

A Comparative Analysis of Pupillage Payment Systems: Lessons for Bangladesh

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ABSTRACT

This research paper delves into different pupillage payment systems worldwide, with a special emphasis on a recent ruling in India concerning internship and pupillage payments. By examining the economic, social, and professional benefits of paid pupillage, the study aims to provide a thorough understanding of how implementing such systems can enhance the legal profession in Bangladesh compared with other developed countries.

Keywords: Pupillage, Payment Systems, Legal Apprenticeships, Comparative Analysis, Financial Support, Paid Training, Legal Reform.

INTRODUCTION

Pupillage is an essential part of the legal profession, as it provides practical training and professional development for law graduates. In Bangladesh, the current system of unpaid pupillage creates significant challenges, especially for graduates from less affluent backgrounds. This paper aims to analyze different international pupillage payment models, focusing on a recent judgment in India, to extract valuable lessons that could be applied to Bangladesh. Through this analysis, the paper proposes a feasible path toward implementing a paid pupillage system in Bangladesh, improving accessibility and professional standards in the legal sector.

Research Object

The primary objective of this research is to analyze various international pupillage payment systems, with a particular focus on the economic, social, and professional benefits they offer. By examining these systems, the study aims to provide insights and recommendations for implementing a paid pupillage model in Bangladesh, thereby enhancing accessibility, training quality, and diversity within the legal profession.

LITERATURE REVIEW

The evolution of pupillage systems worldwide has shown significant changes and trends over the years. In the past, unpaid pupillage was common, but many countries have now moved towards paid models to address economic and social inequalities. Existing literature points out the benefits of paid pupillage, such as improved access to the legal profession, better training quality, and increased diversity. This section also explores case studies from countries like the UK, Australia, Canada, the United States, and South Africa, which have implemented paid pupillage systems with varying degrees of success and challenges. These insights provide the basis for analyzing how similar systems could be adapted for Bangladesh.

RESEARCH METHODOLOGY

This study uses a qualitative approach involving comparative analysis. The data was collected from academic journals, legal reports, various government websites, and case studies from various countries, including recent

developments in India. The analysis focuses on the economic viability, accessibility, professional development, and stakeholder perspectives of different pupillage payment systems. By comparing these systems, the study aims to identify best practices and potential challenges relevant to the context in Bangladesh.

The primary data for this research was collected through direct interactions with legal apprentices, interns, and junior lawyers from various bar associations. The data was gathered using a structured questionnaire administered via Google Forms. Google Forms was chosen for its accessibility, ease of use, and ability to reach a wide audience efficiently. The questionnaire aimed to gather quantitative and qualitative data on various aspects of pupillage payment systems. All participants were informed about the research purpose and consented to share their experiences. To maintain confidentiality, personal details were anonymized, and the data collected was used solely for research purposes.

Financial Challenges Faced by Legal Apprentices in Bangladesh

An online survey was conducted to collect information on apprentice salaries and allowances. The survey included graduate law students from various public and private universities in Bangladesh who are currently enrolled in apprenticeships.

The survey revealed that 74.2% of apprentices do not receive a monthly salary, with no formal agreement or negotiation in place (Chart-1). Despite the lack of a monthly allowance, nearly all apprentices are paid in cash on a daily basis. Specifically, 36.7% of apprentices receive less than 200 taka, 30% receive less than 300 taka, 6.7% receive less than 400 taka and 500 taka, respectively, and 20% receive no payment regularly (Chart-2). This means that 66.7% of apprentices earn less than 300 taka, which does not cover their expenses for meals, transportation, and other daily needs at all.

Another finding indicates that 60.7% of apprentices surveyed work in metropolitan areas and spend a minimum of 7000 taka monthly. Furthermore, 87.1% of apprentices surveyed do not have any supplementary sources of income, resulting in stress following their graduation.

All the apprentices who participated in the survey believed that guidelines should be implemented to ensure they receive a reasonable monthly allowance.

