the public opinion gathered through the questionnaire and then the findings of the question.

Insecure Environment

The response to the question shows that 16.3% person thinks that female lawyers always feel insecure, 16.3% often and 31.3 % females sometimes insecure in the legal profession. Then there is the rare and never option. The opinion goes like 10% rarely feel insecure whereas 26.3% of females never felt insecure while working in the legal profession in Pakistan.

While examining the above data it could be concluded that they general opinion that people has formulated about the legal profession as insecure for a female is not fully true. Though new comers and young female lawyers have to face difficulty yet the profession is not always insecure for female lawyers.

Taunting behavior of Male Lawyers

From the responding public 13.8% always have to face taunting behavior. 20% female lawyers often and 26.3% female lawyers sometimes have to face the taunting behavior of male lawyers in the work premises. Whereas 17.5% rarely face and 22.5% female lawyers never faced the taunting behavior of male lawyers.

According to the present data it could be deduced that yes taunting behavior of male lawyers is present there though not always yet the sometime figure is also present to show that the taunting behavior of male lawyers is affecting the gender imbalance in the legal profession in Pakistan.

Eve-Teasing

The result shows that it is not a common or always faced phenomenon. Only 5% witness eve-teasing always faced by female lawyers whereas 27.5% is of view that they witness often and 31.3% says that sometimes they see eve-teasing in the legal profession. 16.3% public witness rarely and 20% people are of the view that there is never seen eve-teasing in the legal profession in Pakistan.

The data says though male lawyers are in abundance yet there is sometimes eve-teasing is witnessed. Eve-teasing is not the general behavior of male lawyers that females have to face. It is the outlook of the profession that people assume if there are more male there will be behaviors like eve-teasing prevalent in the field but this is not reality

Workplace Harassment

The data collected shows the following figures when the question of harassment at the workplace asked to the public. The always and often option got the percentage of 3.8% and 21.3% respectively which means we can say that female lawyers are not always harassed at the workplace in the legal profession. Female lawyers sometimes are harassed at 31.3% of the public showed their opinion. However 20% people are of the view that females are rarely harassed at the workplace and 23.8% of the respondents say that there is never harassment at the work place in the legal profession in Pakistan.

The above figures means the middle range is more than the always and never figure. So we can say that though females are not often face harassment yet sometimes female lawyers are being harassed in the work place in the legal profession.

Discriminatory Rules

36.3% of the total respondents give their opinion in the affirmation that there are some rule and regulations that discriminate against female lawyers. Whereas the rest public 63.8% gives their view in negative that there are no regulatory requirements of the legal profession that discriminates against female lawyers.

The answer to the question that is there any rules and regulations that may cause gender discrimination in legal profession is a clear no as a majority of 63% negates the idea. All the laws are legislated according to the public policies and according to the constitution that ensures equality to all the citizens of the state irrespective of their gender.

Judges bias Behavior while giving Judgement

The figures show that 10% people are of the view that judges favor male lawyers while giving judgments. The % public opinion point that judges favor female lawyers while giving rulings. Amazingly the third option of remaining partial and unbiased while giving rulings was endorsed by 62.5% of the public chosen for survival.

So the question is answered with the third option that when giving rulings in courtroom judges remain unbiased. The opinion of the public makes clear that judges do not see whether the case is pleaded by male or female lawyer, they give ruling according to the fact and law relating to the case.

Appointment of Judges

From the total respondents 8.8% are of the view that judges prefer male to be appointed as judge and 23.8% are of the opinion that senior judges prefer female to be selected as judges. However a major number of people that is 67.5% are of the view that judges remain unbiased while appointing new judges.

So the result is clear that senior judges remain unbiased while appointing new judges. That means although male judges are in greater number in higher judiciary yet they do not explicit biasness towards and gender while appointing new judges. Most of the time merit matters though there are exceptions to the judges who prefer to oblige their close relations.

