

GENDER IMBALANCE IN THE LEGAL PROFESSION OF PAKISTAN IS IT RELIGION?

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Abstract

The under-representation of female lawyers in Pakistan's legal profession has been a much-debated topic in the press lately. This detailed study is the first of its kind in Pakistan focused on investigating if the religion Islam influences the participation of female lawyers in the legal profession of Pakistan. This study attempts to contribute to the literature to understand this phenomenon through qualitative research methods by conducting in-depth, semi-structured interviews and focus group discussions with male and female lawyers from all over the four provinces of Pakistan. The data was analysed with the help of NVIVO. The data analysis provided a comprehensive and unprecedented view of the participants about Islam and its significance on the factors resulting in the under-representation and progression of female lawyers in the legal profession. The participants overwhelmingly rejected the notion of some studies that Islam is a factor in restricting women's participation in the labour force of Islamic countries. The studies found that it is not the religion but the culture wrapped in faith that the male members of the society are using to restrict women from participating in the economic activities leading to their empowerment.

Keywords: *Female lawyers of Pakistan, Islam and Women, Under-representation of females, Legal profession*

INTRODUCTION

It has been argued that the under-representation of women in most professions is a globally observable fact. The legal profession worldwide still lacks gender equality, horizontally in some countries and vertically in others. However, it has been acknowledged that this problem needs addressing but has been met with much resistance from those at the top. In the U.K., Lord Justice Sumption, who, as one of the 12 U.K. Supreme Court Judges (only one of whom is a woman) and one of the most senior lawyers in the country, infamously said that women should be patient and that it will take another 50 years to achieve gender equality in the senior judiciary (Epstein et al., 2015). Lord Reed, the current President of the U.K. Supreme Court, has given his views about the lack of diversity in the Supreme Court by stating that it could not “be allowed to become shameful if it persists” (Stephan, 2022)

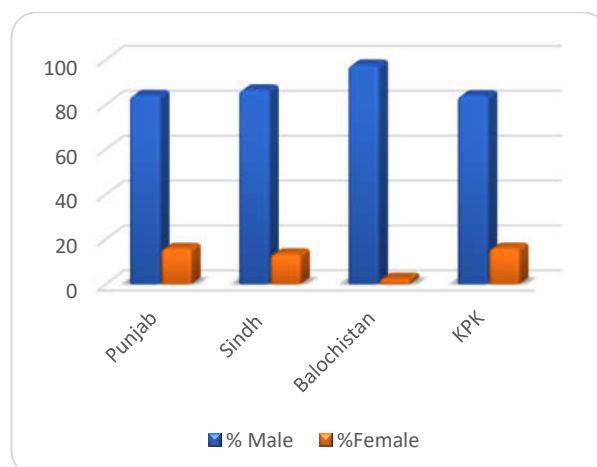
Discussing the legal profession in Indo-Pak, in 1923, the Legal Practitioner's Act was amended to remove the legal bar on women from practising law. The amendments were in response to the refusal of High Courts in Calcutta and Patna to allow qualified women lawyers to appear in court as they were considered "unfit for the duties of the legal profession" (Chatman et al., 2022). Opposing the Bill at the time, Maulvi Mian Asjad-ul-Ullah from Bhagalpur Division said in the legislative assembly that such an amendment would be antithetical to justice, as “susceptibility to female charms” would make male judges and witnesses partial towards women advocates. In the long run, women would “take the practice away from men” (ibid). If one thinks the situation has improved in this profession for women in Pakistan, it has not.

Although women lawyers and judges have come a long way, significant challenges impede women’s progression in the legal profession. Maulana Sherani, the Council of Islamic Ideology ex-chairperson, said that only women over 40 should become judges when “women no longer remain attractive or marriageable” (Holden, 2017). Furthermore, attempts made by female parliamentarians in the National Assembly of Pakistan proposing amendments to the Act by fixing a proportion of the seats of the High Court as reserved exclusively for women judges were dismissed. They drew furious criticism from the Standing Committee on Law and Justice (Schultz, 2017). There have been no plans under consideration by the government of Pakistan up until now to empower women in Pakistan’s judiciary system or legal profession (Shamim, 2018). The overall statistics suggest that the underrepresentation of women in the legal profession of Pakistan is a national phenomenon. It has initiated a broad debate in Pakistan and abroad that “neither institutions nor the countries in which they are located can afford to overlook women’s abilities and leadership potential” (Slater, 2014). The figures from all four provincial bar councils and the Pakistan Bar Council are daunting and show that female lawyers in Pakistan remain underrepresented in the legal profession. The numbers have a huge imbalance, and literature shows the government or bar councils have made no efforts to bring some balance to Pakistan’s legal profession.

