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Women Empowerment through Legislative Reforms in Pakistan: A Historical Analysis

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Abstract: *The constitutional standings of Pakistani females and the importance and efficiency of existing laws on women's legal and political empowerment in Pakistan will be the core focus of this study. In this paper, the effect of government determinations for the empowerment of women were examined. The concept of women's empowerment has gained popularity globally but in Pakistan it is facing many challenges due to various social taboos. There are a number of contexts in which the question of empowerment of a Pakistani woman can be considered, but the most critical one is the law: How laws relating to women's authorized constitutional rights are framed is essential to determine. This research will try to analyze the obstacles to the actual implementation of legislative acts introduced for women empowerment. Furthermore, this paper will also suggest some policy recommendations to ensure women leadership skills and vertical empowerment in the country.*

Key Words: Women's Empowerment, barriers, Opportunities, Pakistan, UN, Rights, Society

Statement of the Problem

The question of women empowerment has great importance and it cannot be answered in an ordinary way. Societies that are lacking behind in progress has a severe problem with their women's participation in national progress and all these are cause due to gap in legislation and implementation of women's laws. In Pakistan, there are certain legislative reforms for women empowerment but it is not fulfilling their purpose due to social barriers for women empowerment in society.

Objectives of the study

This research will focus on the historical evolution of women empowerment through legislative acts in Pakistan and will observe barriers to that empowerment.

Research Questions:

1. How legislative acts contributed to women empowerment

2. Where is the gap between legislation and the implementation of laws?

Conceptual Framework

From a historical perspective the framework of feminism is addressing the particular problem of a male-dominated society restricting women from the knowledge building process. Writers who are working on philosophical beliefs have tinted two major areas of concerns, first women segregation from political and economic spheres and second their restriction from knowledge acquisition. Many philosophers has narrated male-female relations as a natural bond of superior to the poor or as sovereign and governed (Pettersen, 2017).

With the expansion of human culture, awareness about women rights were debated in the academic colloquium. And now in the globalized world we can see that majority of Governmental and non-governmental organizations are focusing on challenges faced by women in their day-to-day life. Every section of the civilized world is busy in the

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awareness campaign and progressive legislation for women. In Pakistan, the overall landscape of social and political scenario the story of women's empowerment is a bit controversial. Various literature on women's empowerment suggests that the basic constraint of women's emancipation is gender inequality and the patriarchal structure of the society. Feminism emphasizes on the social structure of society that gender must be considered when the power structure of the societies are analyzed. In the global world feminist theory is mainly focusing on the empowerment of marginalized groups for the transformation of the social and political culture. (Maschi & Turner, [2015](#))

The Question of Women's Empowerment in Pakistan

Quaid-i-Azam Muhammad Ali Jinnah once said that the glory of a nation depends upon the participation of its women in national development. Our culture is victimized by many evil customs in which women are kept in the four walls of a house without involving them in national progress. The State's religion that is Islam and the legal documents of the state, assured the equality of every citizen regarding of class, creed sex or religion. After 1973, various laws were passed by the Pakistani parliament to ensure women's legal rights. However, the historical evolution of women's empowerment and legislation in our country encompasses a difficult pattern of growths and impediments. with the government struggling to formulate a clear agenda for women empowerment laws, practically the very concept of women's empowerment prompts different and incompatible images in Pakistani society. From the very beginning, the state has commenced the thought-provoking task of fabricating culturally adequate descriptions of women's constitutional rights as well as customarily applicable tools for realizing them, but with challenging outcomes. The only situation under which the state can assure 100 percent attainment of women empowerment is the practical implementation of the 1973 constitution and the subsequent laws on women's legal rights which is indeed challenging, in the prevailing traditional society of Pakistan. (Bhattacharya, [2014](#))

