

## **Exploring female lawyers' competence in Ghanaian law firms: clients' perspective**

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### **ABSTRACT**

This paper aims to explore how clients perceive the competence of female lawyers in Ghanaian law firms. As an exploratory qualitative study, thematic analytic approach was used to analyse the interview data gathered from 15 clients of law firms. The findings reveal that clients consider the gender of lawyers when making hiring decisions and determining competence. The findings also suggest that clients consider legal expertise, professionalism, knowledgeability, gender attributes, and social interaction as critical determinants of female lawyers' competence in law firms. We suggest that managers of law firms should understand and consider the role of clients in competence development. Managers of law firms could also manage gender-based competence biases of clients and improve practice management by implementing effective gender policies and client - lawyer relationship management strategies. The wider implication for the gender schema theory is that gender schemas of clients affect competency measurement and assessment. The current competence-based theorisations in management science could consider client perspective.

**KEYWORDS** Competence, clients' perception, female lawyers, law firms, Ghana

### **1. Introduction**

The global economy has shifted from a manufacturing to a service-based sector and the legal profession and legal service providers are not different. The legal profession now functions in a buyers' market and law firms operate in the service sector. However, we know little about the unique challenges faced by lawyers in the legal service sector. Given the persistent need of clients for increased efficiency, predictability and cost effectiveness of the services provided by the law firms, the dynamics of demand and supply of lawyers have undergone profound long-term changes (Georgetown Law Center for Study of the Legal Profession and Peer Monitor, 2015). The supply-side, which indicates the hiring of lawyers, has now focused on competence as a hiring standard. Law firms have to be more attractive to clients by having competent lawyers and being competent service firms. This is essential because lawyers have to prove themselves as capable of meeting the needs of their clients to remain competitive in the legal service market (Hilton & Migdal, 2005). The demand-side, which explains hiring of lawyers by clients is based on perception as new clients are less likely to know which lawyers are competent. Li (2018) explains that the demand-side of lawyers has become critical because the knowledge of law and the provision of legal services are highly specialized expertise. Nowadays, perception plays a key role in client preferences for particular lawyers because they choose certain lawyers if they perceive them as competent enough to meet their legal needs (Moorhead *et al.*, 2003). Thus, we argue that the demand and supply of lawyers and their competence explain why clients choose firms and why lawyers lose clients (Johnson, 2002).

Competence, as a term, has multiple definitions (Le Deist & Winterton, 2005) and is generally used to describe prerequisites such as the specific education and training requirements necessary for permission to practice within a particular occupation; an outcome, that is, performance to a set standard; and as a capability exercised in accomplishing specific work tasks (Gherardi, 2000). For the purposes of this study, competence is used to mean acceptable competence as argued by Sherr and Paterson (2008). On the other hand, legal competence is a complex concept with less clarity (Cooper, 1991) and it broadly encapsulates the capacity of a lawyer to make rational decisions and fully participate in legal proceedings to deliver quality service with the aim to satisfying clients (Moorhead *et al.*, 2003). Compared to other lines of business, lawyers maintain a highly confidential relationship with their clients, with a fiduciary duty to act in the latter's best interests. As such, lawyers are subject to strict ethical codes and heavy regulation designed for the purposes of securing the clients' independent access to justice (Webb, 2013; Parker *et al.*, 2010). This standpoint echoes the view that legal competence in whichever form should constitute an ethical lawyering and a critical aspect of legal professionalism (Bartlett & Aitken, 2009). The existing view has been that knowledgeable, experienced, caring and professional lawyers can deliver justice to their clients (Jimenez, 2019; Hilton & Migdal, 2005), however, whether or not female lawyers are competent requires clients to decide.

As a developing country, Ghana's legal framework struggles to address social, economic and educational gender imbalances and to remove the impediments to sustainable national development and create a situation where gender equity prevails and women have equal rights, equal responsibilities, and equal access to every aspect of national life (Appiah, 2015). Consequently, though Ghana has seen tremendous social change resulting in transformation in gender roles (Wrigley-Asante, 2011), the gender issues relating to the economic, sociocultural and legal-political aspects of the society have resulted in discrimination and dynamic stereotypes, with subsequent effect on management practices (Bosak *et al.*, 2018). Moreover, the country's legal profession and legal service markets also lack a standardized measurement, definition and evaluation of legal competence to help clients make proper decisions regarding who to hire and fire. Even more, most clients depend on referrals and personal judgements to identify, choose and hire preferred lawyers. For the purposes of this study, we define legal competence as the ability of a lawyer to do the job properly and accurately. Since clients are more likely to make decisions regarding which gender they prefer to hire based on competence, it is critical to understand how clients perceive the competence of female lawyers and how gender influence lawyer competence when making hiring decisions. Consequently, this paper specifically seeks to understand clients' perception of female lawyers' competence in law firms by interviewing clients of top tier law firms. This paper focuses largely on female lawyers because they are a relatively neglected group within the labour systems and their interactions with legal clients are less examined, especially in Ghanaian law firms.

## **2. Theoretical background**

### ***2.1 Gender schema theory***

This paper draws on gender schema theory, developed by Bem (1981), to explore how clients perceive the competence of female lawyers in Ghanaian law firms. This theory is critical because it can help explain how individuals become gendered in society, and how sex-linked

characteristics are maintained and transmitted to other members of a culture (Lips, 2017). This theory can provide the basis for understanding how gender schemas influence clients behaviours (Ye *et al.*, 2018). The theory stresses cognitive processes and lends support to clients' perception as a cognitive process which involves receiving, organizing and interpreting information from and about the legal service environments to determine competence (e.g., Wang & Degol, 2017; Yang & Merrill, 2017). The theory highlights competence development as relating to increase in knowledge, skills, abilities and attributes that enable individuals to proficiently execute tasks, thereby supporting the view that schemas relate to competence (Martin *et al.*, 2002).