Family Pressure while Choosing Profession

To find out the real reason behind this gender imbalance the question was asked whether families discourage

their daughters to join legal profession. The collected figures are amazing that 75% people say that families generally discourage their daughters from becoming lawyers and the 25% negate the fact.

The result is in affirmation that families discourage their daughters to choose legal profession. Parents are very conscious of the protection of their female kids as they are considered more vulnerable being therefore parents want to give their female kids a life that will be good for them as for as their professional and social life is concerned. Parents feel shy to send their girls in legal profession due to prevailing male dominance.

Expenses on Education

From the responding public 30% are of the opinion that parents spend less on their daughters as compare to sons whereas 7.5% people are of the opinion that parents spend less on their sons. And 62.5% of the people view that parents spend equal on the education of the daughters and sons.

The majority answer of the question is that parents spend equal on their male and female child for their education. As the economy of the country is getting better and people are aware of the challenges of the 21st century they try to give their kids a life that would help them to remain on the race track. Therefore parents are spending money on the education of their children irrespective of their gender.

Performance Hinderance

The question asked from the public to check whether the general opinion is true or not and the public answers to the question shows that 40% people say that male perform better whereas 11.3% are of the opinion that female perform better in courtroom though the fraction favoring female is very low. The number of people that says male and female lawyers perform equally better in the courtroom was 48.8%.

In the final view male and female lawyers perform equally well in the courtroom. The biological or psychological reasoning that females are less intelligent or physically weak is no hindrance at all. The result regarding the performance of the male and female lawyers in court room shows that male and female lawyers are equally competent and they perform well therefore there is no such thing exist as our stereotyping thinking has promoted.

Concept of Na-Mehram

The question asked from the public to examine the proposition whether the concept of 'Na mehram' discourages females to join legal profession. People that view the concept of 'Na mehram' always effects are 7.5% and who says often 20% and the middle figure of sometimes was endorsed by 31.3% of the people filling the questionnaire. People who are of the view that the concept of 'Na mehram' affects never or rarely are 25% and 16.3% respectively.

So the answer after analysis the public is that sometimes the concept of 'Na mehram' discourages females to join legal profession and it is not always the case with the girls. Basically religion is a personal matter and over all society is not that rigid about this religious concept yet females have self-imposed and feel that if they did more interaction or mixing with male they will be committing sin.

Recommendations

After collecting the data and probing into the causes of gender imbalance and gender discrimination in legal profession in Pakistan followings may be the practicable and suitable suggestions for the problem.

- Gender alleviation. First and the foremost thing that our society need follow is the gender alleviation campaign. Gender disparity is affecting not only legal profession but all the walks of life therefore gender equality must be ensured at every level and every institution whether family, educational or workplaces. Gender alleviation campaign must be added in the national agenda.
- Quota system. Quota system is a very positive step to encourage females in any profession. As the federal services and many other provincial services has introduced quota system to enhance gender equality, legal profession also need to introduce a confirm quota for females in lower and higher judiciary as well.
- Promoting education. Through educating people we can convince them about the rights and responsibilities of the females that will help not only gender equality but it also share the financial burden of male member of the society. Education is not always through schools and colleges and a degree processes but it could also be done through seminars and counseling of the parents.
- Facilities to be provided. In our society females are considered to do household and if they want to do any job they will have to manage along with. Therefore to encourage females in the profession facilities to be provided. These facilities may include transportation, dormitories or day care for the babies.