This inequality in numbers between male and female lawyers nationwide raises many questions. The purpose of this research is to find if the religion Islam or its teachings are the reasons for the under-representation of female lawyers in Pakistan. In order to understand the significance of this study, it is appropriate to realise the scars of the situation of female lawyers, which can be judged from numbers. The Punjab Bar Council is the largest in the country and has the most lawyers registered with it. It is based in Lahore, the provincial capital of Punjab. The other three bar councils are also based in the provincial capitals. The following table shows the total number of lawyers registered with each bar council and the number of male and female lawyers registered with the bar councils.

Bar Council	Total Members	Male members	Female Members
Punjab Bar	113000	95000	18000
Sindh Bar	36392	31492	4900
KPK Bar	10754	9026	1728
Balochistan Bar	3800	3710	90
Islamabad Bar	4000	2600	1400
Total	167946	141828	26118

Source: Secretaries Bar Councils through A.B.S. & Co Lawyers, Islamabad (2020)



Percentage of female to male lawyers in four provinces of Pakistan

Apart from the provincial bar councils, there is a central bar which consists of Supreme Court lawyers. The Pakistan Bar Council is the highest regulatory body for the lawyers of the Supreme Court. It has 25 members who are elected from all provincial bar councils. The Pakistan Bar Council has 25 members, and all are male. It can, therefore, be argued with the available data that female lawyers are under-represented in the legal profession in Pakistan. This study has attempted to inquire if religion Islam is the cause of this under-representation as Pakistan is the Islamic country and most passionate about it (Jabeen and Jadoon, 2009). Many books and articles have been written by many authors from different backgrounds, focusing on the restrictive nature of Quranic teachings towards women (Creevey, 1991). These teachings have been blamed for the inferior status of Muslim women (Kamguian, 2018). However, others have attributed other factors, such as pre-Islamic norms and the influences of the West (Lazreg, 2018). This study refers to the authentic resources of Islam, which is the Quran or Hadith of Prophet Muhammad (Peace be upon Him). Many cultural practices have become part of Sharia due to diverse interpretations of Islam by different sects according to their own culture, bringing cultural practices into the religion (Nye, 2000). Islam is not just a set of religious rules but provides comprehensive guidance in leading personal, social and business life (Hamid, 2009) (Abdrabboh, 1985). Furthermore, through the Quran, Hadith and Sunnah, Islam has set out privileges for women as wives, sisters, mothers and daughters, giving them honour and rights in every aspect of their lives (Baloach et al., 2012). Despite a clear set of rights and privileges, women are still found in lower positions in all areas of life, and Pakistan is a classic example of these false practices (Bhattacharya, 2014). Working women in small towns and rural areas are treated as 'Immoral character women' and not respected in society due to a false understanding of the religion (Soltani, 2018) (Soltani, 2016). It is further argued by (Stone and Charles, 2018). Stone (2018) states that in an 'acceptable job' such as teaching and medicine, a continued set form of harassment continues, but in non-traditional jobs such as politics or journalism, women face many challenges and discrimination. In order to find if religion plays a role in the under-representation of female lawyers in Pakistan, one has to see the status of women in Islam historically from the start.

Status of Women in Islam

In any Muslim society, area or country, the word of God is final. The Muslim laws that regulate society are called Sharia law, derived from the Holy Quran and the Sunnah of the Prophet Muhammad (PBUH), which is fundamental to the lives of Muslims worldwide (Anderson, 1960). However, Sharia Law has been interpreted by different scholars according to their beliefs and sect, causing, therefore, ambiguity (Berger, 2006). Moreover, cultural practices have emerged in Sharia law over the years due to these interpretations (Osmani et al., 2020) (Bhattacharya, 2018) (Bhattacharya, 2014). Therefore, it is vital for this study only to rely upon the Quran and Hadith. The Quran states that the Creator of human beings says:

"I shall not lose sight of the labour of any of you who labours in my way, be it man or woman; each of you is equal to the other (3:195)."