Gender schema theory emphasizes that gender develops through information processing approach (e.g., Davis & Wilson, 2016; Brannon, 2016). The basis of this theory is cognitive representation called a schema and a schema is an organizing structure that helps people simplify and categorize new information about social phenomenon (Starr & Zurbriggen, 2017). Gender schema theorists proposed two forms of gender-related schemas - superordinate and own-sex schemas (e.g., Davis & Wilson, 2016; Brannon, 2016; Bem, 1981). The superordinate schema helps people to categorize objects, characteristics and traits into basic male and female categories whereas the own-sex schema help people identify and learn in-depth information consistent with their own sex. Donnelly and Twenge (2017) were of the view that these two schema types help people to process information about events, objects, attitudes, behaviors and roles and, in turn, categorize these aspects in terms of masculine or feminine. Thus, clients can dwell on their gender-based informational structure to reinforce their perception of competence.

Since masculinity and femininity exist only in the mind of the perceiver (Brannon, 2016), clients are likely to use gender schemas as yardstick for processing information and determining the competence of lawyers. Thus, clients are more likely to dwell on their existing schemas to classify male and female lawyers differently based on available information on competence. The use of gender schemas can explain the ways in which clients attend to, acquire and remember information; how they behave; and the kinds of attitudes they develop (Ye *et al.*, 2018). Therefore, gender schemas can help clients determine the kinds of information they notice, encode, and remember, where inconsistent information with the existing schema are overlooked and consistent information being processed.

While gender schemas can be used to interpret and categorize information, however, they can result in drawing incorrect inferences, which can lead to gender stereotyping (Kollmayer *et al.*, 2018). Stereotypes are strongly held beliefs about the characteristics, attributes, and behaviours of members of a particular group (Hilton & Hippel, 1996). Thus, clients' belief about the characteristics, attributes and behaviours of a particular gender is likely to affect their perception of competence and subsequent choice of lawyers. Since stereotypes influences perceptions of individuals, they can also influence clients' perceptions. Stereotypes influence gender roles (Basow, 1992). Stereotypes are also likely to influence the perception of male and female lawyers' competence. Gorman (2005) argued that gender stereotypes can influence the hiring of women and men in organisations. Thus, we argue that clients may have gender schemas regarding themselves and those of others and this can influence their perception, definition and determination of competence. Therefore, we further contend that understanding the influence of gender on the competence of lawyers working in law firms is critical for managers to manage its repercussions while managing the expectations of the clients. The next section discusses existing literature on legal competence.

## 2.2 Legal competence

The literature shows that there are two major issues limiting the use of the term legal competence, which includes conceptualization and measurement (Paterson, 1990). Conceptualizing legal competence lacks intellectual rigour and conceptual clarity (Vernon *et al.*, 1990). Regarding conceptualization, several scholars have also looked more closely at the concept of legal competence from two major perspectives – professional and client. The professional perspective is the most dominating view on legal competence at the moment. This perspective emphasizes the capacity of lawyers to perform certain tasks adequately or to a specific standard (Jimenez 2019). Several legal minds have debated this perspective with varying but interrelated views. Spaak (2005; 2009) was of the view that legal practitioners demonstrate competence through legally established ability to create legal norms or have legal effects through and in accordance with enunciations to this effect. Hohfeld (2001) also argued that legal competence connotes the ability of a lawyer or a legal practitioner to change a legal position. Grosberg (2003) further indicated that it is a professional expectation for lawyers to satisfy the following requirements in the practice of law: passing the bar examination, securing law school admission, and attending law school, to be considered as competent. These studies have shown that legal competence connotes the ability of a lawyer or a legal practitioner to meet professionally induced legal requirements.

Client perspective is a nascent view on legal competence and emphasizes that customer satisfaction should be a key indicator of lawyer competence (Johnson, 2002). Rutten *et al.* (2017) opined that client perspective of legal service provision and lawyer discipline is somewhat overlooked. Also, the current literature has given less attention to client perception as a critical factor for assessing legal competence (e.g., Strevens *et al.*, 2019; Pinnington, 2011; Barton *et al.*, 2006). Therefore, clients' perception should be considered as another way to assess lawyer competence, as clients can attest to lawyers' ability to proficiently execute legal assignments (Cooper, 1991). In the legal service markets, clients' assessment of lawyers' competence is mostly based on legal qualifications, certifications, referrals, and word of mouth (Zacharias, 2008), and clients' judgement of competence influences their hiring behaviours and decisions (Hilton & French, 2007). Though word of mouth from a friend or relative is often used, it may not help much because their experience may be in a different area of law or tainted by image management.

Despite the view that lawyers must be competent enough to secure clients' independent access to justice, one aspect of legal markets which has eluded legal service delivery is the ability of the clients to determine lawyers' competence. However, clients' perception of competence might be limited by lack of contextual information within the legal profession. This is because large areas of legal competence remain invisible to clients, as they may not have any idea what constitutes a good settlement or sentence in their case, or how much time should reasonably have been spent working on those cases (Li, 2018). Even more, Paterson (1990) revealed that it is often difficult for clients to correctly identify competent and ethical legal practitioners. Despite the natural information asymmetry between lawyers and clients, it is logical and necessary to provide standardized definition, measurement and evaluation of competence to help clients make appropriate decisions when hiring lawyers. This is because the legal service providers recruit and train lawyers who can satisfy their clients. However, both the professional

and client views on legal competence are imperative for understanding competence in law firms.