- More work needed to be done on highlighting the problems of legal profession. Legal profession is least touched topic by the researcher that is the reason that society does not know the problems of the field. Society has a weird image of the legal profession as far as the female lawyers are concerned. Females should be encouraged to join legal profession because the field is not as insecure as the society think of it.
- Positive picture of the profession should be shown to the society. Our society has a bad picture of legal profession in their mind and parents feel shy to send their daughters in legal profession so are the girls that they feel reluctant to join law field. Therefore through research work and educational institutions the positive aspect must also be highlighted.
- Women should be encouraged. It is the dilemma of our society that females are discouraged to take challenges and face the difficulties of the life. Therefore females always look for easy way and dependency on male. This is because they are grown up this way. We need to encourage women to take challenges and face difficulties so that they could become a positive and constructive part of the society.
- All the conventions signed by the state should be followed. There are so many national and international covenants and conventions, of which Pakistan is a signatory. Government must fulfill their promises made in these national and international agreements to enhance gender equality in legal profession.
- Laws should be formulated and implemented. There are many laws made for the development and progress of women in the country but unfortunately there is not practical implementation of these laws. There are some department and commissions working on women development yet they are not successful in the mission they are doing very little of the promises they have made in their missions.
- Media should play role. Media can play a very important role in the development of any institution. Through media the positive picture of the legal profession should also be shown to the society as the negative aspect is being highlighted. The parents counseling is possible through electronic and social media so that they may not feel shy while sending their daughters in legal profession just because it is male dominated.
- Students must be provided counseling and guidance at their academic institutions. Professional starts with the professional education. When students are studying for their professional degree there must be a guideline and counseling of the male and female students regarding the profession. Females studying law must be given counseling regarding the responsibilities and profits of the field along with the difficulties and the challenges they will have to face while entering the practical field of law.

Findings and Conclusion

The findings of the paper lead to the conclusion that gender discrimination is a deep rooted evil of Pakistani society. It has affected every walk of life whether it is about social status or economic dependence. All the professions in Pakistan show gender imbalance with slight ratio difference. But the legal profession in Pakistan is predominately male dominated; the female-male ratio is one tenth of the total. There are many fold causes of gender disparity in legal profession. Girls are discriminated since their childhood. They are meant to be seen not heard. The world is changing and Pakistani society is also giving space to females to their professions yet it will take a long time to uproot gender biasness. The study shows that opposite results to the hypothesis that females are discriminated in legal profession. There is no law and no profession that restricts male or female to join. It is the general behavior and the orthodox thoughts of the society that hinders the way of females to grow their thoughts to break their fears to join a profession of their own interest. These biased behavior and thoughts towards male and female gender are the reason that legal profession in Pakistan shows the appalling gender imbalance. The research makes rationale of gender equality in legal profession because the female population is half of the total of the country. Females have their grievances and they feel more comfortable interacting female lawyers. The same way a female judge can understand the emotions an grievance in a better way than a male can. Therefore equality should be ensured in legal profession and females should be encouraged to study law as major.

