

FEMINISM AND THE PRACTICAL VS LEGAL STATE OF WOMEN IN PAKISTAN

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ABSTRACT

Women in Pakistan have a disadvantaged position in the society. Whether one considers familial and interpersonal relationships, the participation and representation of women in the public sphere, women's access to education and employment opportunities or the extent to which they are protected from violent crimes such as rape, domestic violence, or harassment etc., it would seem that the state of women in Pakistan is deplorable. Attempts to empower women are resisted by religious and cultural interpretations of women's role and position in society, as well as misinterpretations of religious principles and misogynistic attitudes towards women. Furthermore, feminism is perceived as a western concept that will break down the religious and moral fabric of the society and is often confused with misandry. Lack of knowledge of feminism and misunderstandings about the concept have resulted in a lot of opposition towards any local feminist movements and the ideas that feminists attempt to promote.

Therefore, this essay attempts to briefly explain the three waves of feminism and the various rights that these movements have focused on. It then examines the state of women's rights in Pakistan, including the right to vote, the right to political representation and the right to use birth control. It explores the restrictions on women's access to education and employment as well as the roles that are attributed to women by society and the way they contribute to the exploitation of women. The essay further focuses on the issue of violence against women and the intersectional dimension of women's lives. The essay also focuses on the ways that women in Pakistan can be empowered and identifies changes in legislation and societal attitudes as well as proper administration of justice as viable solutions to improving women's condition in Pakistan.

INTRODUCTION

Women have been subjugated in society since the beginning of time. It was only in the 20th century that women began to voice opposition against this subordination and to fight for their rights. This activism was prompted as a result of the Second World War, when women were employed in the millions in order to fill the vacancies that had been created because of the men leaving for the war.¹ Having experienced economic self-sufficiency and

¹Annette McDermott, 'How World War II Empowered Women' (*History*, 2 July 2018) <www.history.com/news/how-world-war-ii-empowered-women> accessed 9 March 2019

freedom, women refused to return to their former status in society following the end of the Second World War and thus began the fight for female empowerment.

The fight for women's rights can be divided into three waves based on the categories of rights that the feminist movement was fighting for during particular time periods. This essay will attempt to discuss the position of women in the Pakistani society in light of the three waves of feminism. This will be done by looking at a number of broad themes including political rights and representation, violence against women, the position of women in the family and gender roles as well as intersectionality. This essay will attempt to determine the extent to which women have been successful in achieving the rights falling under the said themes and will examine the measures that can be taken to further improve their position in society.

1. THE THREE WAVES OF FEMINISM

First-wave feminism was a feminist movement spanning over the 19th and early 20th centuries. Based on ideas of liberty and individual autonomy, the movement was mainly concerned with the advancement of contractual and property rights for women so as to place them on an equal footing with men.² The movement was also intended to attain other civil rights for women, including equal rights to education, health care and employment.³ During the late 19th century, the focus of the movement shifted towards the promotion of the political right to suffrage for women.

The right to vote came to the forefront following the Declaration of Sentiments, a document based on the Declaration of Independence having the objective of achieving the same rights for women as for men. In addition to focusing on the right to vote, the document objected to a number of inequalities and injustices perpetrated against women, such as unequal employment opportunities, including lower wages for women and exclusion from certain

² Sally Ann Drucker, 'Betty Friedan: The Three Waves of Feminism' (Ohio Humanities, 27 April 2018) <www.ohiohumanities.org/betty-friedan-the-three-waves-of-feminism/> accessed 20 February 2019

³ Dana Bisignani, 'History of Feminism in the U.S.: The First Wave' (The Gender Press, 23 January 2015) <<https://genderpressing.wordpress.com/2015/01/23/feminism-the-first-wave-2/>> accessed 20 February 2019

professions such as theology, medicine and law as well as exclusion from higher education.⁴ The movement was successful and resulted in the grant of the right to vote for women.⁵

Another focus of the movement was reproductive rights, in particular, the right to use birth control. The birth control movement was led by Margaret Sanger in 1916⁶ and it was not until the US Supreme Court's decision in 1965 that women were granted the right to use birth control.⁷

Second-wave feminism, occurring in the 1960s-80s,⁸ was concerned with various aspects of women's lives such as private life, professional life, sexuality, and public life (in particular, politics).⁹ It focused on issues such as violence against women, including domestic abuse and rape, workplace safety and sexual harassment, pornography, prostitution,¹⁰ reproductive rights,¹¹ "equality and discrimination".¹²

Some feminists from the second wave perceive men as the oppressors of women and identify patriarchy as the root cause of women's subordination. According to Catharine MacKinnon, the "reality of social life is a gender hierarchy of men's power and domination

⁴ Jone Johnson Lewis, 'Seneca Falls Declaration of Sentiments: Women's Rights Convention 1848' (*ThoughtCo.*) <www.thoughtco.com/seneca-falls-declaration-of-sentiments-3530487> accessed 8 March 2019

⁵ Sally Ann Drucker, 'Betty Friedan: The Three Waves of Feminism' (Ohio Humanities, 27 April 2018) <www.ohiohumanities.org/betty-friedan-the-three-waves-of-feminism/> accessed 20 February 2019

⁶ Constance Grady, 'The waves of feminism, and why people keep fighting over them, explained' (*Vox*) <www.vox.com/2018/3/20/16955588/feminism-waves-explained-first-second-third-fourth> accessed 8 March 2019

⁷ Jeff Nilsson and Steven M. Spencer, '1965: The Birth Control Revolution' (*The Saturday Evening Post*, 31 December 2015) <www.saturdayeveningpost.com/2015/12/50-years-ago-the-birth-control-revolution/> accessed 8 March 2019

⁸ *ibid.*

⁹ Elinor Burkett, 'Women's rights movement' (Britannica, 20 July 1998) <www.britannica.com/topic/womens-movement> accessed 20 February 2019

¹⁰ Rosemary Hunter, 'Contesting the Dominant Paradigm: Feminist Critiques of Liberal Legalism' in Margaret Davies and Vanessa E. Munro (eds), *The Ashgate Research Companion to Feminist Legal Theory* (Ashgate 2014)

¹¹ Tara Anand, 'A Brief Summary of The Second Wave of Feminism' (FEMINISM IN INDIA (FII), 25 April 2018) <<https://feminisminindia.com/2018/04/25/summary-second-wave-of-feminism/>> accessed 20 February 2019