Furthermore, measuring legal competence is difficult given the diverse standards applied globally. Most scholars have argued that legal competence lacks universal definition and understanding and have made several calls to standardize the measurement and evaluation of lawyers' competence (e.g., Spaak, 2009; Paterson, 1990; Suni, 2007). A universal definition of legal competence is critical because it matters to clients and plays a significant role in choosing legal services and subsequently legal service providers (Moorhead *et al.*, 2003). The American Bar Association (2006) measures legal competence by the extent to which an attorney is specifically knowledgeable about the field of law in which he or she practises; performs the techniques of such practice with skill; manages such practice efficiently; identifies issues beyond his or her competence relevant to the matter undertaken; bringing these to the clients' attention; properly prepares and carries through the matter undertaken; and is intellectually, emotionally and physically capable. Suni (2007) maintained that a competent lawyer can be assessed using several parameters including information gathering, legal analysis, strategy formation, strategy execution, following through, practice management, professional responsibility, practice evaluation, training and supervising support personnel, and continuing attorney self-education. In the absence of universal standardized measurement of legal competence, some clients estimate competence based on lawyer-client relationship during previous law cases (Hilton & Migdal, 2005). Thus, this study seeks to understand the determinants of female lawyers' competence and subsequent influence of gender in understanding lawyer competence using a qualitative method. The next section describes and justify the methodological choices made to explore clients' perception of competence of female lawyers.

### **3. Research methodology**

#### ***3.1 Research setting***

This study was conducted on law firms based in Accra, the capital of Ghana. Ghana is a country in the Sub-Saharan Africa and West-Africa Sub-region. The law firms were chosen for four reasons. First, while there is a growing number of law schools, there is also a rising number of law firms in the country. Second, most of the licensed lawyers often find themselves practicing law either in other law firms or set up their own law firms. Third, compared to males, legal training of females is increasing at an exponential rates and more female lawyers are entering the legal profession and working in law firms. Fourth, there is a relatively little information on the definition of legal competence for clients to base their hiring decisions on, therefore, clients of law firms often rely on their perceptions and personal judgement in determining lawyers' competence.

#### ***3.2 Sample and data collection***

We conducted in-depth interviews with 15 clients from three big law firms located in Accra. The law firms and clients were purposively selected. The purpose sampling technique was

adopted because the participants had years of experience in dealing with each other (Creswell, 2013). Demographically, the clients were eight males and seven females. They had an average of 6.9 years' experience in dealing with the law firms. The most experienced had 20 years' experience and the least experience had one year. Most of the clients were in 37–53 age range. Most of the clients occupied top-level managerial positions in their respective organisations including five Chief Executive Officers (CEOs); two Managing Directors; three Divisional Managers; and five Directors.

Data was collected through in-depth interviews. The researchers sent out an invitation to participate to the law firms. After their acceptance to participate, we were given the permission to contact clients. Clients were contacted and were also sent an invitation to participate with informed consent forms. We obtained informed consent forms from 15 clients and then the interviews started using an interview guide. Sample questions on the interview guide included: How long have you been a client to this law firm? Would you prefer being represented by a male or female lawyer? And why? How would you define the competence of a female lawyer? The nature of the interview sessions allowed an 'emic' understanding of the experiences of the clients, the extent to which they were similar or differed and especially how they interpreted their experiences with lawyers and female lawyers in law firms' and the subsequent impact on their perception of competence. Each interview lasted between 30 and 60 minutes. The entire interview activity lasted for 12 weeks. The interviews were digitally-recorded and transcribed for analysis, using the Nvivo9 qualitative software application.

### **3.3 Data analysis**

We used Nvivo9 to code the data thematically. The inductive thematic analysis allowed us to take note of emergent themes or categories (Braun & Clarke, 2006). We also identified segments of the data as relating to, or being an example of these emergent themes or categories. We did first order coding and created some of the themes (e.g., professionalism, knowledgeable, gender attributes, and social interaction, legal expertise, specialized legal cases, work-life balance, and gender attitudes). This first order coding involved descriptive interpretations of the data, which we used to create first order themes and managed to adhere faithfully to informant terms (Gioia *et al.*, 2013). As the coding progressed, new first-order themes were created or merged according to the data. We tried to capture clients' experiences and perceptions of lawyers' competence. Next, we also did second order coding and created second order themes moving towards a more theoretical understanding of our data (e.g., determinants of female lawyers' competence and the influence of gender on lawyers' competence). Consistent with the views of Strauss and Corbin (1990), the inductive thematic analysis allowed us to move beyond the initial descriptive analysis of the data into the theoretical realm. In order to theorize, we conceptualized clients' views on legal expertise, professionalism, knowledgeable, gender attributes and social interaction as "determinants of female lawyers' competence". We further conceptualized clients reports on specialized legal cases, work-life balance and gender attitudes as "the influence of gender on lawyers' competence". Looking at the two second order themes, we concluded that they were relevant enough to explain how clients perceive the competence of female lawyers and subsequent influence of gender on competence in law firms. The next section discusses the major findings.

#### **4. Discussion of findings: clients' perception and lawyers' competence in law firms**

The findings are presented and discussed starting with the influence of gender on lawyers' competence, as a major theme with subthemes such as specialized legal cases, work-life balance and gender attitudes. Again, we further present and discuss clients' perception of determinants of female lawyers' competence with subthemes such as legal expertise, professionalism, knowledgeable, gender attributes and social interaction. We include relevant quotes from the clients to support each of the identified themes and subthemes.

##### ***4.1 The influence of gender on lawyers' competence***

Part of the conversation was to delve into how gender, if it does, influences the choice of competent lawyers. Almost all of the clients revealed that gender does influence their choice of competent lawyers. According to some of the clients, predominance of one gender in a particular field of law may lead to such gender biases and in cases where most of the lawyers that work on litigation cases are men, thus, women tend to have limited choices in the area of litigation:

*I am not gender biased; I do not have a preference. If I were getting a divorce, maybe I will prefer a woman. (Male Client 4).*

*With respect to what I do with this particular firm, I do not have any preference. I think if a woman is defending you in a divorce court, it will make a stronger case psychologically. But for corporate work, I am indifferent (Female Client 2).*

*There are more female corporate lawyers who prefer to be in the office than males. And you have more male lawyers practicing litigation than females. And so when you have to choose between a pool of litigation lawyers, the chances are that you will go for male lawyers who have been practicing litigation for years than their female counterparts (Female Client 15).*