Additionally, the Quran further states when describing the qualities of men and women by giving a message of equality: "[w]hoever does righteousness, whether male or female, while he is a believer - We will indeed cause him to live a good life, and We will surely give them their reward [in the Hereafter] according to the best of what they used to do."

(Quran Surah Al-Nahl 16:97, Translation by Sahih International)

About the employment of women equal to men and keeping their earnings, the Quran confirms:

"Do not covet what Allah has conferred more abundantly on some of you than others. Men shall have a share according to what they have earned, and women shall have a share according to what they have earned. Do ask Allah for His bounty. Allah has full knowledge of everything."

(Quran Surah Al Nisa, 4:32,)

Islam has given a special place to women in the past 1400 years, and within Islamic teachings, women have been granted rights equal to men (Chaudhry et al., 2012) (Chaudhary, 2012). Before Islam, women had no freedom, independence, or choice over their affairs and were not involved in any active roles in society's social or political affairs (Smith, 1979) (Bhattacharya, 2014). In fact, before Islam, in Arab Society, those who did not have male children used to bury the female child alive soon after her birth

(Aliyah, 2016). Prophet Muhammad (PBUH) and all his companions showed exemplary behaviour when it came to women and Prophet Muhammad's (PBUH) teachings and instructions to reflect the respect, honour and status given to women in their lives (Bhattacharyra, 2014: Chaudhary, 2012). Concerning showing respect towards women, the Prophet (Peace and Blessings be upon Him and His Family) has said:

"[y]ou are all equal. Nobody has superiority over others except by piety and good action."

(Al Bukhari: Khan 1987: Inayat, 2014).

The Prophet (PBUH), in his last address at the time of Hajj, said,

"[b]eware, the best of you is he who is the best towards his women, and I am the best among all of you toward my women."

(Al-Islam.org: Muhajjah al-Baydha', vol 3, p. 98.)

Islam teaches that a woman's opinion should be considered and cannot be ignored based on being a woman (Ali, 2004) (Hussain, 1987; Ali, 2004). It is evident from history that in Islamic rule, women were aware of their rights and were able to interfere by advising and contradicting men of high authority in the rule on matters concerning not only the religion but also the affairs of the society (Mir-Hosseini, 2006) (Badawi, 1980; Hassan, 2004). An example of such interference is that Umer Ibn al-Khitab, one of the mightiest rulers of the Islamic empire after the Prophet (PBUH), was considering putting up the limit of dowry for women. A woman from the back of the mosque objected by quoting the Quranic verse of Surah Nisa (4:20) and said: "[w]hen Quran puts no limit on Mehr, Omar, you have no right to intervene in a matter which Allah the Al-Mighty has already decreed in Quran". Hazrat Omar humbly replied that "[t]he woman is right and Omar is wrong" (Haleem, 2007). There were many more instances when women challenged great scholars in their times if anything was said against women's rights, which were granted to them by the Quran or Hadith (Tuppurainen, 2010). Many examples from Islamic history reveal that women were never restricted indoors nor constrained to domestic work (Ahmed-Ghosh, 2008). From the history of Islam, the Quran, Hadith and the era after the Prophet Muhammad (PBUH), women have been granted complete equality (Mir-Hosseini, 2009). The history of Islam has many names of female intellectuals, jurists and businesswomen (Ullah et al., 2013) (Hassan, 2004). The leading example is Prophet Muhammad's (PBUH) wife, Hazrat Khadija (R.A.), who was a successful businesswoman of her time (Ullah et al., 2013). The verse from the Quran (4:32) and the example from the wife of Prophet Muhammad (PBUH) that a woman is free to have property, business and respect, equivalent to a man. Furthermore, Islam also gives sovereignty, independence and self-reliance away from her brother, father or husband (Adeel, 2010). Therefore, Islam also gives women the right to inherit movable or immovable property (Khan et al., 2022).

