



Women's Protection and Empowerment

“We see and dream of a Pakistan where men and woman are equal in all respects, as they are guaranteed in the Holy Quran, a new Pakistan where the birth of a baby girl is greeted with the same joy, hope and opportunity as the birth of a baby boy. That is the kind of Pakistan for which Benazir died. And that is the kind of Pakistan for which we will live.”

President Asif Ali Zardari
Co-Chairman Pakistan Peoples Party
Keynote Address at Socialist International
Athens, Greece, July 1, 2008

Pakistani women have long been subjected to discrimination, harassment and violence on the basis of misconstrued understanding of religion and cultural tradition. Women enjoyed equal status in the state of Pakistan that was founded in 1947 by Quaid-e-Azam Mohammad Ali Jinnah. The 1973 Constitution provided them equal rights as Pakistani citizens. However, unauthorized tinkering with constitution, law and regulations by the self-proclaimed Chief Martial Law Administrator spoil the scene for Pakistani women during 1977-1988.

General Zia-ul-Haq made an effort to confine Pakistani women to the four walls of their house by closing all avenues for their development. They were subjected to confinement, torture, and biased trials under discriminatory laws. Months after his demise, however, Pakistani people responded by electing Shaheed Mohtarma Benazir Bhutto as the first woman Prime Minister of a Muslim Country who courageously mainstreamed gender issues into Pakistani politics (see Box: *Shaheed Mohtarma Benazir Bhutto's*

Contribution to Women Empowerment in Pakistan).

Violence against Women

“Violence against women exists at all levels of society and has diverse forms. In recent years, it has become a major area of concern and has brought an awareness of its incidence and impact. It ranges from covert acts, i.e., abusive language, coercion in marriage, to overt acts such as wife-beating, torture, marital rape, custodial violence, honor-killing, burning, acid throwing, incest, rape, gang-rape, public stripping, trafficking and forced prostitution and sexual harassment.¹

Many forms that exist are so entrenched in our culture that they are ignored, condoned or even found acceptable by large sections of our society.² For example, social attitudes that the wife is a property of the husband; that whatever happens in a family is a private, internal family matter; that behavior meted out to the wife was necessary as “corrective

¹Y. Hassan, *The Heaven Becomes Hell: A Study of Domestic Violence in Pakistan*, Shirkatgah, 1995, Lahore.
²Report of the Commission of Inquiry for Women: Pakistan, 1997, p. 78.

measures" -- all lead to the condoning of acts of violence and abuse towards women in their role as wives.³

According to a report by the women's rights group Aurat Foundation, *Situation of Violence against Women in Pakistan*, a total of 7,571 incidents of violence against women were reported in the country in 2009. According to the independent Human Rights Commission of Pakistan's (HRCP) *State of Human Rights in 2008* report, 1,210 women were killed for various reasons. "Over eight hundred were sexually harassed, 350 raped, 45 gang-raped and 13 were stripped," states the report, adding that 185 women were killed due to domestic violence and 138 others injured.⁴

Legislation to Prevent Domestic Violence

The Prevention of Domestic Violence Act, 2008 was piloted in the National Assembly by an activist of the ruling Pakistan Peoples Party (PPP), Yasmeen Rahman, with a party veteran, Shakeela Khanum Rashid, and Chaudhry Mohammad Birjees Tahir of the Pakistan Muslim League-N as co-sponsors. Through this legislation, domestic violence has been criminalized and brought into public sphere from being a private affair of individuals. The law is aimed to prevent the prevalent curse through quick criminal trials and a chain of protection committees and protection officers.

According to the comprehensive 28-clause Act, domestic violence includes — but is not limited to — 'all intentional acts of gender-based or other physical or psychological abuse committed by an accused against women, children or other vulnerable persons, with whom the accused person is or has been in a domestic relationship'.

Some of such acts could be 'assault' as

defined in the Pakistan Penal Code, use of criminal force, criminal intimidation, economic abuse, entry into an aggrieved person's residence without his or her consent, harassment, 'mischief' against property, physical abuse, stalking, sexual abuse, verbal and emotional abuse, insults or ridicule, 'wilful or negligent abandonment of the aggrieved person', wrongful confinement and 'other repressive or abusive behavior ... where such a conduct harms or may cause imminent danger or harm to the safety, health or well-being of the aggrieved person'.

The bill gives an aggrieved person the right to approach a first class magistrate's court personally with an application or through another authorized person and the court must fix a hearing within three days and give a decision within 30 days.⁵ The court protection orders could prohibit the accused from committing or aiding or abetting domestic violence, dispossessing an aggrieved person of household, give monetary relief to meet expenses and losses as well as for maintenance.

The first breach of a protection order will be punishable with imprisonment of up to one year, but not less than six months, and a minimum fine of Rs.100,000, which will be paid to the aggrieved person. But a violation for the second or third time, or more, will be punishable with up to two years' imprisonment and a fine of not less than Rs.200,000 payable to the aggrieved person. The offence of breach of a protection 'shall be cognizable, non-bailable and compoundable', and convictions will be appealable before a sessions court. However, filing a false complaint — which the complainant knows or has reason to believe to be false — in a court will be punishable with simple imprisonment of up to six months or with fine of up to Rs.50,000, or with both.