The findings demonstrate that gender plays a significant role in the assessment of competence in law firms. The findings further revealed that competence has everything to do with gender identity, which is a fundamental part of gender schema. This finding echoes the view of Bem (1981) that individuals develop gender schemas by gathering and processing information about their environments and interactions, and that a person's identity, whether male or female, can be developed through both superordinate and self-schemas. Consistent with the views of Starr and Zurbruggen (2017) schemas are important because individuals' perception of gender can define who we are and subsequently influence how they perceive us as competent. Clients perception can be influenced by existing or new gender information, which may help categorize lawyers as either competent or not. Though not often conscious, clients are more likely to use gender schemas as yardstick for processing information and determining the competence of lawyers. Earlier studies have argued that masculinity and femininity exist in the minds of the perceivers, thus, gender can be a subconscious tool for classifying male and female lawyers differently based on available information on their legal competence either through experience or natural preferences (e.g., Donnelly & Twenge, 2017; Brannon, 2016). This finding is consistent with the recent position of the United Nations Office on Drugs and Crime (UNODC)

which argues that criminal justice practitioners (including Lawyers) are not immune from social and cultural gender norms and that ‘must remain aware of the stereotypes, perceptions and attitudes that can influence their actions and responses’ (UNODC 2019). They contend that female lawyers should represent female victims and perpetrators of crime because they are more informed of women’s special needs (UNODC 2019).

As suggested by some of the clients, they perceived a particular gender to be competent in certain specialized legal cases and fields. Some of them believe that women are better lawyers in areas that involve family law such as divorce. Consistent with the view of Pinnington (2011), technical specialization enhances the ability of lawyers to practice competently. However, one of the limitations of using gender schemas in determining competence is stereotyping (Kollmayer *et al.*, 2018). Although some of the clients said they are not gender-biased, biases were a cognitive issue, as they confirmed what some clients mentioned that if a woman is defending you in a divorce court, it will make a stronger case psychologically. Therefore, considering gender in choosing competent lawyers can lead to gender stereotype, which may be conscious or unconscious. Because stereotypes can directly or indirectly influence gender role expectations (Hilton & Hippel, 1996), and gender roles can also influence perception of lawyer competence.

The findings further revealed that work-life balance is an important yardstick for assessing the competence of lawyers. Work-life balance is generally a gendered spot. This is because it is widely believed that women struggle with achieving a balance between family and work-life. Clients were more likely to consider work-life balance when choosing a competent lawyer, as it was a major concern for some lawyers. The findings also showed that a lawyer’s ability to combine both personal and work demands makes them competent:

*Sometimes the women give birth and then they are not very active at the work place, so you want to look at that too (Male Client 1).*

*A lot of female lawyers have gone to set up their own law firms because they cannot combine family and work pressure (Male Client 8)*

*Most of the female lawyers leave because the work is busy and demanding and I look all of these when choosing a lawyer (Female Client 6).*

These findings suggest that work-life balance is an important consideration in assessing competent lawyers and can be a critical issue for progression in certain organisations. In the legal practice and profession, work-life balance of lawyers has become a major concern to both managers and partners (Hakim, 2006; Thornton, 2016). For example, Hakim (2006) contended that not all lawyers wish to advance to higher levels in their organisations due to inconsiderate work–family/life policies in law firms. This contention echoes the view of Thornton (2016) that the principals and partners of law firms, like their corporate clients, are more concerned about cutting costs and maximising profits than whether the lawyers they employ are able to attain a good life at home and at the workplace.

In addition, a number of clients mentioned that they perceive gender attitudes as critical influence and determinants of competent lawyers. The analysis showed that the attitude between males and females make a difference in the assessment and choice of competent lawyer in law firms. The findings demonstrated that competent female lawyers were expected

to be more tentative, patient, cooperative and understanding. The clients further revealed that these characteristics were some of the yardsticks for hiring competent lawyers. This is because, according to some of the clients, these traits bring different skills and abilities to the table when determining who to hire:

*I think the female lawyers are more tentative to how we can overcome obstacles in a listing process as compared to the male lawyers (Male Client 3).*

*The females are more patient and understanding as compared to the way they handle listing as compared to the male who rush and are more impatient with their accessibility (Male Client 6).*

*While a male lawyer is like “I know it” I have got this together, the likelihood of him coming back to ask pertinent questions on issues is reduced verses a woman, she will come in and she will ask without the “I know it all” syndrome and I link that to asking for directions (Female Client 5).*

*It is all about emotional intelligence as well. So the female lawyers are more cooperative with a lot more interaction than male lawyers. “It depends. They each bring different things to the table ... So I think when it comes to something like mediation, you want someone who is more emotionally intelligent and can assess the situation and how to deal with a Judge, the opposing counsel and so I have certain instances where I have found out that (Female Client 1).*

The belief that these characteristics, attributes and behaviours of members of a particular gender group can obviously lead to stereotypes (Hilton & Hippel, 1996). Prior studies have argued that due to the natural information asymmetry between lawyers and clients, it has been argued that it is important for clients to use personal judgement and criteria when hiring lawyers (e.g., Li, 2018; Hilton & French, 2007; Cooper, 1991; Paterson, 1990). Competence in law explains the capacity of a lawyer to make rational decisions and fully participate in legal proceedings to deliver quality service with the aim to satisfying clients (Moorhead *et al.*, 2003).

These findings support the notion of gendered competence and provide evidence to suggest that clients use gender as a mental framework when choosing or deciding which competent lawyer to hire. Consistently, Seymour (2009) argued that every organisation is a gendered workplace and work requirements are often gendered including competence. Adding to an understanding of the gendered nature of work and the workplace, this study has revealed the distinctively gendered nature of competence among men and women in law firms, highlighting the complex interplay of gendered work requirements in gendered organisations. The views of some of the clients have shown that there is a subtle disparity in how clients perceive competence between male and female lawyers, more generally. Female lawyers were seen as more tentative, patient, cooperative and understanding as compared to male counterparts influence how competence is defined and perceived in law firms. These findings echo the views of Huddy and Terkildsen (1993) that these characteristics are typical feminine traits used in describing female professionals at the workplace. Moreover, the findings of this study are inconsistent with the notion of likability verse competence trap, which Schneider *et al.* (2010) suggested that there is no difference between how female and male lawyers are perceived in terms of their effectiveness, herein, competence. Because the views of some of the clients

demonstrate a gender difference in defining and assessing competence among lawyers in law firms.