The other exceptional example is Hazrat Aisha (R.A.), the wife of Hazrat Muhammad (PBUH), who became the scholar of Hadith after the Prophet (PBUH) (Rafiabidi, 2007). Hazrat Aisha (R.A.) described most hadiths, a total of 2,210 hadiths from Prophet Muhammad (PBUH) (Yahya, 2012). Yahya, 2012 has quoted statements of other companions of the Prophet (PBUH) about the position of Aisha (R.A.) in Islam, especially a quote from Hazrat Urve, "I never saw a woman more learned than Hazrat Aisha (R.A.) in the fields of canonical jurisprudence, medicine and poetry." Another quote from Ata bin Abi Rebâh, "Hazrat Aisha (R.A.) was one of the members of the Ummah with the best knowledge of religious law and who held the very soundest opinions." These quotes show that Hazrat Aisha (R.A.) was a well-respected woman with prominent societal authority. Hazrat Ashifa bint Abdullah is considered a successful scholar, professional, teacher and intelligent woman (Osmani et al., 2020). She was appointed as a public administrator of the Madinah Market by the second ruler (Khalifa), Hazrat Umar (R.A.) (Hayati, 2016). It shows that women in the early days of Islam were given vital societal roles.

Hazrat Amra bint Abdurrahman was a great scholar and a jurist (Azid and Ward-Batts, 2020). She was regarded as a respectable woman who could give legal verdicts on Hadith (ibid). Hazrat Aisha bint-e-Saad ibn Abi Waqas was also a jurist and Imam Malik's teacher (the founder of Maliki Fiqh of Islam) (Amin et al., 2022). Hazrat Sayida Nafisa, the Prophet Muhammad's (PBUH) great-granddaughter, the granddaughter of Hazrat Ali bin Abu Talib and the daughter of Hazrat Hassan, was the financial sponsor and teacher of Imam Shafi (Founder of Shafi Fiqh) and also a renowned scholar and teacher of Islamic Jurisprudence (Tambak et al., 2021). Hazrat Umm e Salim, Umm Ans, Hazrat Saffiyah, Hazrat Umme Salimah, and Hazrat Fatima are some examples of intellectuals, administrators and jurists from the history of Islam (Mernissi, 2005) (Haleem, 2007; Usmani, 2008; Guillaume, 2009). Ghadanfar (2001) summarised the importance of women during the early time of Islam by concluding:

"The Sahabiyat (female companions) were the noblewomen who were the contemporaries of the Prophet Muhammad. They were pure, virtuous crusaders of Islam and were honoured during the very lifetime of the Prophet with the prediction that they would live in paradise in the Hereafter. Their achievements and influence are found in every sphere of that momentous period in the history of the world. They were as active in religion as in politics, as courageous in war as in the peaceful and persuasive propagation of the teachings of Islam. They were to be found in the political arena, in the field of education, in the courts of Islamic jurisprudence, in the interpretation of Shari'ah¹⁴, in trade and commerce, in agriculture, in medicine and nursing. In short, there was no sphere that did not benefit from their intellect, their wisdom and their gentle yet firm strength of character" (Ghadanfar, 2001, p.11).

Moving on from those early days to more mature times of Islam, there are many more examples of active and influential Islamic women from around the world before 1000 C.E. Aisha bint Muhammad ibn Abdul Hadi in Damascus was a teacher of many renowned male scholars. Another woman, Fatima al-Batayhiyyah, was a well-known scholar of the eighth century who taught many students of Hadith. Fatima al-Fihriyya founded the al-Qarawwin Mosque in Morocco. History is also full of examples of Muslim women leaders from the pre-modern era. The most famous female ruler, Khayuran, governed the Muslim Empire under three Abbasid Caliphs in the 8th century. Furthermore, Malika Asma bint Shahab al-Sulayhiyya and Malika Arwa bint Ahmed al-Sulayhiyya both ruled Yemen in the 11th century; Sitt al-Mulk ruled Egypt as a queen in the 11th century; Zaynab al-Nafzawiyah was a Berber queen from 1061 to 1107 (Barlas and Finn, 2019). Also, Shajar al-Durr ruled Cairo and Razia Sultana in India from 1236 to 1240, the first woman in the Indian subcontinent (Abidi).

