

Legal Empowerment of Women in Pakistan



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Introduction:

Pakistan was created for its citizen to be free of discrimination and deprivation they had suffered in the past. Citizens included women; and it was stated that they should stand side by side with men as their companions in all spheres of life. This sentiment was reflected in the constitutional proposals subsequently made. (Articles 25 and Article 34).

In practice however the promise of equality has not only been ignored, it has been blatantly violated. In 1995, nearly a half-century after the creation of Pakistan, the National Report for the Fourth UN World Conference for Women had to admit that women 'continue to suffer in the face of oppressive patriarchal structures, rigid Orthodox norms and stifling socio-cultural customs and traditions'. Adherence to status quo, political inertia and lack of social will have continued women's historical burden. Legal empowerment of women in Pakistan can only be ensured through creation of forward looking and strong civil society that propel the State to bring positive changes in the constitutional, statutory and customary laws.

Women's situation in Pakistan:

Studies on women and state have shown that the State is not a gender-neutral entity. Political dispensation at the State level can either reinforce female subordination or support female autonomy. The changing attitude of the Pakistan State towards women ranges from half-hearted policy measures at best, to inaction and outright discrimination by enactment of retrogressive law particularly during the military regime of 1977-88.

Legal Status of women in Pakistani Society:

The constitution of Pakistan recognizes the principle of equality of all citizens and the right to equal protection of the law. It specifically prohibits discrimination on the basis of gender, and makes provision for measures of affirmative action by the State. However, the constitution is silent on the critical issues, such as women's reproductive rights, as well as rights to development or the environment, which are equally relevant for women. Coexistence of multiple legal systems provides different options for settling contentious issues concerning women's right and usually least favorable to women is implemented. Even the application of Muslims laws is uneven for instance; the lack of protection under statutory law, of women's religious right to choose a spouse and the absence of punitive actions for not giving women their share of inheritance.

Law hindering the women's development in the society:

Discriminatory legislation exists in Pakistan. This will necessitate an ijtihadi quantum jump to rectify the gap. Enlightened and liberal ulemas should be motivated to undertake research in this area for implementation by the State. The law regarding sexual crimes against women heavily favors men. The Zina ordinance confuses rape with adultery and places female victims of the former as well as that accused of the latter at particular risk. If the court is unable to establish rape, and the woman become pregnant, her pregnancy is interpreted as evidence of her compliance in all illegal acts and, therefore, she is to be punished. Large numbers of women in prisons have been falsely and maliciously prosecuted under this law for exercising their legal rights in freedom of choice of a marriage.

The law of Evidence (1984) states that the value of the women's testimony should be considered only half of a man's even in criminal matters. The Pakistan Citizenship Act (1951) guarantees citizenship by descent only through the father. There is discrepancy in the minimum age of marriage for the girls at sixteen, and for the boys at eighteen. Women don't have an equal right of divorce. Right of divorce given to women through delegation (Tafweez) though permissible in Islam, yet the attitude of majority has led to its disuse. Furthermore, the procedures of women seeking divorce are quite complex.

The Muslim family Law Ordinance (1961) brought important reforms by making marriage

registration mandatory, introducing a standardized marriage contract form, and laying down a procedure for divorce. However, it did not offer a fair post-divorce settlement. Pakistan Law Commission has recently taken up this issue and some reform has been recommended which still needs to be implemented by the Government. There is no legislation on domestic violence and honor killing. These are treated at par with other forms of violence. Cases of violence against women often go unpunished like acid throwing and stove burning. Recently, awareness created by CSOs has resulted in increasing the registration of cases against the perpetrators. Incest has no special status in laws and similarly, there are no laws for sexual harassment at work or public places. Judicial indifference towards the issue of women's rights and other issues concerning women has worsened the situation. My experience in courts revealed that husband's side finds it easy to convince a male judge against the female litigating for her right by accusing her of adultery (lewdness).

Options for legal empowerment of women:

Four major commissions or committees were organized from time to time in the past to identify areas of discrimination against Pakistani women and suggest remedial measures and changes in the existing laws for the betterment of the tragic plight of women. Although these bodies made various recommendations, in practical terms little was achieved as the government concerned often lacked the will, vision or self-confidence to accept most of these reforms. The research work and the recommendations are already in place; there is only need to bring these learnings into the public view through debates.

Efforts from the Civil Society:

Many theatre groups like Ajoka and Lok Rehas brought issues for debate among masses through their parallel theatre techniques. Media played a very important role even in the days of oppression to raise controversial issues but still there is room to use these means of communications more effectively. As a logical affect of such moment a lot of free legal aid centers are opened in various parts of the country to help out the women. Free legal aid service of AGHS and Tahuffuz are few of these examples. Kashf Foundation which is aiming at empowerment of women through micro financing is yet another laudable venture. Shelter home opened in the name of 'Dastak' for the destitute women is also one of the offshoots of these efforts from the civil society side. Regrettably, political parties have not played any significant role to improve the status of women even in their own parties. I have publicly questioned the leaders of the political parties as to why they have not adopted the convention to reserve 33% seats for women in their working committees. Answer given to me is that they are not vote catchers. Unfortunately, on account of such myopic view of political leaders the number of women politicians has gradually shrunk since the days of

independence .It is a dismal picture that out of 207 male members of the former National Assembly, there were only 5 women legislators, 2 senators out of 83 and only one woman out of 483 male dominated Provincial Legislatures. Local Bodies are a critical tier of government. In the recent Local Bodies election women's participation was ensured by provision of 33% reserved seats for them. Same formula adopted for Provisional and National Assemblies would ensure improved Human Rights environment in the country.

Conclusion:

Although there is a gradual and increasing acknowledgement of women's autonomy as a development issue, empirical indicators show that women continue to have a lower quality of life, are dis-empowered and face an inequality of opportunities in all areas of development, relative to men. In the global and South Asian terms, Pakistani men do not fare well either, as the HDI devised by the UNDP clearly affirms. However, women fare even worse. Discriminatory laws and customs play a crucial role in preserving status quo. Serious efforts on the part of the State need to be undertaken to change the situation. State's commitment to bring a positive change in the society could be gauged by its gender-sensitive policy initiative and law's enactment processes. Presence of strong civil society organization could not only monitor initiatives taken by the State but can also keep their pressure on the State apparatuses to bring these changes at its earliest instead of delaying it in the name of other priority issues. Empowerment of women would require a holistic approach in which all sections of society cooperate and state play its constitutional role .The burden must be shared by the political parties, media and ulemas as each one of this section has failed to give the issue of women's rights the critical importance it deserves

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