

Constitutional Safeguard and Plight of Women in Pakistan

Anam Saleem^{*a}, Ghania Khan^b

^a Lecturer, Department of Pakistan Studies, University of Jhang.

^b Lecturer, Department of English, University of Jhang

*Corresponding author: [*anamsaleem50@yahoo.com](mailto:anamsaleem50@yahoo.com)

Abstract

Despite of the fact that without women universe is colorless and a man can't live a happy life without her because woman is the vital part of his life. She is a symbol of patience, courage, passion and love. However, de-facto she has a significant and respectable place that is not being privileged with the honorable status in society. Besides the constitutional rights, several ordinances have been issued for the protection of women rights In spite of such advancement in legislation women rights are still violated in Pakistani society. Despite of doing strong efforts for enforcement of women rights and ending violence against women: they are still treated in inhumane and insulting manners. The paper presents some laws of Constitution of Pakistan and United Nation's Charter in order to aware the women of society about their privileges and safeguards.

Introduction

"A woman is like a tea bag; you never know how strong it is until it's in hot water." Eleanor Roosevelt

Woman is a strongest, passionate, emotional and inspiring creature of God. She can adjust herself in all the conditions and circumstances of the life and without becoming pessimistic. Men and women both are essential components of the society and make the world beautiful. Women always played a significant role in the development of society: they can also play a creative and progressive role if they will be privileged with equal rights as men. The fact was also highlighted by our leader Muhammad Ali Jinnah. He said:

"No nation can rise to the height of glory unless your women are side by side with you; we are victims of evil customs. It is a crime against humanity that our women are shut up within the four walls of the houses as prisoners."

Women's situation in the society is now better as compared to last few decades. It is true that women have been living a better life but still they are sacrificing their lives for honor of men. Efforts against violence and degrading treatment with women are not be fruitful. They are still suffering with discriminatory behavior and violated attitude. Women are considered inferior to men significantly in South Asia and India. There is a strong preference of having sons rather than girls and girls are considered financial burden on parents. Women's day is celebrated on 8th March in whole of the world: It is an effort for reorganization of women's rights. There is specific struggle behind its emergence.

Women Rights and Pakistani Law

Constitution of Pakistan grants equal rights to men and women irrespective to their sex. Fundamental rights in constitution of Pakistan from article 8 to 28 are not only for men but also for women, children and old people. Women have rights of life and liberty according to the articles 9,10,11,12 and 13. They have also the rights of prohibition of slavery. They have a right of dignity and privacy according to the article 14. Constitution of Pakistan provides them with equal right of basic freedom, religious freedom and safeguard and also keeping their own property without any kind of restriction. According to the article of 25, 26 and 27, every citizen will have equal opportunity of access to public places and employment without any discrimination of sex, caste, religion and race irrespective which are reserved for non-Muslims or minorities. According to article 37, make sure women's participation in all the sphere of life. Special quota will be reserved for women's participation. Special representation of women shall be given to the women in local bodies and it will also make sure that women are not working in such vacations those are not suitable for them. According to the article 38 (a) and 38 (d) full protection will be provided to all the citizens irrespective of their sex. Marriage, family, mother and child will be protected.

Section 156A and 156B was introduced in 2004 demolishing the violence against women through legal order. Section 156B is relevant for the investigation against woman who are accused of zina. The section describes that the woman who is accused for zina according to the Haddood Ordinance 1979, not any police officer below the rank of superintendent will investigate the offence and the person will not be arrested without the permission of court. After that Women Protection bill was introduced in

General Pervez Musharraf's era in 2006. It permitted women for DNA and other scientific testing for prosecuting rape cases. In last few years, an amendment bill in "Rape Law" has been presented in National Assembly of Pakistan. It was an effort to eradicate such inhuman and insulting act.

