

A Review of Gender Gaps in Performance: Evidence from Young Lawyers

Gender Gaps in Performance: Evidence from Young Lawyers, authored by Ghazala Azmat, a professor at the Paris Institute of Political Studies, and Rosa Ferrer, an associate professor at Pompeu Fabra University, was published in 2017 in the *Journal of Political Economy*, a monthly peer-reviewed academic journal published by the University of Chicago Press. The authors examine the persistent performance gap between genders in the legal profession and attempt to explain potential determinants of this gap. The ramifications of this performance gap can help potentially explain the existence of both earnings and advancement gaps between genders. The authors also argue that their results can be extrapolated to other high-skilled professions and help explain the overall persistent wage and advancement gaps between genders. Azmat and Ferrer identify two determinants of performance, both based upon traditional and alternative hypotheses, that can largely explain these persistent performance gaps and address other potential determinants and their validity. The authors argue that, under the strict and well-defined homogenous guidelines that measure performance in the legal world, the presence of young children and career aspirations explain the majority of the performance gap by gender and, moreover, that these performance gaps largely contribute to gaps in earnings and career advancement among these young lawyers.

This article acknowledges previous literature that discusses persistent gaps in career earnings resulting from "unexplained gender gaps" – Azmat and Ferrer argue that performance gender gaps can largely explain this gap in career earnings by using performance measurements in the legal profession to aid their argument. The use of the legal profession is deliberate: unlike other high-skilled professions, such as medicine or academia, annual performance is measured by two objective metrics that, in theory, are directly used to make career earnings and advancement¹: billed hours to clients and new client revenue generated. Azmat and Ferrer assert that, unlike in other industries, these metrics are transparent and homogenous across firms and areas of specialization, allowing for valid comparisons. They also argue that performance gaps can largely explain gaps in career earnings and advancement in the legal world, and that these results can be extrapolated to other high-skilled professions and the overall gender wage gap.

Azmat and Ferrer use extensive data collected by After the JD (AJD), a nationally representative, longitudinal survey of young lawyers² in the United States. These lawyers work in many sectors, but the most common, which is the focus of many of the survey questions, are those employed in private practice. Although the initial survey was conducted in 2002, Azmat and Ferrer focused their analyses on the second round of surveys, completed in 2007, as it contained detailed questions that provided the most valuable data for examining the performance gap amongst young lawyers. This collection of data allowed the authors to calculate many descriptive statistics such as conditional means to study the existence and effects of performance gaps. They predominantly used basic Ordinary Least Squares regression techniques to examine the gaps and include many individual character variables, firm controls, and regional fixed effects to help identify persistent gaps' determinants. The ultimate goal is to have variables put in place such that the coefficient associated with "Female" is no longer significant at any percentage level to indicate the gender gap is closed, and thus explained, once specific determinants are accounted for. When discussing earning gaps, the authors use the logarithm of earnings but the underlying techniques remain the same. The authors also supplemented their analyses with quantile regressions to further examine the gender gap in performance and earnings at different points in the distribution. Interestingly, they found the gap in hours billed to be generally consistent throughout quantiles, but there was a significant jump in the higher quantiles for the gap in new client revenue (roughly starting at the 60th percentile). Their quantile regressions also included various controls (like discrimination measures, individual and firm characteristics, and career aspirations) to examine the persistent gaps between young male and female lawyers.

To address potential biases and misreporting in the self-reported AJD data, the authors complemented the data with external, firm-reported data sources that conform to the study and exhibit similar patterns (overall and by gender) to the AJD data. They also use bracketed institution rankings, reported GPAs, participation in "mock" trials, law school editorial activities, judicial clerkships, and other characteristics as control measures. These characteristics, used as proxies for ability, are helpful as they can potentially explain differences in performance. Furthermore, geographic information was used to account for regional mobility, but the data in urban areas was disaggregated at the city level.

In the 2007 data, the authors discovered that male lawyers, on average, billed 1,826 hours per year, whereas female lawyers billed 1,677 hours per year. Furthermore, the gender difference in annual new client revenue originated was nearly \$30,000. To put this into context, male lawyers roughly generated twice as much client revenue as their female counterparts³. Regarding earnings and advancement, male lawyers earn, on average, \$150,000 while female lawyers earn, on average, \$132,000. As earnings are correlated with firm sizes, one possible explanation could be that a larger proportion of males, relative to females, work in larger firms, which could explain the earnings gap. However, the data suggests that the proportions of female and male lawyers in large firms are not significantly different. Similar to the earnings gap, the 2012 survey data illustrates that male lawyers were roughly 10% more likely to become partners in their law firms. The authors note that roughly half of the performance gap still persists and remains unexplained when controlling for detailed individual and firm characteristics. The authors begin their study by addressing three common explanations that could rationally explain these gaps but, in reality, do not.

The first explanation, in regards to the gap in hours billed, could be due to selection into firms with varying billing requirements (referred to as target hours to bill) but the data suggests that there is no gender gap in target hours and no significant selection into such firms exists. Another potential explanation is that there may be differences in total hours worked (which could be directly related to performance) yet the data also suggests that there is no such difference between genders as well. Lastly, specialty might affect performance. Although the distributions in specializations vary by gender, these differences only explain a small portion of the performance gap and, additionally, there is no substantial

¹ These earnings and advancement decisions are made by employers or other lawyers who are in a supervisory position.