Six Mongol queens, the 15th-century Andalusian queen Aisha al-Hurra, and four 17th-century Indonesian queens ruled Indonesia (Barlas and Finn, 2019). In Africa, Queen Amina ruled the province of Zazzu at sixteen in the 16th century

(Amina and Ibrahim, 2019). Many more women such as Noor Jehan, Zaibun Nisa, Chand Bibi, Zainab Ghazali, Hazrat Mahal, Qudsiya Begum, Shah Jehan Begum and Sultan Jehan Begum have been found in very prominent positions of the ruling (Abidi, 2013; Aliyah, 2016; Inayat, 2014). The Islamic era, which started from the prophethood of Muhammad (PBUH), gave women a position only attained after Islam (Bhattacharya, 2014). The above are some examples of those women discussed in the literature, but there are many more that history scholars still need to mention. As summed up by Al-Jada (2009):

“The role that women contributed at the beginning of Islamic history has often been overlooked or neglected, and as a result, recorded data has been disproportionately unavailable even though Islamic history is full of stories and accounts of women and the significant role they played- their legacy is that of courage, integrity, and deep devotion to the message that the Blessed Prophet (PBUH) brought to mankind” (Al-Jada, 2009, p.7).

The Constitution of Pakistan and the Role of Islam

Although Article 25 of the Pakistan Constitution pledges equality of all citizens and equal protection under the law regardless of sex and prohibits discrimination based on sex (na.gov.pk), there are, however, decisive religious factors associated with the Constitution of Pakistan, which have been used when deciding the empowerment of women, as is evident from Article 2A of the Pakistan Constitution (Farrukh and Masroor, 2021), according to which all laws made in Pakistan should be by the injunctions of Quran and Sunnah (na.gov.uk, 2012). In addition, the formation of the Islamic Ideology Council and Sharia Courts in the Pakistani Constitution affirms the role of religion in lawmaking.

Council of Islamic Ideology

Pakistan was declared the Islamic Republic in 1956 (Ahmed, 2016), and Islamic ideology has been focal in the everyday affairs of Pakistan's people and government (Chak, 2015). The Council of Islamic Ideology was created on August 1, 1962, as an 'Advisory Council of Islamic Ideology'. It was later re-affirmed and re-named as the 'Council of Islamic Ideology' in the 1973 Constitution of Pakistan (Masud, 2015). Article 227 of the 1973 Constitution of Pakistan states, “All existing laws shall be brought in conformity with the Injunctions of Islam as laid down in the Holy Quran and Sunnah, in this Part referred to as the Injunctions of Islam, and no law shall be enacted which is repugnant to such Injunctions.” (The Constitution of the Republic of Pakistan, As modified up to February 28 2012).

However, Article 227 (3) states, “[n]othing in this Part shall affect the personal laws of non-Muslim citizens or their status as citizens” (The 1973 Constitution of Pakistan, 2012). When created in 1962, the Council consisted of seven members, all men, and since 1973, the Council has been classed as a permanent constitutional body with twelve members, including one female member (Yilmaz and Ahmed, 2018). The key aim behind the creation of the Council was to initiate Ijtihad (independent reasoning), so the Council brought Islamisation into the laws of Pakistan (Ahmed, 2016). The Council concentrated on bringing an Islamic society to Pakistan by imposing a ban on alcohol and gambling in the first decade of the creation of Pakistan. It shifted its focus towards women's issues in the 1980s (Yilmaz and Ahmed, 2018). Many scholars argue that Zia ul Haq was the ruler of Pakistan who initiated most discriminatory laws against women after restructuring CII (Council of Islamic Ideology) in 1977 and also for the introduction of some very contentious decisions such as the Ansari Bill, which endorsed the participation of women in politics subject to the minimum age of 50 as they become more mature and wiser (Saigol, 2016). Among many other controversial recommendations CII made during the Zia regime were introducing strict dress codes for men and women and gender segregation in public places (ibid).

In recent years, CII made many disputed recommendations and claims, such as their declaration that the Women Protection Bill 2006 was un-Islamic as it brought rape under Pakistan Penal Code, a civil law from Hadd (Ahmed, 2018; Saigol, 2016). Under the Women Protection Bill, rape and adultery are punishable under civilian courts rather than Islamic courts, as in the Zia rule (Kay, 2016). Under Islamic Courts, the women had to prove rape in the presence of four witnesses, while civil courts have no such requirement. In 2013, the CII (Council of Islamic Ideology) declared that D.N.A. testing was unacceptable evidence in a rape case and that four witnesses were required to prove charges against the culprits (Khan, 2016). In 2014, CII (Council of Islamic Ideology) recommended that a Muslim woman can not object to her husband's second, third or fourth marriage, and it was also suggested to the government that a man should be allowed to re-marry without the consent of his wife (Yilmaz and Ahmed, 2018). Also, in the same year, the CII endorsed the marriage of girls as young as nine if signs of puberty are visible (ibid). Furthermore, the Council also blocked the punishment of parents for marrying their daughters as young as eight years old (Khan, 2016). The CII also recommended that a woman should not have the right to divorce her husband without her husband's consent to end the marriage (ibid). The Council has also opposed the Punjab Government's Protection of Women Bill against violence. Later, the CII was approached by the K.P.K. government to make recommendations for the introduction of the Protection of Women Bill, in which CII recommended the “light beating” of women by their husbands (Khan, 2016).