¹² Sally Ann Drucker, 'Betty Friedan: The Three Waves of Feminism' (Ohio Humanities, 27 April 2018) <www.ohiohumanities.org/betty-friedan-the-three-waves-of-feminism/> accessed 20 February 2019

and women's subordination and submission, imposed by force and marked in particular by men's control over, appropriation and objectification of women's sexuality".¹³

Catharine MacKinnon argues that violence, especially sexual violence, is fundamental to substantiating and maintaining men's superiority over women. MacKinnon believes that violence against women is a manifestation of patriarchy and is "systemic and systematic, reflecting and perpetuating a social structure within which men"¹⁴ have authority over women. For MacKinnon, sexuality is the "lynchpin"¹⁵ for male domination, "that which is most one's own, yet most taken away".¹⁶

Other feminists highlight different reasons for the disadvantaged position of women in society. According to Martha Fineman, everyone is dependent at some point in their life or another, be it during infancy/childhood, illness, or old age. However, the caring responsibility towards dependents, whether young or old, falls disproportionately on women and is devalued. Owing to the "universal dependency"¹⁷ of human beings, caring for dependents is a responsibility that needs to be shared. Furthermore, more importance should be attached to the duty of caretaking for dependents and it should be adequately resourced.¹⁸ Such feminists also insist upon attaching the same importance to women's labour, such as parenting, as men's and upon remunerating women for the duties they perform at home.¹⁹

Third wave feminism originated in the middle of the 20th century.²⁰ It is characterised by a shift from "totalizing and unifying"²¹ categorization of women towards the notion that

¹³ Rosemary Hunter, 'Contesting the Dominant Paradigm: Feminist Critiques of Liberal Legalism' in Margaret Davies and Vanessa E. Munro (eds), *The Ashgate Research Companion to Feminist Legal Theory* (Ashgate 2014)

¹⁴ Vanessa E. Munro, 'Violence Against Women, 'Victimhood' and the (Neo) Liberal State' in Margaret Davies and Vanessa E. Munro (eds), *The Ashgate Research Companion to Feminist Legal Theory* (Ashgate 2013)

¹⁵ *ibid.*

¹⁶ *ibid.*

¹⁷ Rosemary Hunter, 'Contesting the Dominant Paradigm: Feminist Critiques of Liberal Legalism' in Margaret Davies and Vanessa E. Munro (eds), *The Ashgate Research Companion to Feminist Legal Theory* (Ashgate 2014)

¹⁸ *ibid.*

¹⁹ Jone Johnson Lewis, 'Cultural Feminism: What Is the Essence of Being a Woman?' (*ThoughtCo.*) <www.thoughtco.com/cultural-feminism-definition-3528996> accessed 5 March 2019

²⁰ Laura Brunell and Elinor Burkett, 'Feminism' (*Britannica*) <www.britannica.com/topic/feminism> accessed 22 February 2019

women's lives are "intersectional".²² Therefore, in order to liberate women, grounds of social exclusion or discrimination other than gender need to be taken into account, including, "race, ethnicity, class",²³ creed, nationality, culture, sexual orientation²⁴ and disability.

Third-wave feminists criticised the earlier waves of feminism as focusing primarily on "the lives of white middle-class women"²⁵ and not taking into account the experiences of women belonging to racial minorities. According to third-wave feminists, multiple systems of domination, as opposed to gender alone, are at play to produce inequalities in society.²⁶ The term 'matrix of domination', coined by feminists such as Patricia Hill Collins, Bonnie Thornton Dill and Maxine Baca Zinn, represents the idea that no understanding of oppression is complete devoid of a comparison with privilege. The concept recognises that the existence of oppression is attributable to privilege and that all human beings are privileged in one way or another. Therefore, an educated, able-bodied black gay man, while oppressed on the grounds of colour and sexual orientation, is privileged on the grounds of education and lack of disability.²⁷

2. POLITICAL RIGHTS AND REPRESENTATION

Women in Pakistan have been granted numerous civil rights and liberties by virtue of the Constitution of Pakistan. These include, amongst others, the freedom of assembly,²⁸ the right to form associations and unions,²⁹ the freedom of speech and expression³⁰ etc., and notably, the right to vote.

²¹ Imelda Whelehan, *Modern Feminist Thought: From the Second Wave to "Post-Feminism"* (New York University Press 1995)

²² Sally Ann Drucker, 'Betty Friedan: The Three Waves of Feminism' (Ohio Humanities, 27 April 2018) <www.ohiohumanities.org/betty-friedan-the-three-waves-of-feminism/> accessed 22 February 2019

²³ *ibid.*

²⁴ April Demarco, 'What Is Third Wave Feminist Movement?' (VIVA) <<https://viva.media/what-is-third-wave-feminist-movement>> accessed 22 February 2019

²⁵ Maxine Baca Zinn and Bonnie Thornton Dill, 'Theorizing Difference from Multiracial Feminism' (1996) Vol. 22 No.2 *Feminist Studies* <www.jstor.org/stable/3178416?read-now=1&seq=1#page_scan_tab_contents> accessed 9 March 2019

²⁶ *ibid.*

²⁷ 'History of the Matrix' (*George Mason University, Women and Gender Studies*) <<https://wmst.gmu.edu/center/publications>> accessed 9 March 2019

²⁸ The Constitution of the Islamic Republic of Pakistan 1973, Article 16

²⁹ The Constitution of the Islamic Republic of Pakistan 1973, Article 17 (1)

Women are also entitled to political representation in Pakistan. The Constitution gives women “the right to form or be a member of a political party”³¹ and also ensures the membership of women in the National³² and Provincial³³ Assemblies by providing for the reservation of a certain number of seats in such Assemblies for women.

However, as we shall see, not all is well when one considers the state of women in Pakistan in light of the advancements sought by first-wave feminists. The very need for reserving seats for women in the Provincial and National Assemblies shows that women in Pakistan do not have equal political representation. As far as the right to vote is concerned, while it has been guaranteed to people of both sexes by virtue of the Constitution, millions of women who would otherwise be eligible to vote are unable to cast votes for lack of Computerised National Identity Card (CNICs). CNICs are a precondition for enrolment in the voters’ list. Accordingly, absence of the same deprives women of their constitutional right to vote in Pakistan. According to statistical data, the gap between male and female registered voters in Pakistan “increased from 10.97 million in March 2013 to 12.17 million in September”³⁴ 2017 and is expected to widen in the future.

