

## Gender imbalance in Pakistani judiciary

Sarmad Ali

The Constitution of Pakistan provides a framework for legislation to empower women. Article 25 of the Constitution guarantees equality regardless of skin, colour, caste, creed, and breed. The Universal Declaration of Human Rights promises parity regardless of colour, caste and breed. Pakistan is also signatory to a plethora of international instruments relating to human rights and has enacted several laws pertaining to gender equality. However, all these laws only exist in books.

In the meanwhile, Pakistani women face gender discrimination in all professions, particularly the legal profession. The percentage of women working in civil services is 5.4 while the representation of women judges in superior courts is 2.91 percent as against the 33 percent required by the UN Beijing Conference of 1996, to which Pakistan is a signatory. In other words, there are only three women judges out of a total of 103 judges.

Currently, 18 judges are working in Sindh High Court and all of them are men. In 2005, only one woman was appointed as a judge of the Sindh High Court, and she retired in 2010. The Islamabad High Court has three judges, none of them women.

In Balochistan, there are eight judges in the High Court, of whom only one is a woman. The Lahore High Court has 40 judges, only two of whom are women. It is not known if there are any women in the prosecutor's office. It is only in the lower judiciary that there is a sizeable number of women working as judicial officers, particularly for civil cases.

In comparison, of India's 21 High Courts with 617 judges, 45 are women. Mumbai High Court has seven women serving as judges; this is the highest ratio of women judges compared to other states. Delhi High Court has six women judges, whereas in the High Courts of Madras and Madhya Pradesh, there are four women judges each. In the last six decades, five women were appointed as judges of India's Supreme Court. On the other hand, the Supreme Court of Pakistan has not appointed a single woman judge.

Fathima Beevi, a Muslim from Kerala, was India's first woman judge at the Supreme Court in 1989. After retiring, she was appointed as the Governor of the state of Tamil Nadu. Currently, there are 26 judges in the Indian Supreme Court, two of whom are women.

This year in Bangladesh, one more woman has been appointed as a judge at the country's Supreme Court, totaling eight women serving there at present. Of the 107 High Court judges in Bangladesh, 16 are women.

A small country, Sri Lanka is far ahead of the rest of South Asian countries, with Dr Shirani Bandaranayake appointed as the Supreme Court Chief Justice in 2011.

In Tunisia, there are 1698 judges, out of which 470 are women. In Algeria, there are 2324 judges, out of which 547 are women.

Some years ago, a few clerics filed a petition against the appointment of women judges in Federal Shariat Court, stating that Islamic values prohibit women from being appointed as judges. The full bench headed by Justice Agha Rafique dismissed the petition and penned down that women can work as judges and Islam doesn't prohibit that. While the judgment is reasoned, since the formation of the Federal Shariat Court, not a single woman has been appointed as judge.

A judicial policy was announced in 2009 by the Chief Justice, Mr. Iftikhar Mohammed Choudhry, setting out the aims and objectives for the judiciary after its restoration. While it discussed the independence of the judiciary and its separation from the Executive, as well as providing that judicial appointments will be made on merit, there was no discussion on the issue of women. There was no mention of the preference for keeping seats for women judges or the court's will to work against the discrimination of women in society.

While Pakistan has ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), its judiciary believes itself to be beyond any international obligations. The Asian Development Bank has spent more than USD 350 million on judicial reforms and has mentioned that women judges should be appointed. The same has been said under the US Aid programme for gender equality and a huge amount was reserved for it under the Kerry-Logger Bill. It also demands that more support be given to women.

Judicial discrimination will not improve unless steps are taken at the top, beginning with the Chief Justice. Without this, other members of the judiciary cannot be expected to change their behaviour. Women must be permitted to fill that 33 percent of the seats under their entitlement.

Sarmad Ali is an attorney based in Lahore and lecturer in Law of International Trade. He can be reached [atgreenlaw123@hotmail.com](mailto:atgreenlaw123@hotmail.com)