According to 2017 provisional census results, women represent around 48 percent of Pakistan's total population. The state of Pakistan has a strong commitment to gender equality as given under the 1973 constitution. However, the surety regarding women rights given in the constitution is highly in contrast with the existing norms and traditions in Pakistani society, and that's why women

empowerment is highly challenging to attain. Pakistan has a patriarchal society, where male members of the family are supposed to be the heads of the family. They support the family financially and are considered as the breadwinners. In Pakistan the common perception of a women's substantial role is believed to be a housewife. Even if a woman pursues her career, it is considered secondary, likened to her primary obligation as a housewife and mother of children's. It is a common phenomenon for women born and upraised in a masculine socio-cultural setup, to experience restrictions and limitations arising from its societal, traditional, religious, economic, and political implications. Apart from exceptions, almost every woman raised in such an environment is deemed to believe, being inferior to her male siblings. Since birth the immediate practice of priority dealing bestowed to the male kids in the family, leads not only to the reliance mindset but also have psychological impacts on women almost in every sphere of life. (Preeti, 2015)

In some instances, women of patriarchal societies like Pakistan hold a prominent position in the society in the political, social or economic sphere but those instances have been linked to having the benefit of being associated to a privileged family or a male of esteemed position. Those few empowered women cannot represent the whole society, as the majority of the women especially those belonging to rural areas has to tolerate every severe truth, which is an integral part of a traditional society. (Asian Development Bank, [2000](#))

When Pakistan acquired dominion status in 1947, the question of women rights was not a pertinent one. At that time Pakistan faced some other major internal and external challenges for its survival, which ought to be sorted out. However, the question of giving women their due share in power was not something to be snubbed because of international fear. Pakistan's pursuit to be a recognized participant of the global community was partially linked with its interpretation of human rights. For that purpose, Pakistan had to join a number of United Nation's human rights conventions. One of the earliest that Pakistan joined was in 1953 the Pact on women's Political Rights. In the fifty decade when the United Nations decided to ratify its convention on the minimum age for marriage, prior consent of women to marriage and the process of registration of marriage, the Pakistani government under the supervision of Ayub Khan decided to grasp this opportunity to modernize Pakistani society, which was a challenging task. (Khan, 2013)

Legislation on Family Laws

In 1961 the state of Pakistan promulgated another ordinance for the protection of family rights with the title of the Muslim Family Laws Ordinance (MFLO). The MFLO provided financial and legitimate safeguards to women by amending the laws related to marriage and divorce to lemmatize polygamy. All marriages should be registered and written permission will be required from a person wife for his second marriage. With the promulgation of this ordinance, for the first time, the Pakistani government assured women's rights in the state through graded protections. Female advocates were so ecstatic after the passage of this Ordinance that they paid high tribute to Ayub Khan when he visited Karachi. MFLO provided a two edge benefit; firstly, it safeguarded Women's right within the household, and secondly, it invigorated the state's image. (Weiss, 2012)

The 1973 Constitution and the Legal Rights of Women

The next important legislation which empowered women in Pakistan was the constitution of 1973, which enhanced women's political, social, and economic privileges in the state on a substantial number of grounds. The constitution in its basic documents affirmed the country's commitment to eliminate any kind of manipulation for women and marginalized section of society. Article 25 (1) of the state constitution states that all the citizens of Pakistan will have equal rights of protection under the law. Article 25 (2) further adds that there will be no discrimination on the basis of color creed and sex among the citizens. Constitution also guarantee the principles of the policy section that all women will have the same opportunity in all sphere of national life. (Haq, 1979)

Zia's Regime and the Question of Women's legal Rights

General Zia-ul-Haq suspended the constitution of 1973 when came into power in 1977. He tried to restructure Pakistan's national identity and further marginalized women in their personal and professional lives. On 2nd February, the elections of 1979 were delayed by Zia ul Haq on the pretext to make all the existing laws of the country according to Islamic prospects, and to introduce an Islamic system in the country. By doing so General Zia antiquated the democratically established "Council of Islamic Ideology", having the purpose to define Islamic laws in Pakistan. The Hudood Laws signaled as the basis of Zia's new authorized system but principally just a new code for social legislation precisely concentrated on instigating penalties for those criminalities which are clearly elucidated in *sharia*, just like the ingesting of intoxicants and thieving

of private property, and the commencing of adultery. The last element caught the most intense attention because of two reasons, firstly, the laws prevailing made no legal variance between rape and adultery, and second, its structure of execution, victimized women. (Mustafa, 2007)