Pakistan is a Muslim-majority state. The Constitution provides that Islam is the state religion.³⁵ In Pakistan, religious views that vary across schools of thought become a barrier in the way of certain rights of women. Hence, the empowerment of women in Pakistan necessitates a reinterpretation of the relevant religious teachings.

One of the most important rights for women, which is affected by religious sentiments is the right to work. Islam has laid down the rights and obligations of the husband and the wife. In light of the traditional roles of the husband and wife in Islam, the concept of the reciprocal

³⁰ The Constitution of the Islamic Republic of Pakistan 1973, Article 19

³¹ The Constitution of the Islamic Republic of Pakistan 1973, Article 17 (2)

³² The Constitution of the Islamic Republic of Pakistan 1973, Article 51 (1)

³³ The Constitution of the Islamic Republic of Pakistan 1973, Article 106 (1)

³⁴ Irfan Ghauri, ‘12 million eligible female voters may not be able to cast vote for want of CNIC’ (*The Express Tribune*, 29 November 2017) < <https://tribune.com.pk/story/1571124/1-twelve-million-eligible-female-voters-may-not-be-able-cast-vote-want-cnlic/> > accessed 8 March 2019

³⁵ The Constitution of the Islamic Republic of Pakistan 1973, Article 2

duties of the provision of maintenance by the husband and the obedience by the wife emerged in Islamic law. The notion of obedience requires the wife not to leave the matrimonial home without the husband's permission. Therefore, a Muslim wife may be prevented from seeking or continuing her employment by her husband and her failure to comply with his wishes may deprive her of her entitlement to maintenance. Similarly, the husband also has the authority to prevent his wife from continuing her education.

As Islamic law is applicable in Pakistan and the vast majority of Pakistani citizens are subject to Islamic laws, the concept of obedience of wives in Islamic law has adversely affected women's rights to education and employment. Apart from religious laws and views, cultural values also dictate that a woman should be subservient and obedient to her husband and prioritize her family over her career, thereby impacting women's prospects of employment and attaining higher education following marriage. Statistics provide that only 32% of women acquire intermediate or higher education.³⁶ A 2013 Report of the World Bank reveals that women comprise only 28% of the entire workforce in Pakistan.³⁷

How can religious and cultural barriers to women's rights to education and employment be removed? The solution lies in challenging the relevant provisions of Islamic law on the basis that it is opposed to Islamic principles, followed by a change in the law. While Islamic law provides for the corresponding duties of the husband and the wife, there is no authoritative Islamic principle that suggests that these rights are reciprocal and that if the husband or wife refuses to perform his or her duties, the other spouse may not carry out the duty that is required of him/her by Islam.

The husband-wife relationship is only one example of the familial relations governed by Islam. In addition to setting out the rights and duties of the husband and wife, Islam deals with the parent-child relationship, and also elaborates upon the manner in which Muslims are supposed to treat their relatives, the poor, the needy, orphans, widows, travelers etc. In Islam, the father is required to maintain his children, and children are required to obey both

³⁶ Hadia Majid, 'Where are the women?' (*Dawn*, 23 January 2017) <<https://www.dawn.com/news/1310070>> accessed 8 March 2019

³⁷ Iram Moazzam, 'Is marriage the end to my career?' (*The Express Tribune*, 3 June 2013) <<https://tribune.com.pk/story/556543/is-marriage-the-end-to-my-career/>> accessed 7 March 2019

parents and treat them with respect. If a child is disobedient or rebellious, should that be a sufficient ground to relieve the father of his liability to maintain the child? Certainly not. The rights and duties of a husband and wife are not reciprocal, and while a wife's refusal to perform her duties towards her husband, or her 'disobedience', would definitely constitute the breach of a religious obligation, it should not serve as a ground for the denial of her legal right to maintenance. Consequently, the law needs to be amended and clearly provide that a wife's right to maintenance is not dependent on her duty to obey her husband.

There is also an alternate solution to this issue. The Muslim marriage contract, *nikah*, is a civil contract between the husband and the wife which allows either party to insert whatever conditions or stipulations he/she may wish to add to the marriage contract. In Pakistan, clause 17 of the *Nikahnama* (the written marriage contract) provides the right to add such conditions. Therefore, a wife may stipulate that she cannot be prevented from continuing her education and also that her husband shall be obliged to bear all the expenses of her education. Furthermore, she may insert a condition relating to her right to work in the marriage contract. In such circumstances, the wife would be entitled to continue her education and/or her employment and would not lose her right to maintenance if her husband later objects to the exercise of such rights.

In practice, most people are unaware of their right to add conditions of their choice to the marriage contract and consequently stipulations are hardly ever inserted in the *Nikahnama*. In fact, clause 17 itself is usually struck out by a *maulvi* (a religious personality present at the time of the conclusion of the marriage contract) before either party has had the chance to include any conditions in the marriage contract.³⁸ Therefore, it is necessary to educate the general populace of their right to add such conditions to the marriage contract and to prevent *maulvis* from striking out clause 17, or rather any clause, from the *Nikahnama*.

In order to prevent *maulvis* from doing so, the Parliament may introduce legislation making it illegal for any person other than the contracting parties themselves or their attorneys to

³⁸ Sumayah Hasan, 'Nikah Nama: All You MUST Know About the Most Important Contract of Your Life' (Super Sumayah, 11 June 2017) <<https://supersumi.me/home/2017/6/11/nikah-nama-all-you-must-know-about-the-most-important-contract-of-your-life>> accessed 27 November 2019

strike out any stipulations from the *Nikahnama*. Parliament should impose penal sanctions on those who breach the legal provision. Conversely, Parliament may also introduce a new standard *Nikahnama* that compulsorily incorporates the right to education and the right to work for the wife after marriage or legislation curtailing the right of the husband to prevent his wife from studying or working.

As far as birth control is concerned, while women in Pakistan do have the right to use birth control, the use of contraceptives remains low. The Pakistan Demographic and Health Survey (2012-13) provides that over 30% of married women in Pakistan use some sort of contraception and that 26% of such women utilise latest contraceptive methods.³⁹ One factor that prevents women from using contraceptive methods is religious belief. According to the Pakistan Demographic and Health Survey of 1990-91, religion was the reason behind approximately 13% of women and 18% of husbands refusing to use contraception. When questioned about ‘the ideal number of children’, around 60 percent of married men and women replied with “up to God”.⁴⁰ Therefore, there is a dire need to challenge the association of religious beliefs with the use of birth control in Pakistan and to encourage family planning.