For prevention of injustices and inequalities Government of Pakistan passed Landmark Women's rights bill which carried further amendments such as Punjab Child Marriage Restraint (Amendment) Act 2015. The bill protects women against any kind of social injustice. According to landmark bill people will be answerable who find involve in any kind of anti-women practice. It will also protect women and girls from inhuman treatments such as *wanni*, *swara* or *badla-e-sulha* and trading women for settlement of family disputes. According to the section 310-A anti-women practices bill, forced marriages of women for settlement of family dispute or in other words Wanni will be non-bailable offence. Trade of girls for *badla-e-sulha* will be punishable for three to five years and also 0.5 million fine will have to pay. Section 498A tells us that the act of deprivation of girls and women from their inheritance will be punishable and either imprisonment for five to ten years or 1 million fine. Section no 498B describes that the force marriages other than settlement of dispute will be punished with five to ten years imprisonment and 0.5 million fine. According to the section 498C forcing women to marry with Holy Quran will be resulted in imprisonment of five to seven years along with 0.5 million rupees fine.

Acid Control and Acid Prevention bill was passed from Senate unanimously on October 2011. The act was passed by the President on 26th December 2011. Bill was introduced by MNA Marvi Memon and MNA Begum Shahnaz Sheikh and advocated by Anusha Rehman in 2010. The Ordinance was an amendment of 1960's penal code of Pakistan section 336A and added a new one 336B.

"Whoever causes hurt by corrosive substance shall be punished with imprisonment for life or imprisonment of either description which shall not be less than fourteen years and a minimum fine of one million rupees"

The person who will become the cause of hurt or destroy of face, organ or any part of the body through any corrosive substance such as poison, chemical and acid, shall be imprisoned for fourteen years and minimum

fine will be one million. Following the path, in May 2018, Government passed the “The Acid and Burn Crime Bill 2017”.

Bill protection against sexual harassment of women was presented before National Assembly on 21st January 2010 and on 26th February it was presented before Senate for approval and this bill was approved by both the houses unanimously. Bill was signed by the President Asif Ali Zardari on 9th March 2010 and became a proper law. Amendment took place in Pakistan’s penal code 1860 for section 509 XLV act and according to this act anyone who intended to insult the modesty of women through any action such as uttering any word, make such voice, intrude the privacy of a woman, demand sexual favor, physical conducts that are sexual in nature which makes a woman annoy or insulted, the person will be punished with imprisonment with three years or fine five hundred thousand rupees or both. According to the act each organization will established an inquiry committee for dealing the complaints of harassment. Ombudsman is appointed on both federal and provincial level by the government. Victim will have an option to complain in ombudsman rather than to complain in inquiry committee. Ombudsman has the same powers as civil court under the code of civil procedure and the powers of high court for punishing the responsible person.

For increasing women empowerment in political ground 180 seats were reserved for women on national and provincial assemblies and one third seats in local elections.

Violation of Women Rights

No doubt large number of legal steps have been taken by the government of Pakistan but it is also true that these legal orders and frame work are not being implemented as it should. In constitution of Pakistan there is always talk about non-discrimination in the terms of race, sex and caste etc. but not any proper definition is given for defining discrimination. The fact has proved by the survey of NGOs in 2012 and the report was presented before United Nation’s CEDAW committee. Rubina Bruhi member of Aurat Foundation also tried to bring light on the reality by saying that government had always talked about positive things and was failed to discuss about the real situation of women. She further included that several laws directly discriminate among women and men such as citizenship act of 1951. According to this act women married with foreign

men, her husband cannot get Pakistani citizenship. The problems which are faced by the women till now are listed below:

1: In some backward areas women are not still receiving equal educational, employment and promotion facilities as men. Literacy rate among females of Pakistan is only 49.6% to 51.8% as compared to 71.6% to 72.5% in males in Pakistan. According to the UNESCO survey report, number of the girls out of schools in Pakistan are growing deleteriously and has reached up to 3,336,943 2018. While out of school adolescent female are 2,478,053. Gross enrollment ratio among the female at Primary level remained 86.11% while at Secondary level it decreased and reached to 39.11%. Women have comparatively less life span than men due to depression and inappropriate standard of life. There is high mortality rate of women because they are not being provided with suitable healthy environment and food.