#### ***4.2 Determinants of female lawyers' competence***

The analysis of the interview showed that clients used different criteria in determining the competence of female lawyers in law firms. According to the findings, some of the clients perceive competent female lawyers as having legal expertise. A number of clients said that a competent female lawyer must be seen to have legal expertise to get the job done effectively in the shortest possible time:

*I am only looking for female lawyers who can get the job done effectively (Male Client 7).*

*The competence of a female lawyer is important and also the turnaround time. If they do their job well and they do it quickly, you know, so you have the assistance you need in the shortest possible time (Female Client 14).*

This finding echoes the view of Stuckey (2016) that a competent lawyer performs the techniques of law with skills, where expertise is developed through experience and learning. Legal expertise is significant in the legal profession because it guides clients to choose lawyers who can deliver timely legal justice (Gilson, 1990). Consistent with the view of Sherr (2000), legal experience and expertise determine the quality of legal services to clients and define the competence of lawyers.

The analysis further revealed that professionalism is a key determinant of competent female lawyers. The findings suggest that professional female lawyers can be considered as competent. The client felt that a female lawyer is competent if she is able to handle cases in a professional way:

*Female lawyers are very professional and ethical in the way they handle cases (Male Client 2).*

This finding is important because clients generally believe that lawyers are subject to strict ethical codes and heavy regulations which are supposed to help them secure quality service and promises clients independent access to justice. For example, Bartlett and Aitken (2009) underscored the significance of professionalism in legal profession by highlighting that competence in whichever form should constitute an ethical lawyering and a critical aspect of legal professionalism.

Another way clients determined the competence of female lawyers was through their knowledge-base of the law and the legal profession. The analysis showed that a number of clients believe that knowledgeable is a key determinant of competence among female lawyers in law firms. The findings revealed that some of the clients felt that the knowledge of a female lawyer matters in assessing her competence in the area of law. According to the findings, having a knowledgeable female lawyer can influence the success of legal cases in court:

*If you meet a lawyer who is very tough, then, you have to find someone who can put up a challenge in terms of knowledge. A female lawyer who is knowledgeable is good and it is all part of the hiring strategy (Female Client 3).*

*As I have told you, at the end of the day, it is about knowing your facts, being able to express it eloquently and being able to express it when you are pushed, so I have no problem and I shouldn't have a problem with a female lawyer (Male Client 8).*

These findings echo the view of Webb (2013) who argued that legal competence includes knowledgeability. Consistent with the view of Stuckey (2016), an attorney is expected to be knowledgeable about the field of legal practice. Therefore, legal competence can be measured by the extent to which lawyers are able to exhibit specific knowledge of a particular fields of law.

The analysis also showed that gender attributes was considered another determinist of female lawyers' competence. The findings also demonstrate that most of the clients thought female lawyers are competent if they exhibit certain gender-based attributes including listening skills, dedication, sympathetic, understanding, respectful, tolerance, emotional intelligence, non-aggressive, and cooperative. According to the clients, these attributes are feminine and makes it easier for them to choose female lawyers. The findings revealed that these feminine attributes influence clients' decisions to choose female lawyers depending on a particular case. According to some of the clients, these traits can define and develop competence in female lawyers. Although gender roles and attributes are currently changing, the current findings suggest that some of the clients were more stereotypical in determining the competence of female lawyers:

*The way women ask questions.....women are more respectful when they are talking than the men. I will be very comfortable being represented by a woman. Traditionally, women are less aggressive and seem to have a lot more understanding of people's strife and difficulties. Yes, that can influence my decision to hire them (Male Client 7).*

*Female lawyers are also very dedicated to the case that they are handling. So dedication here means that the constant communication with the client, giving the client periodic, daily or weekly or monthly updates on the case and how it's happening, and should be able to have a strategy based on the brief that has been given to her (Female Client 6).*

*Understanding, more embracing, more tolerant and more sympathetic in explaining to you where you do not understand. A lot more time in engaging than the male lawyers. Women are emotionally intelligent, more of partners (Female Client 5).*

*Female lawyers have to be very strict and slightly inflexible. The female lawyers are very strict and they want you to be specific when telling them your story about the case that you want them to handle than the male counterparts (Male Client 1).*

These findings lend support to the views of Hilton and Hippel (1996) that the belief that certain female characteristics, attributes and behaviours constitute competence can lead to stereotypical hiring behaviours in law firms. Using attributes to describe a particular gender group can lead to stereotypes, which is a natural extension of the gender schema theorem (Bem,

1981). These gender attributes constitute gender role expectation. According to Gorman (2005), these gender role expectations which lead to stereotypes can also influence the hiring of women by clients. Bosak *et al.* (2018) also opined that males and females in Ghana are currently undergoing dynamic gender stereotypes, where both genders are now developing new ways of viewing their roles, attributes and personalities to meet modern expectations of gender roles and attributes.

Social interaction was also considered another determinant of legal competence among female lawyers in law firms. According to the findings, one of the clients said they hire lawyers with whom they can have personal and informal relationships, which influences their choice of female lawyers. This suggests that female lawyers are competent if they are able to have sound relationship with their clients:

*Whether male or female, a lawyer should learn to develop interpersonal relationship with his or her clients. Because that facilitates proper communication (Female Client 13).*

*It is not because she is a female lawyer. As a client I want my female attorney or representative to be more friendly and socially-interactive. That way, I am able to know exactly what she does and can trust her more to defend our company. It is just about making the client happy, that is all (Male Client 4).*

The existing literature reveals that relationship between clients and lawyers are critical for developing new knowledge and gaining deep experiences about legal practice. For example, Suseno, Pinnington, Gardner and Shulman (2006) were of the view that social capital is relevant for developing other capitals including intellectual capital such as knowledge, skills and experiences. Consistent with the views of Strevens *et al.* (2019), appraisal of competence should consider lawyer-client relationship. Like in most law firms, lawyers are expected to maintain a highly confidential relationship with their clients, and bearing a fiduciary duty to act in the latter's interests. Therefore, developing effective client-lawyer relationship can help manage the information asymmetry that often exists between them by improving access to critical legal information and clients' experiences and expectations. Thus, relationship with clients can help lawyers and their law firms deliver quality service with the aim to satisfying them.