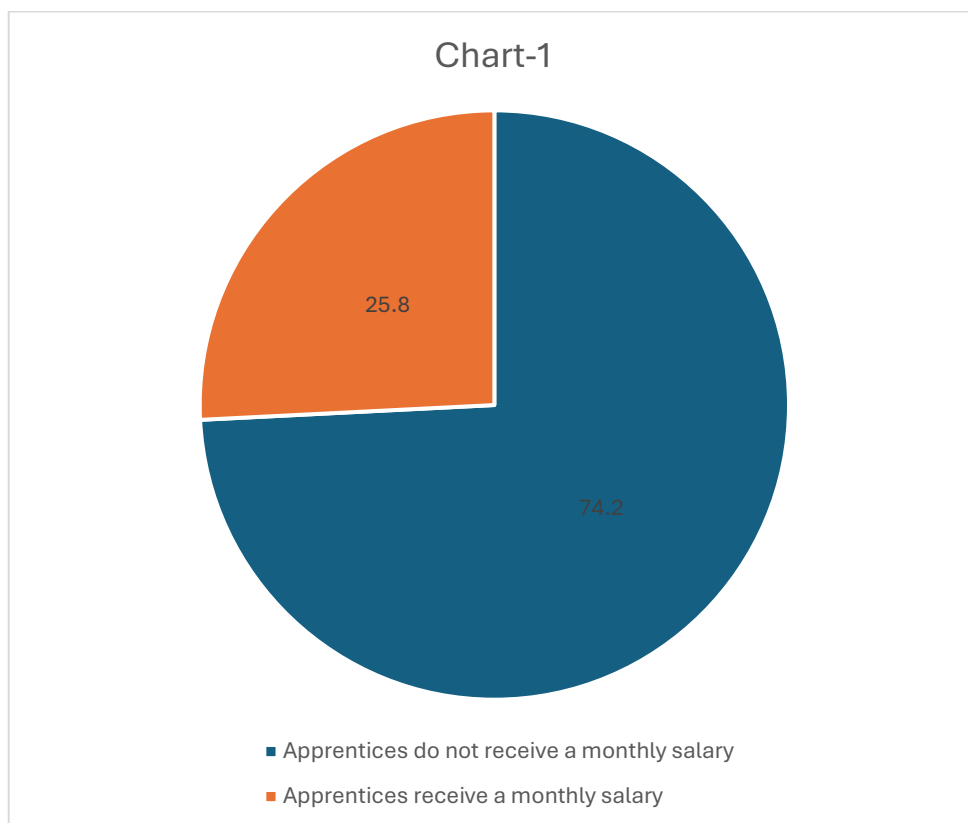
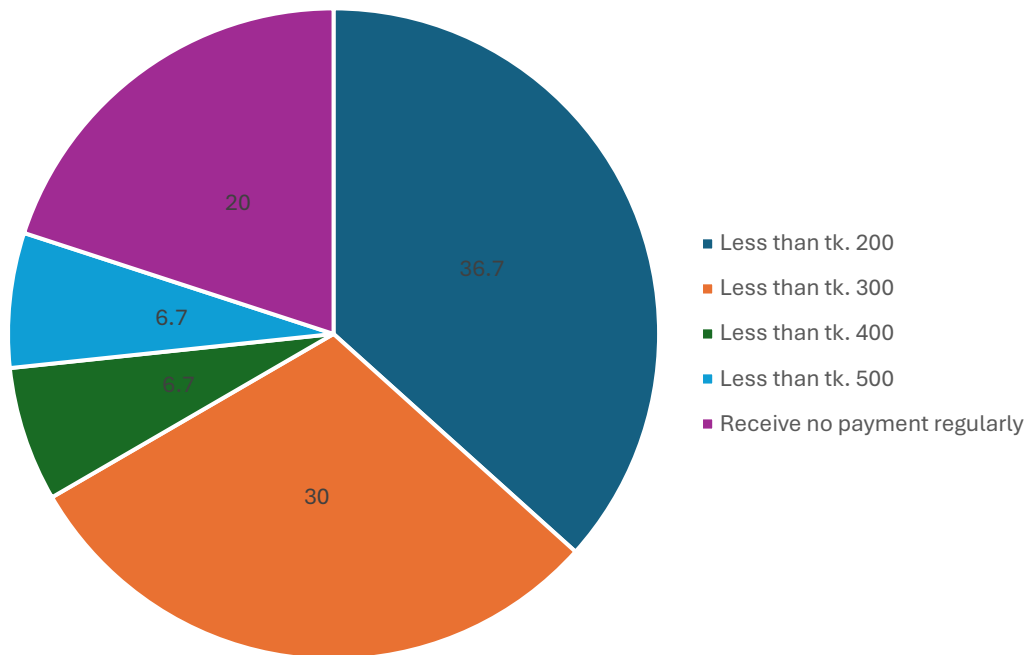