Due to all these controversial recommendations of CII, scholars have held a view that CII has been seen as a propagator of a patriarchal society which should be abolished and that the government was wasting 100 million Rupees on CII in its annual budget (Waseem, 2016; Yilmaz and Ahmed, 2018).

Federal Shariat Court

The Federal Shariat Court (F.S.C.) was established by the orders of the President of Pakistan, order No. 1 of 1980, and was also incorporated into the Pakistan Constitution 1973 (F.S.C., 2019). The purpose of establishing the F.S.C. was to examine and decide whether any laws passed by the parliament were repugnant to the authority of Islam. Unlike CII, the

F.S.C.'s decisions are binding on the Executive to implement. If the Executive fails to enforce the laws, the F.S.C.'s judgement transforms into binding orders (F.S.C., 2009). It is worth elaborating here that even after the CII's recommendations become a part of the Sharia Law, the F.S.C. has jurisdiction to judge these laws independently. The jurisdiction of the F.S.C. is contained in Article 4 203-DD of the Constitution, which states:

“...confers jurisdiction on the court to call for and examine the record of any case decided by any criminal court under any law relating to the enforcement of Hudood for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed by, and as to the regularity of any proceedings of, such court and may, when calling for such record, direct the suspension of the execution of any sentence and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.”

(F.S.C., 2019)

Furthermore, the decisions made by the F.S.C. are binding upon all the country's High Courts and its subordinate courts. The F.S.C. has a fundamental right to Ijtihad, and its Ijtihad mainly favours women and human and family rights (Yilmaz, 2011 and 2014). The F.S.C. emphasised that the Quran and Hadith should be interpreted considering their message within the contemporary time; "Qur'an and Hadith shall have to be interpreted in the light of the evolution of human society and its demands at a particular stage of time... such a process should not defeat the intent and purpose for which Holy Qur'an stands." (Muhammad Riaz v Federal Government of Pakistan, PLD 1980 F.S.C. 1 at 47). This F.S.C. stance has shown the court's commitment to the issues of women's rights in Pakistan (Yilmaz and Ahmed, 2018). The F.S.C. has also made many other remarkable decisions. For example, the F.S.C. declared marriage registration mandatory, and non-registration was declared a crime (Muhammad Riaz v Federal Government of Pakistan, PLD 1980 F.S.C. 1 at 51). Also, the court found this registration process in accordance with Islamic Laws (Allah Rakha v Federation of Pakistan, PLD 2000 F.S.C. 1, 48-51) and averted the denial of women's rights (Ibid, p.50). Historically, the absence of marriage registration was used by men to re-marry without the first wife's permission. It also allowed the wife to include any conditions she might wish to add to the marriage certificate, making it legally binding if it goes into litigation. The F.S.C. also decided that it was unlawful for a husband not to register a divorce and that such divorce must be submitted to the state to protect the ex-wife from being blamed for Zina (adultery) by the ex-husband (Munir, 2011: Allah Rakha v Federation of Pakistan, PLD 2000 F.S.C. 1, 61-62). The court underlined that Islam was a religion of human rights and, therefore, eliminated all those obstacles to women's freedom to re-marry (Ibid, 2013, p.62).