## **5. Conclusion and implications**

This paper is an exploratory attempt to start a conversation which might increase awareness and subsequently help create standard for measuring competence among lawyers and enhance the satisfaction of customers in the industry in Ghana. The legal service industry is more fragmented market where lawyers co-exist not only with regulators but also with clients and licensed legal service providers such as law firms. But this is not yet the whole picture of the competitive landscape of the legal service industry. What has been missing from regulator perspective is customer satisfaction. Because clients' perspective of lawyers' competence and how this in turn affects their satisfaction is relatively nascent. This study has shown that gender underpins the way clients perceive competence of female lawyers in law firms in Ghana.

Theoretically, this paper contributes to the existing competence-based literature by emphasizing on client-level of analysis. The competence-based literature highlights that firms are repositories of competence and it is firms' ability to accumulate, protect and deploy competencies that determine their long-term competitive advantages (Foss & Knudsen, 2013). The existing literature explains that current and future firm competitiveness depends on the availability of diverse competencies and resources (e.g., Freiling *et al.*, 2008). Earlier discussion on competence in management science has hugely placed huge emphasises on employee (e.g., Gonczi & Hager, 2010; Mulder *et al.*, 2007) as well as firm level of analysis (e.g., Foss & Knudsen, 2013; Hodgson, 1998). Nevertheless, less attention has been paid on the client view of competence. Notably, clients are critical factor in market competitiveness and firms often aim to make them happy by offering them new products and quality services by developing competencies and capabilities. Therefore, we argue that law firms' competitiveness depends on their ability to determine, define and develop competence by considering clients' perspective, as the quality of competencies affect services offered to clients. Clients view of competence might support the on-going discussions within the field of human resource development and vocational education and training regarding how to approach professional competence development (e.g., Lindberg & Rantatalo, 2015; Le Deist & Winterton, 2005). Another contribution to the literature is providing support for the gender schema theory (Bem, 1981) by suggesting that the perception of female lawyers' competence by clients can lead to gender stereotyping and subsequent discrimination against same. From the gender schema perspective, we explain that clients gather and process information from their interactions with law firms and lawyers in general and female lawyers in particular to determine their competencies and subsequent patronage of legal service. Furthermore, this paper advances client perspective of competence more generally and legal competence, more specifically (e.g., Strevens *et al.*, 2019; Pinnington, 2011; Barton *et al.*, 2006; Rutten *et al.*, 2017). The client perspective of competence is a nascent view, which emphasizes that customer satisfaction should be a key indicator of lawyer competence. In so doing, this paper further provides a client view of legal competence by revealing that law firms are part of the service industries where clients' perception can affect satisfaction and subsequently loyalty. Client satisfaction is relevant for our clients because they were repeated player clients (Galanter, 1974), since they were largely corporations or in-house counsel. This finding reiterates the view of Pinnington (2011) that client relationship is one of the notable areas of heterogeneity in competence in law firms. This finding is essential because previously clients' views were not really considered in hiring lawyers in law firms. However, nowadays, it is inconceivable for law firms to ignore how and what clients think about the competence of female lawyers, more specifically and lawyers, more generally.

Practically, practice management in law firms can be improved if managers can appreciate the role of clients in competence assessment and development. The current paper provides insights into gender-based competence biases by clients and further highlights the potential value of formulating and implementing human resources management policies around which such issues can be managed. Practice management can also be improved by implementing effective gender policies and clients-lawyer relationship management strategies. In the absence of standardized evaluation of legal competence, managers of law firms would have to find a way to manage gender stereotype among clients by developing a competence inventory for specialised areas of law for clients to choose instead of using gender as a yardstick. This is because the findings suggest that clients use gender as a subtle tool for assessing the competence of female lawyers when hiring. Moreover, to improve the knowledge of lawyers in law firms, management of law firms could invest in continuous legal education, training and

certification for lawyers. This is vital for the development of legal competence. Continuous education and training would also improve professionalism and professional development (Jimenez, 2019). One aspect of the findings critical to the development of competence was work-life balance. Senior managers of law firms could equally provide better social support system for employees because it is necessary for lawyers, especially female lawyers to manage work-life balance. Law firms can improve work-life balance between male and female legal practitioners by providing flexible working hours (Thornton, 2016). Thus, law firms should improve wellbeing programmes by creating flexible work-schedules that could improve work conditions that help female lawyers with families to have a good life at the home and the office. This is essential for delivering quality legal service to clients for improved access to justice.

## 6. Limitations and directions for future research

There are a few limitations worth noting, which provide avenue for future research endeavours. Though the findings provide critical insights on the above subject matter, the sample size was relatively small. The sample selection was limited to 15 clients. Nonetheless, studies have argued that 10-15 clients can qualify as requisite sample size for a qualitative research (e.g., Boddy, 2016; Robinson, 2014). Thus, future research could increase the number of law firms and the number of clients interviewed in order to draw deeper conclusions. Though interviews provide deeper insights into sociocultural issues such as gender, additional research might be needed to enlist and subsequently validate determinants of lawyer competence through focus group discussion with lawyers, law firms and clients. This might help kick-start a process of developing a standardised measure of competence for the legal profession. A theoretical limitation is that less research has looked into this subject matter in African countries, and this study provides an avenue to expand literature on competence of lawyers in these countries.