3. SUBORDINATION AND OPPRESSION OF WOMEN

Pakistan is a patriarchal society, with men enjoying considerable privilege, power and control as compared to their female counterparts. Providing for the maintenance of the wife and children is considered to be the responsibility of the man of the family, both from a religious and cultural standpoint. As it is the husband/father who has to provide for the family, he has the authority to make decisions concerning the family. The position does not change even where it is the women of the family who are partly, or even entirely, contributing to the expenses of the family. Furthermore, due to the cultural notion of ‘obedience’ of wives, husbands are able to exercise considerable authority over the lives of women.

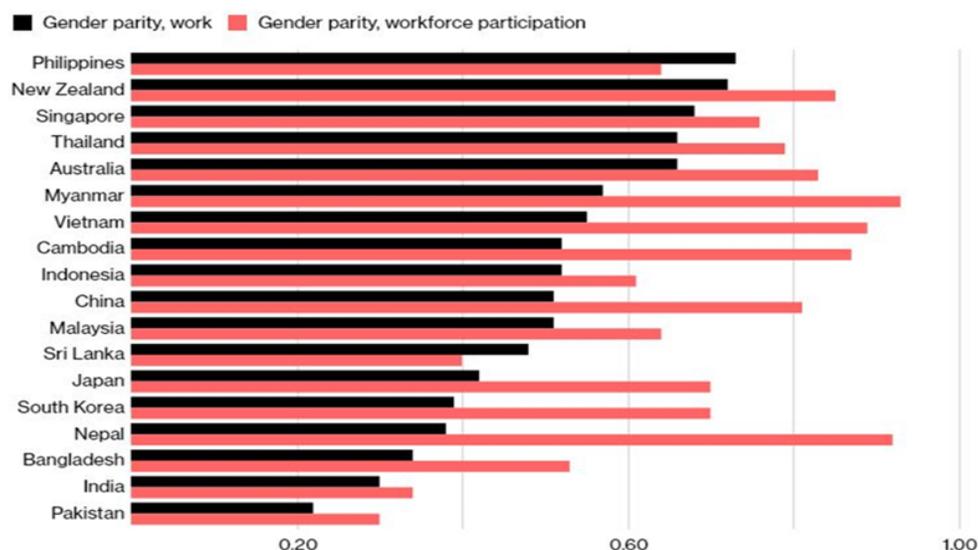
³⁹ National Institute of Population Studies, ‘Pakistan Demographic and Health Survey 2012-13’ (December 2013) <www.nips.org.pk/abstract_files/PDHS%20Final%20Report%20as%20of%20Jan%2022-2014.pdf> accessed 8 March 2019

⁴⁰ Naushin Mahmood and Karin Ringheim, ‘Factors Affecting Contraceptive Use in Pakistan’ (1996) 35:1 The Pakistan Development Review <<https://core.ac.uk/download/pdf/7199628.pdf>> accessed 8 March 2019

Women suffer in the public domain too. According to the World Economic Forum's (WEF's) Global Gender Gap Report 2016, Pakistan ranked 143rd on both economic participation and opportunity.⁴¹ According to a Report of the International Labour Organization, Pakistan had the lowest percentage of women at middle and senior managerial levels (with only 3% of women being managers by occupation).⁴² In a research by McKinsey Global Institute of 18 countries belonging to the Asia-Pacific region, Pakistan stood last, with a score of 0.20 on a scale of 0-1, with 0 standing for gender inequality and 1 for gender parity.⁴³

Women at Work

Getting more women in the labor force is a necessary, but insufficient, ingredient for workplace gender parity across Asia-Pacific economies, McKinsey data show



Source: McKinsey Global Institute

Note: Scores measured on a scale of 0 to 1; 0 is no gender equality and 1 is parity.

Figure 1⁴⁴

Women in Pakistan are also subjected to gruesome acts of violence and suppression such as domestic violence, sexual abuse (including sexual harassment, rape, marital rape and gang

⁴¹ 'Gender inequality in Pakistan' (*Daily Times*, 26 October 2016) <<https://dailytimes.com.pk/49828/gender-inequality-in-pakistan/>> accessed 27 February 2019

⁴² 'Women in Business and Management: gaining momentum (Abridged Version of the Global Report)' (*International Labour Organization*, 2015) <https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_334882.pdf> accessed 1 March 2019

⁴³ Wajiha Hyder, 'Pakistan at bottom in gender equality at work index' (*Pakistan Today*) <<https://www.pakistantoday.com.pk/2018/04/25/pakistan-at-bottom-in-gender-equality-at-work-index/>> accessed 1 March 2019

⁴⁴ *ibid.*

rape), acid attacks, honour killings, child marriages and customs such as *wani* or *swara*⁴⁵ whereby women are given in marriage as punishment for crimes committed by male members of their families. Forced marriages are not limited to customs like *wani* and *swara* and may include the marrying of a woman to the Holy Quran, giving of a woman in marriage as payment of a debt, forced marriages following abductions, marriage of women to their rapists, forced conversions of Hindu or Christian women followed by a forced marriage or simply compelling women to marry against their wishes.

Furthermore, the perpetrators of these acts are usually men. As far as domestic violence is concerned, although women may also be responsible for domestic violence against other women (for instance, mothers-in-law may be perpetrating violence against their daughters-in-law), domestic violence is an offence usually committed by men. A survey revealed that “the husband, father and brother of the victim are most often the perpetrators of”⁴⁶ domestic violence. The decisions of *swara* are pronounced by tribal councils called *jirgas* in order to settle feuds between families. Such *jirgas* comprise only male members of the village or community.⁴⁷ Tribal councils are also responsible for pronouncing other anti-women decisions and subjecting them to derogatory and inhuman treatment as punishment for the commission of crimes such as parading women naked around their village or having them gang raped. In this way, women are punished *by men* for crimes committed *by other men*. Women may also be subjected to such cruel treatment as punishment for their own ‘crimes’. For instance, a married woman in Tandlianwala, Faisalabad, was gang raped by members of the village council as punishment for marrying without her father’s consent.⁴⁸ It is pertinent to note that while Islamic law requires the consent of a woman’s guardian (who is usually the father) in order for her marriage contract to be valid, the consent of the guardian is no longer a legal requirement for the validity of a woman’s marriage in Pakistan.