Due to its controversial nature, the Hudood Laws were criticized on many international forums. Later on in 2002, one of the US State's departments, report on the concerned issue summarized that, the Hudood ordinance charged women commonly for sexual misconduct and it deterred false accusation due to which the implementation of this ordinance was considered against women empowerment. In the Hudood ordinance majority of adultery, cases are presented without evidence. Data collected by the US state department shows that in the year 1998, thirty percent of female were awaiting for their trial for adultery in jails in Peshawar, Lahore, and Mardan. (US. Department of State, Country Reports on Human Rights Practices 2002)

Pakistan tried to focus on women empowerment in the 1990s, primarily to impress the international community. In 1993, Pakistan signed the Vienna Declaration, which was primarily meant to recognize the issues of women rights as fundamental human rights. In 1994, Pakistan appointed a "high-powered commission" to evaluate the country's laws as a footstep in the way to culminate the uncultured discriminations counter to women's empowerment. The consequential Report deliberately considered the circumstances inappropriate that triumphed for the female of the country at that time, it asserted that The misconceptions of the west about the status of women in Sharia is not justified in any circumstances and this distortion has not spread only in common people but even the intellectuals of the Muslim world also believe that. In their opinion Islam accord an inferior position to women as compared to men due to which they are confined inside the four walls of the house. Their inferior position restrain them from taking up of economic opportunities and acquisition of modern education. It is also believed that the name of Islam is being used by the state authorities and traditionalists to justify customary laws against women keeping them in the status of second-class citizens. There is a need of interpretation for the customary laws to differentiate it from Islamic sharia and state owned legislation. Although the commission brought certain ambiguities to the surface, however, little effort was put in to correct it by the Benazir Bhutto and Nawaz Sharif governments. Benazir Bhutto was the first-ever female Premier of any Muslim country in the world; she was expected to empower the women of Pakistan.

However, things happened contrary to the expectations, when she ignored the question of repealing Hudood laws. The little she did was to release a limited number of already sentenced women under the Hudood laws. However, nothing was done for the women who were in prisons awaiting their trials. (*Dawn*, March 8, [2002](#))

Women's Rights 1999 Onward

Musharraf's government tried to rectify Pakistan's image on the international forum by passing these laws. However, the response of the opposition Islamist parties was not favorable. The Islamist parties led by Jamat Islami started a commotion against these acts. They charged that adultery will be increased in the community in a result of repealing of Hudood laws and would further rise atrocity in Pakistan. They even claimed that through the act Musharraf regime is trying to westernize Pakistani society by directing the two-nation theory and Islamic ideology they are pushing the state to abandon Islamic laws in the name of progressive moderation just for the purpose to gratify the Western states. (*Dawn*, 5 September [2006](#))

On January 21, 2010, the National Assembly passed another important bill and contracted eight days later into proper law. This law provided Fortification against provocation for women at the Workplace, particularly in public places sexual abuse and harassment. Through a survey, the necessity for such fortification was accentuated in 2007, showing that the workplace harassment of employed women raised to seventy eight percent in one decade. In the case of domestic workers the ratio of sexual harassment increased to ninety one percent. It has been observed that every woman has been harassed at least once in public during their service. (*Daily News & Analysis*, December 3, 2007.) One of the most important requisite of the said legislation was the requirement for the establishment of an internal code of conduct in every public or private institution. The objective of the said mechanism is to provide a batter complaint and appeals system to establish a safe, working atmosphere, free of extortion and manipulation, for all workers. (Yousaf, 2009)