The F.S.C. further decided that a daughter's consent for marriage was necessary before the parents fixed her marriage. The court also eliminated the requirement of parents' consent if the daughter wanted to marry of her own free will (PLD 1981 FSC 308; PLD 1982 F.S.C. 42; PLD 1984 F.S.C. 93). The Court made another remarkable decision that a woman cannot be guilty of adultery (sex with consent) if she alleges rape at any stage of the case (Safia Bibi v. State, PLD 1985 FSC 120). The F.S.C. also declared that husband and wife have equal rights; if a husband can divorce his wife, the wife can also ask for a divorce from the same marriage (Saleem Ahmad v Government of Pakistan PLD 2014 F.S.C. 43). The F.S.C., in a gender equality case, decided that a woman could become a judge (Ansar Burney v. Federation of Pakistan, PLD1983 FSC 73). After analysing many verses from the Quran and several hadiths, the court declared that Islam had placed man and woman equal. The court also found that a woman was in no way inferior to a man and that the Quran and Sunnah do not prohibit a woman's appointment as a judge (Ibid, 1983). A similar petition was filed again in 2001 after a fatwa from the Saudi Grand Mufti (the state's top scholar) that a woman could not become a judge or a Head of the State (Alaoudh, 2018). The F.S.C. dismissed the petition by quoting verse 28, chapter 2 of the Quran, which states, "[t]he woman has the rights similar to those (of men) over them in kindness) (Shariat Petition No.1-L of 2010, October 7, 2010). There are apparent differences between the roles and mandates given to CII and F.S.C. in the Constitution of Pakistan. The CII comprises patriarchal and traditional mullahs, whereas the F.S.C. comprises professional judges (Yilmaz and Ahmed, 2018). Yilmaz and Ahmed (2018) have suggested that a way forward might be by bringing in more women in CII and modernising it. However, it can be concluded that CII needs to focus more on women's rights. In the event of a failure to modernise, the Council is outdated and does not serve its purpose of bringing in recommendations based on Ijtihad (independent reasoning). There is a very mixed message coming from the available literature on the position of women from the Islamic perspective. On the one hand, the Quran, Hadith and Sunnah convey a clear message of a society based on equality. However, on the other hand, the fundamental practices and values contradict these teachings of Islam. The abovementioned examples glorify the history of women in Islam. However, all those studies in which obvious discriminatory factors have been found demand equality at all levels, which is currently missing in Muslim societies like Pakistan. The Islamic Republic of Pakistan glorifies itself with the title of the Islamic Republic. However, it fails to implement the clear and concise message of equality from Islam by conceiving organisations like CII. Whether religion plays a part in the under-representation of women in the legal profession or it is only a myth invented by those who think Islam is a religion of oppression for women, it is vital to find the actual picture through this study.

Methodology

A qualitative method approach was used to conduct this research, which involved data collection through semi-structured interviewing and focus groups. For this study, twenty-nine male and female lawyers were arranged. Out of these twenty-nine, fourteen male and female lawyers were interviewed, and three focus groups of five lawyers were arranged in each focus group. Furthermore, key informants were also interviewed, such as:

- Ex-District Judge,
- Ex-President of Islamabad Bar Council,

- Ex-Additional Attorney General of Punjab and
- Spokesperson of Law Ministry of Pakistan.

These interviews were vital for this study to take on board these key informants' experiences, knowledge and views. These key informants had firsthand knowledge about the issues raised in the study. The participants were asked open-ended questions about the under-representation of female lawyers in the legal profession and steps that can be taken to improve the balance in the legal profession.

This research aims to examine the perceptions of lawyers from both genders on the issue of women's participation in the Pakistani legal profession. The researcher interviewed lawyers from all four provinces and Islamabad Bar to be equally representative. Regarding the choice of the lawyers, both junior and senior-level lawyers have been interviewed. The choice of the lawyers was made through the provincial bar councils. The bar councils emailed all those who were available on their database. Those male and female lawyers who responded were chosen carefully by the researcher to bring in the viewpoint of all the participants, including trainee lawyers practising at the local tehsil level and senior lawyers practising at the Pakistan Supreme Court level. The researcher employed the NVivo software to analyse qualitative data, as it provides an efficient method for adequately analysing and organising massive interview data sets. The NVivo software was beneficial during this analysis and assisted the researcher in organising the massive amount of data collected by the interviews and focus groups. The researcher relied on computer-assisted qualitative data analysis for expediency but added a manual assessment to obtain confidence in the interpretation. Three groups were developed based on the years of experience of the female participants, e.g. (0-4, 5-10, 10+). In contrast, only one group was developed for the male participants as all the male participants involved in the study had more than twenty years of experience in the field.

Findings

Some literature suggests that religion is one of the factors that impact people's thinking regarding the legal profession. However, the findings found no links between religion and women's representation in the legal profession of Pakistan. According to the participants of Group 1, religion does not stop anyone from joining any profession.

