

## Rethinking Gender Equality in the Workplace

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### ABSTRACT

Since the genders are significantly different, laws should reflect the differences between women and men in the workplace. Most societies strive to protect the safety of their citizens by allowing them to organize their affairs in compliance with adaptable and predictable laws. Nevertheless, some difficulties arise in workplaces that are painful to some people when differences between genders are not taken into account, and the laws that apply to those situations need revision and rethinking. For example, there are different views about gender equality laws in the workplace. How this issue is viewed relies upon few aspects, such as experiences, history, and sometimes religions. Moreover, enforcing gender equality requires a practical legal system that can deal with it well. There is a debate about the best way for the law to handle gender equality in the workplace, particularly in light of the distinctions between women and men in the workplace. Islamic Sharia has a unique view of all parties in society, which is that gender equality does not mean similarity, but means that all of the genders should be handled according to their biological basis.

Keywords: Gender Equality, Workplace, International Law, Islamic Sharia

### 1. INTRODUCTION

The foundation for this research is to establish a definition of differences between genders. Women and men differ biologically in two major respects: health and hormone differences (Orshal and Khalil 2004; Salerni et al. 2015). According to Long (2005), females have more durability than men against diseases, because their bodies contain a large number of antibodies. Thus, women can sustain harsher conditions than men, and women are better able to protect their children than are men in places where children may face problems related to epidemics or fighting. Also, women differ from men in the kinds of their hormones. Long (2005) explains that men and women have different types of hormones that work in a variety of ways. For instance, androgens in males make them taller, heavier, and more muscular. Also, puberty gives women pubic hair and prominent breasts. As a result, women and men are different in that they have their particular physical bodies that make them better suited for certain types of duties. Hence, women and men differ concerning their health and hormones.

### 2. DIFFERENCES BETWEEN GENDERS

Moreover, several theories emphasize the distinction between genders in their behavior and reactions. Some materials say that females behave differently because they have particular positions and roles. Hence, they are suited for dealing with their children

inside their homes, while males are focused outward on obtaining their families' needs (Long 2005). These theories were built on gender biological aspects, which customize work to accommodate the strengths of each gender. Thus, the differences between them are reflected in their roles as parents. For example, fathers know the right way to handle their daughters, but they tend to use less positive ways with their sons. However, mothers have the ability to deal with of their sons and daughters in a manner that are not negative (Long 2005). Therefore, women ought to concentrate on bringing up children, since they are more fit to bring up well-balanced children.

In contrast, females and males have different reactions to their surroundings in the workplace or place of study (Tuckett et al. 2016; Haselhuhn et al. 2015; Leuner et al. 2004). Subsequently, they survey a few sections of life from various perspectives, so that they complement each other in building a balanced family and thus a great society. For example, when children need tenderness and compassion, they will find these in their mothers, because mothers have a lot of these feelings based on their biological makeup. On the other hand, when children need force and protection, they will find them in their fathers. An integrated life of women and men, who perform their duties based on their biological makeup, creates a healthy life.

### **3. LEGAL SYSTEMS AND GENDER EQUALITY**

Labor rights in the workplace have been addressed in different laws at different times of history. In fact, law organizes society by various types of rules, which are flexible and predictable (Nedzel 2012). One of these rules is about gender equality in the workplace because they affect a wide range of the community as presented. However, they differ in the application of the rights of each gender in two significant ways. In a first way, the legal system thinks that women and men should not be treated differently in the workplace based on their human rights. In contrast, the second way is that women and men should be treated differently in the workplace based on their biological differences.

Most current legal systems tend to promote gender equality in the workplace. One of these examples is that, according to the *ABC of Women Workers' Rights and Gender Equality*, the International Labor Organization (ILO; 2007) uses gender-inclusive language when it talks about workers to promote such gender equality. Besides, the ILO supports gender equality in several areas, such as labor standards, structures, pay equity, and social dialogue (ILO 2007). Hence, international rules do not see any differences between genders, so they reflect that in the workplace.

Moreover, the promotion of gender equality is based on three primary reasons. The first reason is based on human rights, which prohibit all kinds of discrimination between women and men (ILO 2007). Since all women and men are human, treating them differently is discrimination, and equal principles in labor standards protect the rights of women and men. The second reason that gender equality is promoted is to overcome discrimination that existed before the Second World War (ILO 2007). Women suffered from discrimination a long time ago. Thus, laws should restore their rights and not differentiate between genders. Also, having women and men in the workplace is natural (ILO 2007), because societies are comprised of both genders, which should be reflected in the workplace. Thus, women and men should be governed rules that require equality in the workplace.

Consequently, most legal systems struggle with the conflict between the biological basis and gender equality in different periods of promulgating the rules related to workplace and labor. For instance, in 1961, the labor system in Spain tried to require equality between women and men, which was not previously required, but it still excluded women from some types of work that were dangerous or unhealthy for them (Davidson 2011). The effort to treat the genders equally was impossible because of the biological differences. Some people think that current legal systems do not have this problem, but Brzezińska (2010) says that, although current legal systems try to organize consistent systems for gender equality, they still contain some conservative judgments for women. As a result, current and old legal systems cannot deny the influence of biological factors between genders in the workplace. Consequently, legal systems should recognize the differences and reflect them in the workplace.