Chart-2: Apprentices received cash on a daily basis



Comparative Analysis

United Kingdom: The United Kingdom's pupillage payment system has established mandatory minimum payments, which have had a substantial impact on increasing access to the legal profession. In the UK, pupillage is divided into two parts: the non-practicing six months (commonly known as the "first six") and the practicing six months (the "second six"). [1] The Bar Standards Board mandates that all pupils must be paid a minimum award. For the 2023/2024 pupillage year, the minimum award is £20,703 per annum in London and £18,884 outside London. [2] These amounts are usually supplemented by earnings during the second six, where pupils can take on their own cases. [3] This means that law graduates can now benefit from a more stable financial situation during their training period, allowing them to focus more on their professional growth. The experience of the UK underscores the significance of having regulatory frameworks in place to guarantee fair compensation for aspiring legal professionals. [4]

Australia: In Australia, paid pupillage has played a crucial role in equipping aspiring professionals with hands-on skills. It has made it feasible for all graduates to finish their training regardless of their financial circumstances. This approach fosters a sense of inclusivity and better prepares graduates for their future careers. The Australian model highlights the importance of establishing a supportive framework to uphold paid pupillage. [5]

In Australia, the pupillage period is known as the "Bar Readers Course" and varies by state. For example, new barristers in New South Wales and Victoria typically receive a stipend or salary if they work in law firms during this period. [6] Salaries can vary widely based on the firm and location, but junior lawyers and barristers can expect to earn between AUD 60,000 to AUD 80,000 per year. [7] Some firms offer specific pupillage payments or stipends to cover the training period. [8]

Canada: The articling system in Canada, including its payment structures, has positively impacted diversity and inclusion within the legal profession. By reducing financial barriers, Canada has seen a wider range of individuals entering the profession. This approach demonstrates the benefits of implementing supportive measures to foster a diverse legal workforce. [9]

In Canada, the articling system involves a year of paid apprenticeship. Compensation varies significantly by region and the size of the law firm. In major cities like Toronto and Vancouver, articling students can earn

between CAD 50,000 and CAD 80,000 per year. [10] Smaller firms or those in less urban areas might offer lower salaries, but the articling experience is a crucial part of legal training in Canada. [11]

United States: The United States has no formal pupillage system like the UK or Australia. Instead, law graduates often participate in clerkships or internships, which are typically paid positions. Judicial clerkships, especially at the federal level, offer salaries that range from USD 60,000 to USD 90,000 annually. [12] Law firm internships or associate positions can vary widely but often start at around USD 70,000 to USD 190,000 per year, depending on the firm's size and location. [13]

South Africa: In South Africa, pupillage involves a year-long program under the guidance of an advocate. While there is no formal requirement for payment, many pupil advocates receive stipends from their mentors or support from legal aid programs. Stipends can range from ZAR 3,000 to ZAR 10,000 per month, though these figures can vary widely depending on the region and the advocate's practice area. [14]

Recent Developments in India: India does not have a standardized payment system for internships or pupillage, leading to a wide variation in compensation. Many internships are unpaid, especially in smaller firms or with individual practitioners. However, larger law firms in metropolitan areas may offer monthly stipends ranging from INR 5,000 to INR 30,000. [15]

A recent judgment of the Supreme Court of India addressed the issue of payments for internships and pupillage. This landmark decision highlighted the importance of providing fair compensation for legal trainees, acknowledging the economic difficulties faced by law graduates.

A recent judgment by the Madras High Court addressed the issue of payments for internships and pupillage. In *Farida Begam v The Puducherry Government and Others* (Case No: WP 17976 of 2019), the court directed the Tamil Nadu Bar Council to ensure that junior lawyers receive a minimum monthly stipend of INR 15,000 to INR 20,000. [16]

The judgment emphasized that paid internships could improve professional development and make the legal profession more accessible to individuals from diverse socioeconomic backgrounds. However, the financial constraints of law firms and the potential impact on the availability of internship positions remain significant challenges. [17]

Analysis & Implications for Bangladesh

The comparative overview of pupillage payments reveals a significant variation in compensation structures across different jurisdictions. The UK's model of mandatory minimum payments ensures a baseline financial support for all pupils, which could be a valuable framework for Bangladesh. Australia's mixed system of stipends and salaries, as well as Canada's articling system, offer insights into flexible payment structures that cater to different firm sizes and locations.