2: Women are still suffering from domestic and intimate violence, sexual harassment, physically and psychologically torture, threats and insecurity. She is still suffering from inhuman treatment in her husband's house. She has to tolerate humiliate maltreatment treatment form her in laws especially due to dowry. Dowry has become a fatal disease in our society. Parents of girls are compelled to give dowry so that their daughter or sister has not to suffer any tough time. Despite of all the efforts of the government and other organizations, burning and kitchen cases are still coming forward. There is an alarming increase in burning, domestic and murder cases. According to the statics 1,775 murder cases, 989 domestic cases and 71 burning cases reported. Approximately 70% to 90% women have to face domestic abuse. At least two women burn every day in domestic violence: 35% out of 1000 women admitted in hospitals reported being beaten by husbands. The bill was presented against the domestic violence against women in 2009 and it remained successful for gaining votes from National assembly but failed to achieve vote from Upper House of Assembly. Next in 2012 same bill was presented again but it was opposed by some religious party leaders.

3: *Physical and sexual abuses* of the girls are serious concern in such a modern period. Young girls and even small girls are not secure now-a-days. Rape and gang rapes are becoming common. HRCP presented its report and said that those cases were not coming from far-off places of the cities. Those were coming from commonplaces of the cities. There were

113 rape cases and 32 gang rape cases in Punjab provincial capital from 1 January 2013 to September 2013. Majority of the victim girls are teenagers and especially from Punjab. After five years, in 2018 same accounts were being observed, about 93% women and girls have been suffering from sexual violence in public places.

4: Women are not even permitted to show their own choice in the matter of their marriages and honor killing cases are coming on the surface even in this modernized era. UNICEF reported that forced marriages have been exceeded to 1.91 million, among them 21% women got marriage before attaining the age of 18 years and 3% are married before 15 years old. Large number of innocent girls are becoming the victim of this dreadful game of honor killing. In the Province of Punjab, 248 women were killed in the so-called name of honor in year 2016, 181 in year 2017 and 244 in the year of 2019. According to Human Rights Commission the cases of honor killing in Pakistan are accelerated approximately 15222 incidents occurred from 2004-2016.

5: *Acid throwing* is such a big crime due to which life of a girl becomes colorless. These terrible incidents are increasing and there is no check for prevention. Criminals have higher approaches and police concern that's why they do not to spend much time in lockers and are being released earlier. Acid throwing incidents appear in whole of the world but Pakistan is the center of this heinous activity. Acid Survivor Foundation discovers that 150 acid attacks occur every year in Pakistan. 2713 cases came forward in year 2012 only in Southern Punjab. Till the end of July 2013, 44 women have become the victim of this attack and 4 were died among them. It was reported that ratio of acid throwing attacks has increased in triple term since new amendments were passed for better results. Valerie Khan Yousafzai, chairperson of Pakistani branch of Acid Survivors Foundation presented statistical report and illustrated the bitter reality that the ratio before passing legislation in 2011 of acid throwing attacks were six percent while it has now increased 18 percent. There were 71 victims of acid attacks in 2016-2017 whereas 62 between 2018-2019.

6: *Child marriages* are still going on which have become the reason of several disorders for women's health and their later life. Child marriages are another serious issue because it is also the form of injustice with women. It became the reason of several problems faced by the women. Every year 60 million girls get married all over the world and among them

24% girls are from rural areas of Pakistan and 18% are from urban areas of Pakistan. Co-coordinator of blue Veins Program Qamar Naseem pointed out that if child marriages continue with the same ratio, 10 million girls will be married underage within next decade. Young pregnancy put young girls in serious productive and other health issues. According to CRSD's director Idrees Kamal the risk of death at the time of pregnancy in the girls of fifteens are five times greater than in the women in twenties.