⁴⁵ Zafar Ali Usafzai, ‘Swara: The Price of Honour’ (Khyber.Org, 20 February 2004) <www.khyber.org/culture/a/Swara_The_Price_of_Honour.shtml> accessed 1 March 2019

⁴⁶ Zainab Shahid, ‘Domestic Violence Against Women in Pakistan’ (Social Enterprise Development Centre, LUMS) <https://sedc.lums.edu.pk/sites/default/files/user376/domestic_violence_against_women_in_pakistan.pdf> accessed 1 March 2019

⁴⁷ *ibid.*

⁴⁸ ‘Jirga rape case’ (*Dawn*, 31 December 2017) <www.dawn.com/news/1379830> accessed 1 March 2019

Hundreds of women and girls in Pakistan are killed in the name of ‘honour’ on an annual basis. In Pakistan, “women and girls are seen to embody family honour”.⁴⁹ Therefore, a woman seen to be bringing shame to her family, for example by having a premarital affair, is punished brutally. In Pakistan, the number of such decisions being pronounced on an annual basis ranges from approximately 900 to slightly over 1,000. However, these statistics may not be a true reflection of reality as they are based only on the data collected by human rights organisations or by law enforcement agencies or the media⁵⁰ and cannot account for cases that go unreported.

While men may also be victims of honour killings, such atrocities are more often directed towards women. For instance, in 2015, about 1100 women in Pakistan were killed in the name of honour as compared to 88 men.⁵¹ Furthermore, such killings are usually carried out by male members of the victim’s family, such as brothers, fathers and husbands.⁵² The Annual Report of the Human Rights Commission of Pakistan of 2011 provides that:

“at least 943 women were killed in the name of honour, of which 93 were minors. The purported reasons given for this were illicit relations in 595 cases and the demand to marry of their own choice in 219 cases. The murderers were mostly brothers and husbands, in 180 cases the murderer being a brother and in 226 cases being the husband of the victim...”⁵³

Of all the atrocities that women in Pakistan are subjected to, acid attacks are perhaps the most barbaric. Statistics provide that a minimum of 400 acid throw incidents occur every year in Pakistan, and that 80% of the time, the victims of such attacks are women.⁵⁴ The reasons for such attacks may include women refusing marriage proposals, women ‘accusing’

⁴⁹ Mustafa Qadri, ‘Shocking: Surge of Honor Killings in Pakistan’ (*Amnesty International*) <www.amnestyusa.org/shocking-surge-of-honor-killings-in-pakistan/> accessed 2 March 2019

⁵⁰ *ibid.*

⁵¹ ‘Pakistan honour killings on the rise, report reveals’ (*BBC News*, 1 April 2016) <www.bbc.com/news/world-asia-35943732> accessed 2 March 2019

⁵² Muhammad Azam Chaudhary, ‘Interpreting Honour Crimes in Pakistan: The Case Studies of the Pukhtun and the Punjabi Societies’ (2014) vol. 109 no. 1 *Anthropos* <www.jstor.org/stable/43861694> accessed 2 March 2019

⁵³ State of Human Rights in 2011 (Annual Report 2011, Human Rights Commission of Pakistan 2012)

⁵⁴ ‘Acid attacks’ (*Dawn*, 21 April 2018) <www.dawn.com/news/1402938> accessed 2 March 2019

men for harassment, family disputes,⁵⁵ or any action of a woman that may have “provoked patriarchy”.⁵⁶ Acid attacks are also usually carried out by male relatives of the victim.⁵⁷

As far as sexual abuse is concerned, statistics provide that 70% of females in Pakistan experience some form of “physical or sexual violence”⁵⁸ during their lives by sexual partners while “93% of women experience some form of sexual violence in public places in their lifetime”.⁵⁹ According to Muhammad Ali Bilgrami, the General Manager of Madadgaar National Helpline 1908, of all the cases that were reported through the helpline, “the highest percentage of victims was that of women at 56%”.⁶⁰ Perpetrators of sexual abuse, too, are usually men.

In Pakistan, the offence of rape has been defined in section 375 of the Pakistan Penal Code (PPC), which has been reproduced below:

“375. Rape:- A man is said to commit rape who has sexual intercourse with a woman under circumstances falling under any of the five following descriptions: (i) against her will; (ii) without her consent; (iii) with her consent, when the consent has been obtained by putting her in fear of death or of hurt; (iv) with her consent, when the man knows that he is not married to her and that the consent is given because she believes that the man is another person to whom she is or believes herself to be married; or (v) with or without her consent when she is under sixteen years of age.

Explanation: Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape”.⁶¹

⁵⁵ ‘Woman dies, three family members hurt in acid attack in Gojra’ (*Business Recorder*, 14 September 2018) <<https://fp.brecorder.com/2018/09/20180914407653/>> accessed 2 March 2019

⁵⁶ ‘Acid attacks’ (*Dawn*, 21 April 2018) <www.dawn.com/news/1402938> accessed 2 March 2019

⁵⁷ *ibid.*

⁵⁸ Mudaser Kazi, ‘93% of Pakistani women experience sexual violence’ (*The Express Tribune*, 8 March 2017) <<https://tribune.com.pk/story/1348833/93-pakistani-women-experience-sexual-violence/>> accessed 2 March 2019

⁵⁹ *ibid.*

⁶⁰ *Ibid.*

⁶¹ Pakistan Penal Code (Act XLV of 1860), s 375

Previously, the offence of rape was dealt with under the Offence of Zina (Enforcement of Hudood) Ordinance, 1979, which limited rape to sexual intercourse with a woman or man to whom the accused was not validly married. Therefore, the express exclusion of the words “is not validly married” in the PPC suggests that the provision is not limited to rape outside of wedlock⁶² and the law now, in fact, criminalises marital rape. However, there is ambiguity as to the intended scope of the provision as there are no judgments of the higher courts on the matter. Recently, section 377 of the PPC, which deals with “unnatural offences” of a sexual nature, was invoked by a woman claiming marital rape.⁶³

While it is true that the laws on rape in Pakistan are flexible enough to include the offence of marital rape, section 375 of the PPC is not common knowledge and most of the population of Pakistan is unaware of the possibility of marital rape being penalised owing to ineffective interpretation of legislation by police officials and the judiciary. Furthermore, previous standards for what constitutes rape may prevent section 375 from being interpreted in a way that includes marital rape.⁶⁴

Notably, almost all kinds of violence against women as well as tribal customs and acts detrimental to women such as forced marriages, honour killings and *swara* have been criminalised by appropriate legislation in Pakistan. For instance, the Criminal Law (Second Amendment) Act, 2011 criminalises acid attacks while the Criminal Law (Amendment) (Offences in the name or pretext of Honour) Act, 2016 deals with honour killings.⁶⁵ However, such legislative provisions do not serve as a deterrent in the vast majority of cases and violence and cruelty against women is widespread.