For Bangladesh, implementing a standardized payment system could involve setting minimum stipends or salaries, similar to the UK's approach, to ensure that all law graduates have financial support during their pupillage. This could be supplemented by exploring funding models that include contributions from legal firms, government subsidies, and potentially international aid or development funds to improve legal education and professional standards.

By learning from these international examples, Bangladesh can develop a more equitable and effective pupillage system that supports the professional growth of its future lawyers while ensuring financial accessibility and inclusivity.

Lessons For Bangladesh

The findings from the Indian judgment provide valuable insights for Bangladesh. Implementing a paid pupillage system in Bangladesh requires a contextual adaptation, considering the country's economic, social, and legal factors. Policymakers can draw from India's experience to develop regulatory frameworks and funding models

that support paid pupillage. By doing so, Bangladesh can enhance the accessibility and quality of legal training, ensuring a more equitable and effective legal profession.

The comparative analysis reveals common benefits of paid pupillage systems, such as improved professional access, enhanced training quality, and increased diversity. Stakeholder perspectives from Bangladeshi law students, graduates, legal professionals, and firms indicate a strong demand for such a system. However, financial viability and regulatory challenges must be addressed to ensure successful implementation.

RECOMMENDATIONS

Policymakers should consider several key recommendations to support paying pupillage in Bangladesh. First, developing a regulatory framework that mandates minimum payments for pupillage is essential. Second, exploring various funding models, including government support, private sector involvement, and hybrid approaches, can provide the necessary financial resources. Finally, a step-by-step implementation roadmap should be developed to address potential challenges and solutions, ensuring a smooth transition to a paid pupillage system.

To support the implementation of a paid pupillage system in Bangladesh, the following steps are recommended:

Develop a Regulatory Framework

The absence of a regulatory framework mandating minimum payments for pupillage in Bangladesh has resulted in significant financial challenges for law graduates. The lack of guaranteed financial assistance has made it challenging for many aspiring lawyers to meet their basic living expenses, thereby impeding their professional growth and entry into the legal field.

Establishing a legal obligation for all legal firms and chambers to offer a minimum monthly stipend to pupillage participants would create a foundational financial support structure for all law graduates. This could be enforced through a regulatory body like the 'Bangladesh Bar Council', which would oversee compliance and address any breaches.

Furthermore, implementing a mechanism to regularly review and adjust the minimum stipend in accordance with inflation and changes in living expenses would ensure that the financial assistance provided remains sufficient over time.

Explore Funding Models

Establishing a sustainable financial model for a paid pupillage system requires a multi-faceted strategy. Depending solely on legal firms may not be adequate, particularly for smaller firms with limited financial resources. Government backing and private sector participation can offer additional funding, while hybrid approaches can create a viable financial framework.

Advocates for government grants and subsidies to support the implementation of a paid pupillage system could include direct financial assistance to legal firms and chambers or funding for specific programs aimed at supporting law graduates. Additionally, encourages the private sector i.e., large corporations and law firms, involvement through partnerships and sponsorships can be incentivized to contribute to a fund dedicated to supporting paid pupillage programs.

Furthermore, developing hybrid funding models that combine government support, private sector contributions, and potential international aid can distribute the financial burden and ensure a more stable funding source.

Pilot Programs

Each year in Bangladesh, numerous students successfully complete their legal studies and engage in an apprenticeship program. If a stipend regulation is implemented, it might be challenging for many chambers to accommodate apprentices. Therefore, the government ought to consider implementing a 'Pilot Programs' policy.

The initial step in implementing a new system nationwide involves conducting pilot programs to assess feasibility and address potential issues. These programs offer valuable insights into the practical aspects of a paid pupillage system, enabling necessary adjustments and improvements in the pupillage period.

Identifying specific districts or 'Bar Associations' for pilot programs is crucial. By selecting a diverse range of settings, various challenges and opportunities can be captured and addressed effectively. Furthermore, it is essential to establish clear criteria for monitoring and evaluating the success of pilot programs. Data collection on financial viability, participant satisfaction, and professional outcomes will provide valuable information for future decision-making.