7: Marriage of a girl with Quran is an awful and shameful reality of Pakistani society. This tradition is also known as **Haq Bakhsh**. It means giving up the right to marry. These marriages are still occurring in Sindh province for the sake of keeping their property within their legal control and prevent from division because if a girl gets married out of family her property is handed over to her husband and in other case this custom is followed to prevent their money spending on the arrangement of dowry. Sometimes it happens when people do not find the husband for the daughter and sister according to the choice of parents. Girl's life bound only to Quran and she is not allowed to marry and mix with other people. If she tries to go against the custom, she is being killed. According to Professor Habib Ur Rehman of International Islamic University Islamabad and expert at Islamic laws and regulation in marriages, it is an un-Islamic and illegal heinous act. It deprives women from their right of heredity and force them to marry against their will.

8: **Wanni** is another terrible reality that is still increasing in number. **Wanni** is Pushto word derived from "Wanay" meant blood. The custom is practiced to resolve the deputed by giving a minor girl which is an open violation of human rights. Despite doing legislation, situation is still there and increasing day by day. Small girls are major victim of this crime. Shocking reality is that a girl of age 2 years used for **Wanni**: now she is in 9th class and was not willing to accept the decision of her elders and threatened to commit suicide. According to FIAs crime committee registered cases of forced marriages were 338 in 31 districts till January 2012 but it was only the cases reported to police. Despite of legislation this inhuman act is continually going on in all the provinces of Pakistan with different names Sawara in K.P.K, **Irjaee** in Baluchistan, **Sung-Chatti** in Sindh and **Wanni** in Punjab. Government had always talked about positive things and were failed to discuss about the real situation of women. She included that several laws are directly discriminate among women and men such as citizenship act of 1951. According to the act women can marry to foreign

man, her husband cannot get Pakistani citizenship. Along with it Jirga system is still in practice. From 2013 to 2017, 34 *wanni* cases were reported in province Punjab. Same suit is followed in every provinces of Pakistan.

Conclusion

Women's day now organizes every year in whole of the world. It organizes to create awareness about women's rights and end the incident of Women's rights violation. Women's day emerged with the need of time for securing women's rights and the efforts brought color in the status of women. Apparently Women remained successful in attaining their respectable status but they could not secure themselves from sacrificing their lives for the sake of others. Pakistan is a country where women's population is about 52%. However, constitution of Pakistan grants equal rights to everyone without any discrimination of age, sect, religion, caste, creed or sex but in spite of having constitutional rights women are not enjoying equal facilities of education, employment and participation in social activities. With the passage of time government of Pakistan issued ordinance for fulfillment of the needs of women and further these ordinances were being amended for making it much stronger. Every government tried its best to enforce such laws which can grant suitable environment for the women so that they can live a protected life. On the other hand, they also took firm stand to handle the culprits who violate women's rights.

In International World United Nations has always taken firm steps to enforce women rights in the whole world. Their most appreciable effort is to formulate a separate forum for recognition of women's rights. After that, United Nations established several organizations, committees, funding centers and research centers specially to co-operate with developing countries to control violence against women. They are doing great job for ending violence against women and empower them in every sphere of life. In the contemporary period, developing and developed countries are standing with United Nations for women's rights. But the pity is this that in spite of having long list of legislations, heinous activities against women cannot be stopped. In the existence of such forceful laws such as harassment act, acid control act and land mark ordinance women are still suffering from such inhuman treatment such as *wanni*, marriages with Quran, child marriages, honor killing and unequal educational facilities.

Along with these ordinances there are so many NGOs, governmental and international organizations working for elimination of all these inhuman treatments but such countless efforts are not fruitful because cases of violence are coming on the surface with same ratio and in some areas with higher ratio. We have no dearth of legacies and organizations but the true implementation of these laws and ordinances has always been a severe problem due to which we can't gain the full benefits of these laws. There is not a proper and pure organizational structure in Pakistan. Culprits are arrested but they release after few days due to having close relations with officials. Our system is suffering with corruption, bribery and other social evils and officials also have failed to escape themselves from these evils and its ultimate result is in the form of increase in the cases of women rights violation. Need of the hour is to enforce all the laws, ordinances and acts in their real spirit for giving women their real status. It should fully co-operate with United Nation and seek their assistance in order to eliminate all the forms of violence against women so that they can also play their rightful part in the development of country.

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