References

- Abbas, Q., & Hameed, A. (2011). Gender Discrimination & Its Effect on Employee Performance/Productivity. *International Journal of Humanities and Social Science*, 1(15), 17-32.
- Adeel, G. H. (2010). "Status of Women in Islam: A Critical Analysis on A Matter of Equality", *Message of Thaqaalayn*, 11(1), 101-114.
- Ahl, H. (2006). Why Research on Women Entrepreneurs Needs New Directions. *Entrepreneurship Theory and Practice*, 30(5), 595–621. <https://doi.org/10.1111/j.1540-6520.2006.00138.x>.
- Alam, A. (2011) Impact of Gender Discrimination on Gender Development and Poverty Alleviation. *Sarhad J. Agric.* 27(2), 229-239.
- Almond, I. (2007). *The new Orientalists : postmodern representations of Islam from Foucault to Baudrillard*. I.B. Tauris."
- Badawi, J. A. (1971). *The Status of Woman in Islam*. The Muslim Students' Association of US & Canada.
- Bhattacharya, S. (2014). Status of Women in Pakistan. *J.R.S.P.* 51 (1), 179-211.
- Brenner, H. (2014). Expanding the Pathways to Gender Equality in the Legal Profession. *Legal Ethics*, 17(2), 261–280. <https://doi.org/10.5235/1460728x.17.2.261>
- Bukhari, F. Y. (2013). Gender Discrimination: A myth or truth Women status in Pakistan. *IOSR Journal of Business and Management*, 8(2), 88–97. <https://doi.org/10.9790/487x-0828897>.
- Bukhari, S. A. G. (2012). Role of Women In The Development Of Islamic Civilization. *Jihāt Al-Islām*, 5(2), 7-18.
- Channar, Z. A., Abbassi, Z., & Ujan, I. A. (2011). Gender Discrimination in Workforce and its Impact on the Employees. *Pak. J. Commer. Soc. Sci.* 5(1), 177-191.
- Channar, Z. A., Abbassi, Z., & Ujan, I. A. (2011). Gender discrimination in workforce and its impact on the employees. *Pakistan Journal of Commerce and Social Sciences (PJCSS)*, 5(1), 177–191. <http://hdl.handle.net/10419/188023>.
- Iftekhar, A. (2014). *The Dowry Dilemma*. http://E.Thenews.Com.Pk/NewsMag/Mag/Detail_Article.Asp?Magid=1&Id=3791.
- Isran, S., & Isran, M. A. (2012). "Patriarchy and Women in Pakistan: A Critical Analysis". *Interdisciplinary Journal of Contemporary Research in Business*, 4(6), 835-859.
- Jalal-ud-Din, M., & Khan, M. (2008). Socio-Economic and Cultural Constraints of Women in Pakistan with Special Reference to Mardan District, NWFP Province. *Sarhad Journal of Agriculture*, 24(3), 485-493.
- Lari, M. Z. (2011). "Honour Killings" in Pakistan and Compliance of Law. http://www.af.org.pk/pub_files/1366345831.pdf.
- Misra, A. (2003). Rise of religious parties in Pakistan: Causes and prospects. *Strategic Analysis*, 27(2), 186–215. <https://doi.org/10.1080/09700160308450083>.
- Naik, Z. (n.d.). *Status of women testimony in Islam*. Question & Answer. <https://zakirnaikqa.wordpress.com/Tag/Status-Of-Women-Testimony-In-Islam/>
- Noor, M. J. (2004). *Daughters of Eve: Violence against Women in Pakistan*, Bachelor of Science Dissertation, Cambridge: Massachusetts Institute Of Technology.
- Rhode, D. L. (1989). *Justice and Gender: Sex Discrimination and the Law*. Harvard University Press. <https://doi.org/10.2307/j.ctvjhzs67>.
- Ritzer, G. (2011). *Sociological Theories*. New York, America. The McGraw Hill Companies Inc.
- Saeed, S. (2012). *Modeling Son Preference in Pakistan*. The University Of Texas at Arlington.
- Shami, A. A. (2003). Political Empowerment of Women in Pakistan. *Pakistan Vision*, 10(1), 141-150.
- sharma, T. (2016, June 10). *Gender Discrimination: Causes and Reduction*. Psychology Discussion - Discuss Anything about Psychology. <http://www.psychologydiscussion.net/gender-discrimination/gender-discrimination-causes-and-reduction/1738>
- Shoukat, U. (2004). *Literacy And Women's Identity*. Proceedings of the International Conference on Social Sciences: Endangered and Engendered, Fatima Jinnah Women University, Rawalpindi, Pakistan, 84-96.
- United Nations Development Programme. (2013), "Human Development Report 2013", <http://Hdrstats.Undp.Org/Images/Explanations/Pak.Pdf>.
- Wallen, J. (2015, May 7). *10 examples of gender bias you may encounter in the workplace*. TechRepublic. <https://www.techrepublic.com/article/10-examples-of-gender-bias-you-may-encounter-in-the-workplace/>
- Wollstonecraft, M. (1792). *A vindication of the rights of women*. Newbury State USA. Printed at Boston 1792.
- World Development Report. (2012). *Gender equality and development*. The world bank. Washington DC.