² Young lawyers are defined as lawyers who were first admitted to the Bar in 2000.

³ Both metrics, by themselves, indicate male lawyers perform at higher levels than females

evidence that females sort into specialties with lower hours billed. As these initial potential determinants do not seem to explain the performance gap, the authors continue to investigate traditional hypotheses for why females have lower performance measures in the legal profession.

First, the authors discuss the role of discrimination in the legal profession and how it could potentially explain the performance gap. Discrimination, in this setting, primarily involves employers interfering with hours billed by the lawyers and can happen in two general scenarios: the lack of sufficient assigned cases to meet target hours and discounting hours billed. The authors explain that the reported frequencies of not receiving enough assignments and partners discounting billed hours were similar between males and females and, moreover, the performance gap does not significantly shrink when controlling for these forms of discrimination. The authors also discuss other forms of discrimination and conclude that controlling for these measures does not seem to substantially affect, let alone close, the gender gap in performance.

Next, the authors discuss the effects of child-rearing with a primary focus on lawyers with young, pre-school-age children⁴. The authors do identify a differential effect of the presence of young children on hours billed – female lawyers with young children tend to bill (approximately 200) fewer hours than female lawyers with either no children or older children. In contrast, their male peers with young children do not see a similar decline in billed hours. This suggests that female lawyers may shoulder a disproportionate share of household responsibilities (due to perceived gender norms) than male lawyers with respect to raising young children. That being said, the presence of young children does not explain the difference in new client revenue generated. This supposed inconsistency can be explained by the fact that generating new client revenue can be affected by factors⁵ that are not intrinsically related to billed hours.

These two aforementioned hypotheses are quite traditional but neither can explain the gender gap in newly generated client revenue amongst young lawyers. To better explain the persistent performance gap, the authors investigate more alternative hypotheses. The authors' most important hypothesis is that career aspirations significantly affect these performance measures; if gaps in career aspirations exist by gender, they may explain the overall performance gaps. The authors proxied for aspirations by asking how satisfied individuals were with their decisions to be lawyers and how much they would like to remain with their current employer. These questions were asked in the 2002 survey to help overcome the concern of aspirations that could be determined by expectations formed at the workplace. From the data, the authors saw that roughly 60% of male lawyers had high career aspirations, whereas only 32% of female lawyers had similar levels of aspirations⁶. These higher aspirations were ultimately correlated with higher performance and, while differences in aspiration did not fully explain the gaps in billed hours, they do explain a large portion of the gaps in newly generated client revenue. This can be rationalized because new clients can be seen as a long-term investment and are more valuable to lawyers with high career aspirations who plan to stay with the firm for an extended period. Moreover, male and female lawyers with similar aspiration levels do not have significant gaps in either performance measure which lends credulity to the significance in career aspirations on performance. The authors argue that these gaps in aspiration can have a myriad of influences such as expected discrimination, cognitive and noncognitive individual characteristics and, more importantly, aspirations formed earlier in life have impacts on performance gaps and explain a large share of the gender gap in client revenue. The authors also looked at other potential determinants such as overbilling, networking, and working needs but concluded that they contribute very little to explaining these gaps.

After identifying determinants of these performance gaps, the authors look at the implications of these performance gaps on both earnings and career advancements and note that, after controlling for many individual and firm-level characteristics, including performance explains a large portion of the remaining gaps. They also mention how areas of specialization also help explain a small part of the earnings gap but assert that performance explains a much larger portion of the residual gaps.

This article, written by Dr. Azmat and Dr. Ferrer, examines the persistent gap in performance in the legal profession, measured by billed hours and newly generated client revenue, and argues that it can be primarily explained by two determinants: presence of young children and career aspirations. These performance gaps, in turn, can help explain persistent gaps in earnings and advancement in the legal profession as well. Although the article is well articulated and has strong empirical evidence backing its claim, there are foreseeable issues in regards to extrapolating these results to other professions with similar gender gaps. First and foremost, the authors heavily rely on transparent and homogenous performance measurements that, as they say themselves, do not exist in other high-skilled professions. These performance measures loosely relate to how much revenue these lawyers bring in and thus give them some level of "value" which can be rewarded with earnings and advancement. This concept of "value" is not ubiquitous in other high-skilled professions. For instance, evaluating a doctor's performance would not be based on how much revenue they generate from patients per year but rather other metrics, both quantitative and qualitative, that describe how well they work. As comparable performance metrics are hard to come by in other high-skilled professions, evaluating the role of performance in explaining earnings and advancement gaps is much more difficult. Furthermore, unlike in other high-skilled professions, the performance metrics are primarily used in the legal profession to directly make earnings and advancement decisions, so performance is, by construction, inherently correlated with earnings and advancement. As performance metrics are not as well-defined in other professions, this inherent correlation is much weaker (if it even exists at all). To assert that performance can explain gaps in other high-skilled professions, additional work needs to be done to explain how performance can be measured in areas with subjective and heterogeneous metrics.

⁴ The authors also discuss their methods to address potential cross-sectional and timing issues regarding fertility and performance.

⁵ These factors can include: reputation, quality of referrals, and efficient use of networking

⁶ In the 2002 survey, lawyers were asked to rate, on a scale of 1-10, their aspirations to become an equity partner in their firm. A rating of eight or higher was considered having "high aspirations"