## References

- American Bar Association. (2006) *Model Rules of Professional Conduct* (Chicago, American Bar Association).
- Appiah, E. M. (2015) Affirmative action, gender equality and increased participation for women: which way for Ghana? *Statute Law Review*, 36(3), pp. 270-279.
- Bartlett, F. & Aitken, L. (2009) Competence in caring in legal practice, *International Journal of the Legal Profession*, 16(2-3), pp. 241-261.
- Barton, K., Cunningham, C. D., Jones, G. T. & Maharg, P. (2006) Valuing what clients think: standardized clients and the assessment of communicative competence, *Clinical Law Review*, 13 (1), pp. 1-77.
- Basow, S. A. (1992) *Gender: Stereotypes and Roles* (Belmont, CA, Thomson Brooks/Cole Publishing Co).

- Bem, S. L. (1981) Gender schema theory: a cognitive account of sex typing, *Psychology Review*, 88 (4), pp. 354-364.
- Bosak, J., Eagly, A., Diekmann, A. & Sczesny, S. (2018) Women and men of the past, present, and future: evidence of dynamic gender stereotypes in Ghana, *Journal of Cross-Cultural Psychology*, 49(1), pp. 115-129.
- Brannon, L. (2016) *Gender: Psychological Perspectives* (London, Routledge).
- Braun, V. & Clarke, V. (2006) Using thematic analysis in psychology, *Qualitative Research in Psychology*, 3(2), pp. 77-101.
- Cooper, J. (1991) What is legal competence? *The Modern Law Review*, 54(1), pp. 112-121.
- Corbin, J. M. & Strauss, A. (1990) Grounded theory research: procedures, canons, and evaluative criteria, *Qualitative Sociology*, 13(1), pp. 3-21.
- Davis, T. & Wilson, J. M. (2016) Gender schema theory, *The Wiley Blackwell Encyclopedia of Gender and Sexuality Studies*, (Cham, Springer).
- Le Deist, D. F. & Winterton, J. (2005) What is competence? *Human Resource Development International*, 8(1), pp. 27-46.
- Donnelly, K. & Twenge, J. M. (2017) Masculine and feminine traits on the Bem sex-role inventory, 1993-2012: a cross-temporal meta-analysis, *Sex Roles*, 76(9-10), pp. 556-565.
- Foss, N. J. & Knudsen, C. (2013) *Towards a Competence Theory of the Firm* (London: Routledge).
- Freiling, J., Gersch, M. & Goeke, C. (2008) On the path towards a competence-based theory of the firm, *Organization Studies*, 29(8-9), pp. 1143-1164.
- Galanter, M. (1974). Why the "haves" come out ahead: Speculations on the limits of legal change. *Law & society review*, 9(1), 95-160.
- Georgetown Law Center for Study of the Legal Profession and Peer Monitor. (2015) *Report on the State of the Legal Market*, Available at: <https://www.law.georgetown.edu/news/press-releases/georgetown-law-and-peer-monitor-release-2015-report-on-the-state-of-the-legal-market.cfm>.
- Ghana Statistical Service. (2010) *2010 Population and Housing Census Report: Men and women in Ghana*, Retrieved from [http://www.statsghana.gov.gh/docfiles/publications/2010phc\\_monograph\\_women\\_&\\_men\\_in\\_Gh.pdf](http://www.statsghana.gov.gh/docfiles/publications/2010phc_monograph_women_&_men_in_Gh.pdf)
- Gilson, R. J. (1990) The devolution of the legal profession: a demand side perspective, *Maryland Law Review*, 49, pp. 870-869.

- Gioia D. A., K. G. Corley, and A. L. Hamilton. 2013. Seeking qualitative rigor in inductive research: notes on the Gioia methodology, *Organizational Research Methods*, 16(1), pp. 15-31.
- Gonczi, A. & Hager, P. (2010) The competency model, In: Peterson, P., E. Baker, and B. McGaw (Eds.). *International Encyclopedia of Education*, pp. 403–410, (Oxford, Elsevier).
- Gorman, E. H. (2005) Gender stereotypes, same-gender preferences, and organizational variation in the hiring of women: evidence from law firms, *American Sociological Review*, 70, pp. 702-728.
- Grosberg, L. M. (2003) Standardized clients: a possible improvement for the bar exam, *Georgia State University Law Review*, 20, pp. 841 – 876.
- Helgeson, V. (2016) *Psychology of Gender* (London, Routledge).
- Hilton, J. L. & Von Hippel, W. (1996) Stereotypes, *Annual Review of Psychology*, 47(1), pp. 237-271.
- Hilton, T. & French, M. (2007) The link between perceptions of power and client behaviours, *International Journal of the Legal Profession*, 14(1), pp. 97-112.
- Hilton, T. & Migdal, S. (2005) Why clients need, rather than want, lawyers, *International Journal of the Legal Profession*, 12(1), pp. 145-163.
- Hodgson, G. M. (1998) Evolutionary and competence-based theories of the firm, *Journal of Economic Studies*, 25(1), pp. 25-56.
- Hohfeld, W. N. (2001) *Fundamental legal conceptions as applied in judicial reasoning with an introduction* (Dartmouth, Ashgate).
- Huddy, L. & Terkildsen, N. (1993) Gender stereotypes and the perception of male and female candidates, *American Journal of Political Science*, 37(1), pp. 119-147.
- Jimenez, M. (2019) Professional competence is a condition precedent to effective management—an argument for practice leaders in legal service organizations, *International Journal of Law and Public Administration*, 2(2), pp. 34-40.
- Johnson, M., Zinkhan, G. M. & Ayala, G. S. (1998) The impact of outcome, competency and affect on service referral, *Journal of Services Marketing*, 12(5), pp. 397-415.
- Johnson, P. A. (2000) Why clients choose firms and why lawyers lose clients, *Marketing The Law Firm*, 16 (3), pp. 7-9.
- Kollmayer, M., Schober, B. & Spiel, C. (2018) Gender stereotypes in education: development, consequences, and interventions, *European Journal of Developmental Psychology*, 15(4), pp. 361-377.