⁶² The Legal Brief, ‘Rape Laws in Pakistan’ (*Lawyer Readia*, 20 February 2015)
<<https://lawyereadia.wordpress.com/2015/02/20/rape-laws-in-pakistan/>> accessed 4 March 2019

⁶³ ‘Woman files case of ‘marital rape’ against husband’ (*The News*, 16 September 2018)
<www.thenews.com.pk/print/369113-woman-files-case-of-marital-rape-against-husband> accessed 4 March 2019

⁶⁴ Hamza Rao, ‘Marital rape: Is it criminalized in Pakistan?’ (*Daily Pakistan Global*, 31 August 2017)
<<https://en.dailypakistan.com.pk/opinion/blog/marital-rape-is-it-criminalized-in-pakistan/>> accessed 4 March 2019

⁶⁵ ‘Women’s Rights/Laws’ (The Punjab Commission on the Status of Women)
<https://pcsw.punjab.gov.pk/womens_rights> accessed 8 March 2019

How can women in Pakistan be liberated from such oppression and how can violence against them be minimised? First of all, we need to recognise the reason behind the law being an ineffective mechanism to prevent cruelty against women. The reason is, undoubtedly, the lack of implementation of the law and improper administration of justice. Therefore, the first remedy to ensure the protection of women in Pakistan is to strengthen the justice system. Local feminist movements also insist upon the proper implementation of laws relating to women's rights. One such movement is *Aurat March*. *Aurat March* was a rally held on International Women's Day in 2018 and subsequent 2019, in a number of cities across Pakistan in order to demand the protection of various women's rights.⁶⁶ Ensuring the implementation of the Protection against Harassment of Women at the Workplace Act 2010 was a part of the manifesto of the *Aurat March*.⁶⁷

However, other measures may also be adopted in order to prevent such acts from happening in the first place. Awareness campaigns and a change in societal attitudes and mindsets resulting from the education of children from an early age, both at the home and at school, about gender equality and about respecting the dignity and autonomy of other human beings are all necessary measures that need to be taken in order to ensure a more egalitarian society.

With respect to marital rape, it would seem that merely criminalizing marital rape would not be sufficient. Due to religious and cultural values, a majority of women in Pakistan believe that their consent to the marriage constitutes indefinite consent to sexual intercourse. While it is true that refusal of sexual intercourse by wives without any reasonable justification is chastised in Islam, it does not mean that women are incapable of denying consortium to their husbands and that there can be no concept of marital rape in Islam. Islam itself specifies situations in which sexual relations between a husband and wife are prohibited. For instance, a married couple is forbidden from having sexual intercourse while fasting, during the obligatory pilgrimage to Makkah (*Hajj*) and when the wife is menstruating. Anal sex is also prohibited by Islam. Furthermore, there are several situations in which refusal of sexual

⁶⁶ Javed Hussain and Nadir Guramani, 'Aurat March' being held across cities to mark International Women's Day' (Dawn, 8 March 2019) <www.dawn.com/news/1468350/aurat-march-being-held-across-cities-to-mark-international-womens-day> accessed 9 March 2019

⁶⁷ Asma Pervez and Sabahat Zakariya, 'Aurat March Demands' (*Facebook*, 22 February 2019) <www.facebook.com/auratmarchlahore/videos/310259319848263/> accessed 7 March 2019

intercourse may be deemed reasonable by the wife e.g. when she is unwell, has recently delivered a child or is pregnant. Why should forceful sexual intercourse not constitute marital rape in such situations and why, then, is the concept of marital rape considered incompatible with Islamic principles?

Islam requires Muslim men to treat their wives well and several ahadith exist on the matter. While refusing consortium to the husband is an undesirable act in Islam, Muslim women need to be educated about the fact that they are well within their power to do so and that their husbands should not be allowed to inflict harm upon them, whether physical, sexual, or psychological.

4. GENDER ROLES AND WOMEN'S UNPAID DOMESTIC LABOUR

Other second-wave feminists would be concerned with the stereotypical roles of men and women in Pakistani society and how they are detrimental to women. In Pakistan, cultural interpretations of the roles of men and women in society are largely based on their religious roles. Accordingly, men are considered to be the breadwinners of the family while women's duties are confined to the home. However, the duties of the wife are not limited to those established by religion. Women have to undertake additional responsibilities that are imposed upon them by the society. In Pakistan, the 'joint family system' is a common feature of family life. Accordingly, after marriage, a number of Pakistani women are required to live with other members of the husband's family, such as parents, brothers and their families, even though the concept of a 'Sharia dwelling' in Islam requires the husband to provide the wife with an accommodation that is free from other members of his family. According to a survey, 67% of Pakistani citizens preferred the joint family system over the nuclear family system. Furthermore, there was a greater preference for the joint family system among people from rural areas.⁶⁸

⁶⁸ PPI, 'Two-thirds of Pakistan prefers joint family system' (*The Express Tribune*, 6 October 2010) <<https://tribune.com.pk/story/59309/two-thirds-of-pakistan-prefers-joint-family-system/>> accessed 9 March 2019

Therefore, the wife's duties in a Pakistani household include not only household chores such as sweeping, laundering, dishes etc. and caring for her own children, but also for other relatives of the husband, especially his parents. The workload increases with the number of people in the household. Women are not remunerated for these duties and their labour goes underappreciated and undervalued.