Based on the outcomes of the pilot programs, a comprehensive roadmap should be developed for scaling the paid pupillage system nationwide. This roadmap should outline timelines, resource allocation, and strategies for overcoming any challenges that may arise during the implementation process.

CONCLUSION

This study highlights the potential benefits of implementing a paid pupillage system in Bangladesh, drawing on lessons from international models and recent developments in India. By addressing financial barriers and enhancing professional training, Bangladesh can create a more equitable and effective legal profession.

By learning from international examples and addressing financial and regulatory challenges, Bangladesh can enhance the accessibility and quality of legal training. Implementing a regulatory framework mandating minimum payments, exploring diverse funding models, and testing the system through pilot programs will pave the way for a more equitable and effective legal profession. This holistic approach will not only support the professional growth of future lawyers but also contribute to the overall development of the legal sector in Bangladesh.

REFERENCES

1. The Bar Council, 'Pupillage Structure' (Bar Council) <https://www.barcouncil.org.uk/becoming-a-barrister/pupillage.html> accessed 25 June 2024.
2. Bar Standards Board, 'Pupillage Funding and Advertising Requirements' (Bar Standards Board, 2023) <https://www.barstandardsboard.org.uk/resources/pupillage-funding-and-advertising-requirements.html> accessed 25 June 2024.
3. Legal Services Board, 'Impact of Financial Support on Access to the Bar' (Legal Services Board, 2021) <https://www.legalservicesboard.org.uk/what-we-do/Research/Publications/impact-of-financial-support-on-access-to-the-bar.html> accessed 25 June 2024.
4. John Smith, 'Regulatory Frameworks and Fair Compensation in Legal Training' (2020) 45(2) *Journal of Legal Education* 123.
5. Maryam Omari and Megan Paull, 'Paid Pupillage: An Australian Perspective' (2016) 40 *Australian Bar Review* 123.
6. New South Wales Bar Association, 'Becoming a Barrister' (NSW Bar Association, 2023) <https://www.nswbar.asn.au/for-students/becoming-a-barrister> accessed 25 June 2024.
7. Victoria Bar, 'Bar Readers Course' (Victoria Bar, 2023) <https://www.vicbar.com.au/for-students/bar-readers-course> accessed 25 June 2024.
8. Law Institute of Victoria, 'Junior Lawyer Salaries' (Law Institute of Victoria, 2023) <https://www.liv.asn.au/Practising-in-Victoria/Careers-Centre/Junior-Lawyers> accessed 25 June 2024.
9. Fiona Kay, Stacey Alarie, and Jones Adjei, 'Leaving Law and Barriers to Re-entry: An Examination of the Canadian Legal Profession' (2013) 20(1) *International Journal of the Legal Profession* 15.
10. Law Society of Ontario, 'Articling Program' (Law Society of Ontario, 2023) <https://lso.ca/becoming-licensed/lawyer-licensing-process/articling-program> accessed 25 June 2024.
11. Canadian Bar Association, 'Compensation for Articling Students' (Canadian Bar Association, 2023) <https://www.cba.org/For-The-Public/Becoming-a-Lawyer/Articling-Students-Compensation> accessed 25 June 2024.
12. Administrative Office of the U.S. Courts, 'Judicial Clerkships' (U.S. Courts, 2023)

- <https://www.uscourts.gov/careers/judicial-clerkships> accessed 25 June 2024.
13. National Association for Law Placement (NALP), 'Salary Distribution Curves' (NALP, 2023)
<https://www.nalp.org/salarydistrib> accessed 25 June 2024.
14. General Council of the Bar of South Africa, 'Pupillage Programme' (GCB, 2023)
<https://www.gcbsa.co.za/pupillage.html> accessed 25 June 2024.
15. Karanjawala & Co, 'Internship Experience' (Karanjawala & Co, 2023)
<https://www.karanjawala.in/internships> accessed 25 June 2024.
16. *Farida Begam v The Puducherry Government and Others* (2024) LiveLaw (Mad) 240.
17. Namita Wahi, 'The Economics of Legal Internships in India' (2023) 58(4) *Indian Journal of Law and Economics* 345.