#### **4. SHARIA AND GENDER EQUALITY**

A different approach is taken in a different legal system, Islamic Sharia.<sup>1</sup> According to Warren (2008), Sharia law, which depends on the Quran, is one of the most important legal systems in the world<sup>2</sup>. Gender has been uniquely viewed by Sharia law, which considers both genders to be part of society and to be equal concerning citizenship. According to Osman, women and men are both parts of the fabric of life, and any discrimination against them is an infringement of the Creator's beliefs (1996). Also, Warren (2008) says that there are no differences between women and men in human dignity. Thus, Sharia law provides that genders are an active ingredient in society. Also, Sharia law concentrates on the family in society. According to Osman, Sharia law focuses on building the essential core, which is the family, and it imposes certain mutual obligations on both parties by his/her nature (1996). Hence, Sharia law built several rules that protect the family. For example, since motherhood is an important stage in Sharia law, the law persuades children not to hurt their mothers (Osman 1996). As a result, Sharia law has several unique views of the family, because it is essential to society.

Moreover, labor law in Sharia law is based on the biological basis of gender. In fact, both genders can work in different types of work in Sharia law. Osman explains that women in Sharia law contribute to society in several areas, such as medicine and literature (1996). Hence, women can work in several jobs, because their communities need them. However, genders based on the biological basis can be proficient in different particular areas. For instance, women have physical and psychological needs that differ from men, such as pregnancy and childbirth. Consequently, women contribute to society through their practical abilities (Osman 1996). As a result, women need to spend a lot of time caring for their children and their innate needs. Thusly, mothers will earn less income than men, because they cannot work the same hours as men. In this case, the needs of the family are the legal responsibility of the husband in Sharia law (Osman 1996). Since it is unthinkable for mothers to care for their children and work like men outside of the home, Sharia law handles this case of different obligations independently.

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<sup>1</sup> For more information about the differentiation between Islamic Sharia and secular law, see Altawyan (2017a).

<sup>2</sup> For more information about Sharia as practiced in a Muslim country like Saudi Arabia, see Altawyan (2017b).

Hence, both genders complement each other in building a healthy family by assigning responsibilities separately under their instincts.

## 5. CONCLUSION

To sum up, laws in the workplace should suit each gender. Society needs an active type of legal system that fits based on the biological factors that can impact different issues, such as working hours and appropriate workplaces for both of the genders. Most legal systems think that gender equality means similarity in all kinds of rules in the workplace. Subsequently, they have an issue with conflicts that emerge from biological factors of gender and its nature. In fact, they abuse women, families, and communities. Society needs particular kinds of work from women, while it wants specific types of jobs to be performed by men so that they attain integration in society, and, hence, individuals figure it out why there are women and men in life. Surely, Sharia law has a balanced view of all parties in society, and it makes certain mutual obligations for both of them based on their natures. Hence, gender equality does not mean in Sharia law what it means in other legal systems. In Sharia law, it means that all genders work in life by rules that fit with their biological aspects. Substantially, a reflection of the differences between women and men in the workplace achieves people's goals for a safe and healthy society.

## REFERENCES

- [1] Altawyan, A. A. (2017a), "Saudi law as an applicable law in the international commercial arbitration agreement: challenges and suggestions", *Journal of Advancements in Applied Business Research*, VI, 71–80.
- [2] Altawyan, A. A. (2017b), "The legal system of the Saudi judiciary and the possible effects on reinforcement and enforcement of commercial arbitration", *Canadian International Journal of Social Science and Education*, 10, 269–288.
- [3] Brzezińska, A. (2009), "Gender equality in the case law of the European court of justice", IES Working Paper 2/2009. <http://aei.pitt.edu/60826/>.
- [4] Davidson, J. (2011), "Women, fascism and work in Francoist Spain: the law for political, professional and labour rights", *Gender & History*, 23, 401–414.
- [5] Haselhuhn, M. P., Kennedy, J. A., Kray, L. J., Van Zant, A. B., Schweitzer, M. E. (2015), "Gender differences in trust dynamics: women trust more than men following a trust violation", *Journal of Experimental Social Psychology*, 56, 104–109.
- [6] International Labour Office (ILO). (2007), "ABC of women workers' rights and gender equality", Geneva: International Labour Office.
- [7] Leuner, B., Mendolia-Loffredo, S., Shors, T.J. (2004), "Males and females respond differently to controllability and antidepressant treatment", *Biological Psychiatry*, 56, 964–970.
- [8] Long, R. (2011), "Social problems: Chapter 9: Gender inequality", <http://dmc122011.delmar.edu/socsci/rlong/problems/chap-09.htm>.
- [9] Nedzel, N. E. (2012), "Legal reasoning, research, and writing for international graduate students", 3rd Ed. New York: Wolters Kluwer Law & Business.

- [10] Orshal, J. M., Khalil, R. A. (2004), “Gender, sex hormones, and vascular tone”, *American Journal of Physiology–Regulatory, Integrative and Comparative Physiology*, 286, R233–R249.
- [11] Osman, M. F. (1996), “Muslim women: in the family and the society”, Malaysia: SIS Forum.
- [12] Salerni, S., Di Francescomarino, S., Cadeddu, C., Acquistapace, F., Maffei, S., Gallina, S. (2015), “The different role of sex hormones on female cardiovascular physiology and function: not only oestrogens”, *European Journal of Clinical Investigation*, 45, 634–645.
- [13] Tuckett, A., Henwood, T., Oliffe, J. L., Kolbe-Alexander, T. L., Kim, J. R. (2016), “A comparative study of Australian and New Zealand male and female nurses’ health: a sex comparison and gender analysis”, *American Journal of Men’s Health*, 10, 450–458.
- [14] Warren, C. S. (2008), “Lifting the veil: women and Islamic law”, *Faculty Publications*, Paper 99. <http://scholarship.law.wm.edu/facpubs/99>