"In my view, religion does not stop anyone from joining legal or any profession, as long as it is modest. Instead, it promotes easing lives of other people and supports the people who fight for justice". (IDI-F06-3Y)

They explained that society, not religion, restricts women from pursuing certain professions, including the legal profession. The findings reveal an essential distinction between religious teachings and cultural or societal norms. This viewpoint suggests that religion itself may not inherently restrict women's participation in certain professions; instead, the interpretation and application of religious principles within a given society can result in such restrictions.

"I cannot speak for other women; maybe it is an issue for them. It could be, I do not know, but I see many women in civil courts with their heads covered, and they are working". (IDI-F05-3Y)

The participants from group 2 share the same views that people have made religion so conservative; otherwise, Islam has never mentioned that this profession is for males or females. It is not only Islam, but any religion has never set these rules, but these are societal rules made by the male.

"All I would say is, in my opinion, people use religion as a sword. My religion has taught me a lot. It taught me to help others take care of people's rights; these teachings are eradicated from our society by using religion. I do not want to comment more on religion. (IDI-F04-5Y)

The participants from Group 3 shared that ethical and moral guidelines serve as a framework for personal conduct in religious traditions. These guidelines may include justice, honesty, and compassion-related principles. Even though these principles are fundamental to the religious faith, they do not necessitate particular career choices.

"If we come to the religious aspect, our religion also does not stop us from being in the same profession as men. Our religion is not as conservative or tough as the molvis (Islamic priests) and the ulmas (Islamic scholars) have made it for us. (IDI-F02-11Y)

Males' perspectives:

Similar responses were observed from this set of respondents who think religion has a role in limiting opportunities.

"There are two types of classes in our society where religion plays no role. One class is wealthy, and the other is very poor. Religion has no role to play in their lives. I have not heard anyone leaving this profession because of religion."

The K.P.K., a most fundamental province of Pakistan in relation to women (Jabeen, 1999), also denied that religion was a cause of the under-representation of female lawyers in the legal profession of Pakistan.

"It is the families or the males of the families who restrict women's participation in the legal profession and nothing to do with religion".

During the data analysis, it was found that no one mentioned religion as a cause of the under-representation of women in the legal profession. Most, if not all, of the participants expressed that families of women, society and the rulers use religion to limit women's participation in the workforce. It was also found that participants think that government has a role to play in changing this perception.

Conclusion

The study's findings correspond with the literature, which confirms that Islam does not restrict women from working or progressing to higher positions in society (Ghadanfar, 2001; Hassan, 2004; Al-Jada, 2009; Inayat, 2014). However, it is the society of Pakistan which uses religion to enforce patriarchal thoughts upon the working women. The literature confirms that this patriarchy exists in Islamic countries due to the following:

- The ignorance about Islamic rules which regulate the society.
- Wrong and self-suited interpretation of Islamic teachings due to wrong practices in Muslim societies (Al-Dehailan, 2007, p.49; Al-Jafari, 2000, p.14).

Previous studies and the available literature have found that in different political eras, the rulers of Pakistan have used Islam to prolong their reign (Ahmed, 2018; Saigol, 2016). The Council of Islamic Ideology is an example that has been used to introduce laws that discriminate against women and should now be abolished (Waseem, 2016; Yilmaz and Ahmed, 2018). The study participants also found that the attitudes of some mullahs (scholars) are alarming towards women. Contrary to CII, the Federal Shariat Court has promulgated many remarkable decisions for the protection and empowerment of women (Yilmaz and Ahmed, 2018; Munir, 2011: Allah Rakha v Federation of Pakistan, PLD 2000 F.S.C. 1, 61-62). The findings from the data confirm that such decisions made by F.S.C. are impressive and can be seen from the Islamic perspective. Several female participants have expressed that Islam is a religion which promotes the participation of women in the labour force, and data shows that the society of Pakistan is using religion to implement cultural values and attitudes. As stated by Bennett (2010, p 2):

“This is an extraordinary record and somewhat of a challenge to the widespread perception that Muslim women are oppressed [...]. To what degree did culture rather than Islam aid and abet their roles, or indeed is it sustainable to distinguish Islam from culture?”

It can, therefore, be concluded that religion does not play any role in the under-representation of female lawyers in the legal profession. It can also be concluded that it is not the religion, but the culture wrapped in religion that the male members of the society are using to restrict women from participating in the economic activities leading to their empowerment. Additionally, most of the literature also substantiates these findings.

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