How can the exploitation of women's labour in Pakistan be reduced or eliminated? In light of the views espoused by Martha Fineman, the solution lies in paying women for the work they do at home and also in creating a culture where men share, or take on equal, responsibility of the household and of the dependents in the family. This would not only prevent exploitation of women's labour, but also make taking on household responsibilities financially viable for women. According equal recognition to "women's domestic labour" as all other forms of paid labour was also one of the demands of the *Aurat March 2019*.⁶⁹ In order to empower women in Pakistan, it is necessary to change societal mindsets by challenging the notion that women are entirely responsible for duties concerned with the home and by teaching the youth that household responsibilities are to be shared.

5. INTERSECTIONALITY

Gender is one amongst numerous other factors that can disadvantage women (and individuals in general) in Pakistan. For instance, the socio-economic background or class of a particular individual is a very important contributor to their position in society.

The class of a particular individual can benefit or disadvantage them in many ways. For instance, in Pakistan, the class of an individual impacts their access to education. Children belonging to the lower strata of society are largely deprived of the right to education. At the Oslo Summit on Education and Development 2015, Pakistan was said to be "among the world's worst performing countries in education".⁷⁰ According to the manifesto of the government that came into power in 2018, approximately 22.5 million children do not attend

⁶⁹ Asma Pervez and Sabahat Zakariya, 'Aurat March Demands' (*Facebook*, 22 February 2019) <www.facebook.com/auratmarchlahore/videos/310259319848263/> accessed 7 March 2019

⁷⁰ "Shall I Feed My Daughter, or Educate Her?" Barriers to Girls' Education in Pakistan' (*Human Rights Watch*, 12 November 2018) <www.hrw.org/report/2018/11/12/shall-i-feed-my-daughter-or-educate-her/barriers-girls-education-pakistan#> accessed 27 February 2019

school. While an alarming number of children, regardless of gender, do not have access to education in Pakistan, it would seem that girls are in a worse position as compared to boys. 32% of girls discontinue education at the primary level in Pakistan as opposed to 21% of boys. 59% of girls stop attending school by grade six as compared to 49% of boys. By grade 9, the number of girls receiving an education amounts to 13%.⁷¹ In the WEF's Global Gender Gap Report 2016, Pakistan ranked 135th with respect to accessibility of education.⁷²

Similar to the case of education disparity, though poverty impacts access to health care facilities for both genders, statistics show that women are particularly discriminated against, especially women from the rural areas. According to a report of the World Health Organisation, there are huge health disparities “within and between the provinces along the lines of class, rural-urban divide, gender, caste and religion. With increasing poverty and high unemployment, people’s purchasing power with regards to healthcare is diminishing fast”.⁷³ The report also revealed that girls are at a greater risk of death in comparison to boys.

According to Dr Farzana Bari, chairperson of the Gender Studies Department Quaid-e-Azam University, the private sector accounts for 70% of health care in Pakistan.⁷⁴ However, owing to abject poverty in the country, such facilities can only be accessed by the relatively affluent people in the society and the majority has to rely on public health care facilities which are both inadequate and of a substandard quality.

Moreover, poverty itself impacts women more than it does men. Women constitute 70% of the total population of poor people in the world.⁷⁵ According to statistics, most of the people from the total world population of 1.5 billion “living on 1 dollar a day or less”⁷⁶ were

⁷¹ *ibid.*

⁷² ‘Gender inequality in Pakistan’ (*Daily Times*, 26 October 2016) <<https://dailytimes.com.pk/49828/gender-inequality-in-pakistan/>> accessed 27 February 2019

⁷³ ‘Discrimination: For women in rural areas, healthcare not a basic right’ (*The Express Tribune*, 7 July 2013) <<https://tribune.com.pk/story/573754/discrimination-for-women-in-rural-areas-healthcare-not-a-basic-right/>> accessed 6 March 2019

⁷⁴ *ibid.*

⁷⁵ ‘The Feminization of Poverty’ (*Mount Holyoke College*) <www.mtholyoke.edu/~abbat221/classweb/feminizationofpoverty/> accessed 7 March 2019

⁷⁶ ‘The Feminization of Poverty’ (*UN Women*, May 2000) <www.un.org/womenwatch/daw/followup/session/presskit/fs1.htm> accessed 7 March 2019

women. From the 1990s to the 2000s, the gap between the number of men and women who were affected by poverty continued to increase, thereby giving rise to the concept of “feminization of poverty”.⁷⁷ Feminization of poverty is the idea that “women experience poverty at rates that are disproportionately high in comparison to men”.⁷⁸ All over the world, women earn almost half as much as men do.⁷⁹ When it comes to Pakistan, statistical data has revealed that “three-quarters of Pakistan’s abject absolute poor are women and girls, i.e. for every four Pakistanis in poverty, three are women/girls”.⁸⁰

Poor women, especially those from urban areas, are also more likely to be affected by the barbaric decisions of tribal councils or jirgas.⁸¹ Furthermore, the likelihood of being subjected to bonded labour as well as forced religious conversions also increases with poverty. While abductions and forced conversions impact all minority religious groups in Pakistan, Hindu and Christian females seem to be particularly affected. According to the statistics provided by the *Aurat Foundation* and the Movement for Solidarity and Peace (MSP), approximately 1000 females are kidnapped, subjected to forced conversions and married off to their abductors each year. Furthermore, according to the volunteer group, *Responsible for Equality And Liberty*, almost 20-25 Hindu girls are forcibly converted on a monthly basis. Following such conversions, these girls are subjected to sexual abuse, “sold off, become victims of human trafficking or are forced into prostitution”.⁸²

The connection of bonded labour with forced conversions is also apparent. Hindus constitute a major part of Sindh’s bonded labour force. According to statistics, approximately 40,000-50,000 people are involved in bonded labour in Sindh alone while the bonded labour force in Pakistan numbers at around 2 million. Bonded labour renders

⁷⁷ *ibid.*

⁷⁸ ‘The Feminization of Poverty’ (*Mount Holyoke College*)
<www.mtholyoke.edu/~abbat221/classweb/feminizationofpoverty/> accessed 9 March 2019

⁷⁹ ‘The Feminization of Poverty’ (*UN Women*, May 2000)
<www.un.org/womenwatch/daw/followup/session/presskit/fs1.htm> accessed 7 March 2019

⁸⁰ ‘Feminisation of poverty’ (*Dawn*, 17 February 2013) <www.dawn.com/news/786570> accessed 9 March 2019