- Li, J. (2018) The legal profession of China in a globalized world: innovations and new challenges, *International Journal of the Legal Profession*, pp. 1-48.
- Lindberg, O. & Rantatalo, O. (2015) Competence in professional practice: a practice theory analysis of Police and Doctors, *Human Relations*, 68(4), pp. 561-582.
- Lips, H. M. (2017) Sandra Bem: naming the impact of gendered categories and identities, *Sex Roles*, 76(9-10), pp. 627-632.
- Martin, C. L., Ruble, D. N. & Szkrybalo, J. (2002) Cognitive theories of early gender development, *Psychological Bulletin*, 128(6), pp. 903-933.
- Moorhead, R., Sherr, A. & Paterson, A. (2003). What clients know: client perspectives and legal competence, *International Journal of the Legal Profession*, 10(1), pp. 5-35.
- Mulder, M., Weigel, T. & Collins, K. (2007) The concept of competence in the development of vocational education and training in selected EU member states: a critical analysis, *Journal of Vocational Education and Training*, 59(1), pp. 67-88.
- Parker, C., Gordon, T. & Mark, S. (2010). Regulating law firm ethics management: an empirical assessment of an innovation in regulation of the legal profession in New South Wales, *Journal of Law and Society*, 37(3), pp. 466-500.
- Paterson, Alan A. (1990) *Professional Competence in Legal Services* (London: National Consumer Council).
- Patterson, T. (2009) Ethical and legal considerations in family psychology: the special issue of competence. In J. H. Bray & M. Stanton (Eds.), *The Wiley-Blackwell Handbook of Family Psychology*, pp. 183-197, (Cham, Springer).
- Pinnington, A. H. (2011) Competence development and career advancement in professional service firms, *Personnel Review*, 40(4), pp. 443-465.
- Rutten, S., Hubeau, B. & Van Houtte, J. (2017) Legal malpractice in Belgium: redress from a client perspective, *International Journal of the Legal Profession*, 24(2), pp. 145-157.
- Schneider, A. K., Tinsley, C. H., Cheldelin, S. & Amanatullah, E. T. (2010) Likeability v. competence: the impossible choice faced by female politicians, attenuated by lawyers, *Duke Journal of Gender Law & Policy*, 17, pp. 363-384.
- Seymour, K. (2009) Women, gendered work and gendered violence: so much more than a job, *Gender, Work & Organization*, 16(2), pp. 238-265.
- Sherr, A. (1998) Legal education, legal competence and little Bo peep, *The Law Teacher*, 32(1), pp. 37-63.
- Sherr, A. (2000) The value of experience in legal competence, *International Journal of the Legal Profession*, 7(2), pp. 95-124.

- Sherr, A., & Paterson, A. (2008). Professional competence peer review and quality assurance in England and Wales and in Scotland. *Alberta Law Review*, 45, 151-168.
- Spaak, T. (2005) The concept of legal competence. the IVR encyclopaedia of jurisprudence, *Legal Theory, and Philosophy of Law*. Available at SSRN: <https://ssrn.com/abstract=923531>.
- Spaak, T. (2009) *Explicating the Concept of Legal Competence*, (Springer, Dordrecht).
- Starr, C. R. & Zurbriggen, E. L. (2017) Sandra Bem's gender schema theory after 34 years: a review of its reach and impact, *Sex Roles*, 76(9-10), pp. 566-578.
- Strevens, C., Roddis, J. & Ryder, I. (2019) Moving towards a client-centered approach to legal advice: examining the potential of qualitative empirical research to explore empowerment in a University hosted interdisciplinary student run clinic, *Australian Journal of Clinical Education*, 6(1), pp. 1-16.
- Stuckey, R. (2016) The American Bar Association's new mandates for teaching professional skills and Values: Impact, Human Resources, New Roles for Clinical Teachers, and Virtual Worlds, *Wake Forest Law Review*, 51, pp. 259 - 275
- Suni, D. (2007) *Materials on Professional Responsibility*. Available at: [http://www1.law.umkc.edu/suni/professional\\_responsibility/materials/Materials%202007%20Revised.pdf](http://www1.law.umkc.edu/suni/professional_responsibility/materials/Materials%202007%20Revised.pdf). Accessed 17 November 2017.
- Suseno, Y., Pinnington, A. H., Gardner, J. & Shulman, A. D. (2006) Social capital and knowledge acquisition in professional-client relationships, *International Journal of the Legal profession*, 13(3), pp. 273-295.
- Thornton, M. (2016) Work/life or work/work? corporate legal practice in the twenty-first century, *International Journal of the Legal Profession*, 23(1), pp. 13-39.
- United Nations Office on Drugs and Crime (UNODC) (2019) *Handbook on Ensuring Quality of Legal Aid Services in Criminal Justice Processes: Practical Guidance and Promising Practices* (Vienna, United Nations).
- Vernon, S., Harris, R. & Ball, C. (1990) *Towards Social Work Law: Legally Competent Professional Practice*, (London, CCETSW).
- Wang, M. T. & Degol, J. L. (2017) Gender gap in science, technology, engineering, and mathematics (STEM): current knowledge, implications for practice, policy, and future directions, *Educational Psychology Review*, 29(1), pp. 119-140.
- Webb, J. (2013) Regulating lawyers in a liberalized legal services market: the role of education and training, *Stanford Law & Policy Review*, 24 (533), pp. 1-36.
- Wrigley-Asante, C. (2011) Women becoming bosses: changing gender roles and decision making in Dangme West District of Ghana, *Ghana Journal of Geography*, 3(1), pp. 60-87.

Yang, Y. & Merrill, E. C. (2017) Cognitive and personality characteristics of masculinity and femininity predict wayfinding competence and strategies of men and women, *Sex Roles*, 76(11-12), pp. 747-758.

Ye, L., Bose, M. & Pelton, L. E. (2018) How gender identity affects consumer behavior: overview and future research. In *Academy of Marketing Science World Marketing Congress* (pp. 417-418) (Cham, Springer).

Zacharias, F. C. (2008) Effects of reputation on the legal profession, *Washington and Lee Law Review*, 65 (1), pp. 173-212.