In 2011, two other bills of great significance were passed by the National Assembly to empower the women of Pakistan by abandoning the evil costumes of marrying women in consideration of settling a dispute between families or tribes (*Swara* and *Wani*), and other anti-women practices like marrying women to Qur'an, to avoid giving them share in inheritance. The Acid-Throwing bill was the second legislation of that time that specified punishment for instigating impairment or deformity by using a "scarring element," punishable

by long detention and heavy penalties. The promotion of the National Commission on the Status of Women (NCSW) in February, 2012 was considered another important piece of legislation that perhaps made the extreme modification of all to affect women's constitutional and civil rights and authorize them in the forthcoming scenario. This commission was given better executive autonomy to evaluate existing legislation, make endorsements, intermingle with provincial governments, and equalizing the influence of women's rights.

The Anti-Rape Laws (Criminal Laws Amendment Bill, [2013](#)) and The Criminal Laws Amendment Bill, 2014 was also promulgated in 2015. The first one relates to the consolidation of Pakistan Penal Code Anti Rape Provisions. The second bill attempted to eliminate key legal breaches in the Penal Code with respect to honor killing crimes. Both the bills were passed by the Senate unanimously in March 2015, and after the approval of the National Assembly, become acts in 2016. In 2018 The Women in Distress and Detention Fund (Amendment) Act, was Publicized to operationalize the Fund. Till 2018 due to the least interest of the authorities not a single meeting could be held to utilize this fund although it was established originally in 1996. (Ministry of Human Rights, Government of Pakistan report, [1997](#))

International bodies are also functioning in companionship with Pakistan for the same agenda of women empowerment. United Nations (UN) is enthusiastically functioning on women empowerment by trying to interrupt the limitations constraining women's empowerment. According to United Nations Population Fund In Pakistan Vision 2025 five modules of women's emancipation has been entrenched as its objectives, these objectives are comprised of activities that encourage women's self-esteem, access to different resources and livelihood opportunities, right to express their choices, in the internal and external sphere of their houses the have their full authority to control their lives and capability to impact social change (Women's Empowerment, n.d).

To assure the state's commitment of acquiring gender equality, The international day of girls child's was celebrated by the Ministry of Human Rights on 11th October, 2019, on that day truck art was used for encouragement and consciousness on the importance and protection of girls child rights. Most recently the Protection against Harassment of Women at the Workplace (Amendment) Bill, 2022, enacted on 14th January includes a clear description of harassment. This Bill focuses on gender discrimination, which may or may not be sexual in nature. However, it is the important parameter for state to introduce laws that

endorse women's rights. The main problem that is hindered in attaining women empowerment is the ambiguous and complex mindset of Pakistan's traditional society coupled with narrow interpretation of Islam. (United States Institute of Peace, [2012](#))

Conclusion

The gender equality ensured in the constitution of 1973 and the subsequent laws passed by Pakistan's parliament relating to women's legal rights, declared that discrimination against women in Pakistan is not due to flaws in legislation on constitutional level. However we can observe that the real challenge comes while implementing those laws. The key point is this that Pakistani society is less knowledgeable regarding the importance of how much women contribution is viable for a sustainable society. The only way through

which women empowerment could be achieved is to address ways to implement the pro-women laws in its complete essence, enlighten Pakistani society and to bring together advocates from the all field of life from the entire state of Pakistan. We have to diminish distance between the two groups of promoters, The first group who advocating universal rights for women and the second group who has closer observance to Islamic dictums to find out opportunities not only to benefit Pakistani women but to create a harmony on women's rights throughout the Islamic world. In legitimate way empowering women in Pakistan today is a vital condition to secure a healthy, affluent and justifiable future for the state citizen's overall. However, the true implementation of such policies requires substantial investment in educating and enlightening Pakistani society, if it could not happen, the gender equality would only be a daydream for Pakistan.

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