⁸¹ Basit Mahmood, ‘Pakistan’s Jirgas and Women’s Rights’ (*The Diplomat*, 4 January 2018)
<<https://thediplomat.com/2018/01/pakistans-jirgas-and-womens-rights/>> accessed 6 March 2019

⁸² Reuben Ackerman, ‘Forced Conversions and Forced Marriages in Sindh Pakistan’ (CIFORB The University of Birmingham, 2018) <www.birmingham.ac.uk/Documents/college-artslaw/ptr/ciforb/Forced-Conversions-and-Forced-Marriages-in-Sindh.pdf> accessed 6 March 2019

labourers powerless in relation to their landlords. For instance, Jeevti, a 14- year- old Hindu girl whose parents were involved in bonded labourer, was kidnapped in the middle of the night from her parents' house by the landlord, forcibly converted, and married to him as his second wife because her parents apparently owed him \$1000. Despite the fact that Jeevti's mother approached the police and the courts, they did not take any action against the landlord.⁸³

The state of religious minorities in Pakistan is pitiful. People belonging to religious minorities are not only at a greater risk of being trapped in bonded labour, but are generally discriminated against when it comes to employment. Hindus who are not involved in bonded labour “are forced into low-status jobs that many Muslims refuse to take, such as sweeping streets or sewage cleaning”.⁸⁴ The state itself promotes such intolerance. For instance, Ahmadis were declared to be non-Muslims by the state in 1973 and suffer a strict curtailment of rights even from a minority standpoint (and their status remains the same even today).⁸⁵

Women belonging to minority religious groups are subjected to “abductions, rape, forced marriages, forced conversions and allegations of blasphemy”.⁸⁶ A survey of Hindu and Christian women in Pakistan revealed that over 60% of such women felt that most Muslims would not support them in times of religious hostilities in the country. 32% of the women claimed that they had been the object of hate speech and 27% stated that “they had faced difficult and derogatory questions”.⁸⁷

⁸³ *ibid.*

⁸⁴ *ibid.*

⁸⁵ Zulfiqar Ahmad, ‘Ahmadis/Lahori Group: Senate passes amendment to law’ (*Business Recorder*, 18 November 2017) <<https://fp.brecorder.com/2017/11/20171118235915/>> accessed 6 March 2019

⁸⁶ ‘Discrimination against Religious Minorities in Pakistan: An Analysis of Federal and Provincial Laws’ <<https://appgfreedomofreligionorbelief.org/media/RESEARCH-DOCUMENT-1-discrimination-against-religious-minorities.-Analysis.pdf>> accessed 9 March 2019

⁸⁷ Rabia Mehmood, ‘For minority women, insecurity is compounded by gender and religion’ (*The Express Tribune*, 5 March 2012) <<https://tribune.com.pk/story/345330/for-minority-women-insecurity-is-compounded-by-gender-and-religion/>> accessed 9 March 2019

Disability is a further ground for discrimination in Pakistan. People with disabilities, especially women, are “among the most neglected”⁸⁸ and marginalised people in Pakistani society. Despite the fact that legislation pertaining to the rights of persons with disabilities exists in Pakistan and certain policies have also been adopted in order to improve their position in society, discrimination against such persons is widespread and the existing legal mechanism is inadequate to ensure proper protection of their rights. Therefore, it is imperative that the Parliament enacts a new statute that comprehensively deals with the rights of persons with disabilities and also includes acid attack victims within the definition of disabled persons, similar to the initiative taken by the Indian Government.⁸⁹

It is clear that women’s lives have an intersectional dimension to them and in order to truly empower women in Pakistan, the state needs to end systematic discrimination on all grounds. Furthermore, awareness and education of the masses is necessary in order to promote tolerance and the principle of equality of citizens.

Currently, religious laws are very difficult to amend in Pakistan because religion has been politicised, is deeply personal and any suggestions for a progressive change in religious laws is seen as an attack on religion. For instance, the Governor of Punjab, Salman Taseer was shot down by his security guard for questioning the blasphemy law in the country.⁹⁰ Recently, the country was shut down because of large-scale protests following the Supreme Court’s decision to acquit Asia Bibi, a Christian woman who had been accused of blasphemy.⁹¹ Given this reality, some argue that Pakistan needs to become a secular state and do away with Islamic laws completely as intolerance and discrimination against women and minorities cannot be eliminated until this is done. However, there may be room within

⁸⁸ Palwasha Khan, ‘Disabled face discrimination’ (*Pakistan Observer*, 31 March 2018) <<https://pakobserver.net/disabled-face-discrimination/>> accessed 7 March 2019

⁸⁹ Vikas, ‘Govt includes Acid-attack victims for Benefits under new Disability Act’ (*Saying Truth*) <www.sayingtruth.com/india-acid-attack-victims-new-disability-act/> accessed 7 March 2019

⁹⁰ ‘Blasphemy law claims another life’ (*Dawn*, 4 January 2011) <www.dawn.com/news/596195> accessed 9 March 2019

⁹¹ Raza Rizvi ‘Pakistan Grinds to a Halt After Asia Bibi’s Acquittal’ (*ProPakistani*, November 2018) <<https://propakistani.pk/2018/10/31/pakistan-grinds-to-a-halt-after-asia-bibis-acquittal/>> accessed 9 March 2019

Islamic jurisprudence to accommodate certain changes that both correspond with religious tradition as well as espouses progressive values that secure the advancement of women.

6. CONCLUSION

This essay has examined the status of women's rights in Pakistan with regard to various civil rights and liberties as well as the prevalence of violence aimed at women. In particular, it has been observed that while rights exist on paper, they have not adequately been realised in practice and are not properly enforced. Furthermore, gender roles contribute towards women's exploitation in Pakistan and various factors form the basis of discrimination against women in Pakistan such as class, creed and disability.

It is clear that a change in the position of women in the Pakistani society requires a range of measures to be taken including legislative enactments, strengthening the judiciary, ensuring proper implementation of laws and a change in societal attitudes with respect to the roles attributed to men and women. Improving the status of women in Pakistan also necessitates moving away from inflexible, rigid and monolithic interpretations of Islam that oppress women towards more modern and 'rights-friendly' interpretations by questioning existing understandings of Islamic principles, eliminating all forms of discrimination and intolerance as well as state action in order to eradicate all kinds of factors that may disadvantage certain persons or groups in the society such as poverty, disability etc.