The law provides that while the Federal Government will take steps for

³Rukhsana Zia, "Profile of the Rural Woman of Pakistan", Lahore Journal of Economics, Vol.3, No.1.
⁴<http://ipsnews.net/news.asp?idnews=48354>.
⁵http://www.na.gov.pk/passed_bill/domestic_violence2009.pdf.

'operationalizing the provisions' of the new law, each Provincial Government will constitute a protection committee of two police officers and two women councilors and appoint a protection officer in each tehsil, or sub-district, with duties such as informing the aggrieved persons of their rights and help them in filing their cases.⁶

Civil society groups advocating protection of women against all forms of violence dubbed the passage a "historic move". "The bill is significant," said Khawar Mumtaz, chief executive officer of Shirkat Gah Women's Resource Center, a women's rights group in Pakistan. "Firstly, it acknowledges the incidence of domestic violence. Secondly, it recognizes that it can no longer be ignored or remain invisible. For too long, treating domestic violence as a private affair has given protection to perpetrators of violence and has led to victimization of women. The passage of the bill is a measure of success of women's advocacy."⁷

Sexual Harassment at Workplace

Harassment at workplace is a very sensitive matter. Though, both women and men could be targets of harassment acts, women are at greater risk of harassment at workplace, and public as well as private spaces.

Harassment violates an individual's constitutional right to live with dignity. Since women are mostly the victims of harassment, they find their careers and their reputation at stake when they take an offence to harassment acts. Harassment narrows the range of economic opportunities available to women, and is a major obstacle to our country's development as it obstructs women's entry in the workforce. The absence of a legislation to address the issue reinforces the vulnerability of sexual harassment victims.

A legislation to address sexual harassment at workplace is important because it protects a person's right to work in a secure environment. The constitution emphasizes justice for citizens, and legislation can best provide a legal structure to ensure protection for our workforce.

Legislation to address Sexual Harassment at Workplace

The set of legislation -- proposed by the Ministry of Women's Development, and eventually passed by the Parliament -- comprises the Protection Against Harassment at Workplace Act, 2009 as well as amendments in the Pakistan Penal Code and the Code of Criminal Act.

The Protection Against Harassment Act incorporated extensive inputs from diverse range of civil society organizations, including women's rights organizations, legal experts, labor rights bodies and human rights leaders.

The legislative package on sexual harassment went through several consultative stages with the stakeholders. The idea behind involving stakeholders in the review stage is to ensure that our draft laws are clear in their content and they cover maximum ground while addressing the related issue comprehensively. Any legislation seeking to deal with the issue must emphasize setting up of a self-regulatory mechanism for organizations to address sexual harassment cases. It must incorporate the element of safety as well as provide maximum assurance of justice to the victim.

The legislation provides security to the complainant to encourage her/him to pursue the case at an official level. The victim also has an expanded range of choices in terms of authorities dealing with the complaint. The legislation provides for comprehensive internal and external setups to address the grievances of the complainant. The Act is a set of legislation on gender harassment with

⁶Dawn, August 5, 2009.
⁷<http://ipsnews.net/news.asp?idnews=48354>

Women's Protection and Empowerment

focus on workplace. It will be applicable to all registered bodies across the country.

The Act is gender-neutral, covering sexual harassment at workplace against both men and women. It makes no distinction between the victims and the perpetrators on the basis of gender. It incorporates three elements. It proposes a Code of Conduct for Sexual Harassment; it calls for establishing an Inquiry Committee within an organizational set-up to deal with complaints regarding sexual harassment; and it also provides for Appellate Authority to address appeals related to harassment. It requires the employers to implement the Act, incorporate the Code of Conduct for Protection from Sexual Harassment as a part of their management policy, and form an inquiry committee to look into sexual harassment cases.

Code of Conduct

The Code of Conduct provides guideline for behavior of all employees, including management, and the owners of organizations to ensure a work environment free of harassment and intimidation. It lays down minimum standards of behavior regarding protection from harassment at work place. This Code has already been voluntarily adopted by around 300 private organizations. The Act facilitates critical structures for its implementation across the board.

The CoC outlines a clear definition of "sexual harassment", including all its manifestations in the work environment. It assigns roles and responsibilities to employers, senior management and employees to develop institutional structures for a safer work environment.

The CoC also lays down guidelines for the

victims of sexual harassment to seek recourse in case of a grievance. It provides for formal and informal structures that can assist victim in addressing any complaint pertaining to sexual harassment.

Inquiry Committee

The Inquiry Committee would consist of three senior management members including one woman. The Act outlines permutations and combinations for the constitution of Inquiry Committee to ensure that the Committee maintains standards of impartiality and credibility.

The Act also requires establishment of ombudsperson structures across the country on Federal and Provincial levels to enable the complainant to seek recourse in case of dissatisfaction with the composition or the findings of the Inquiry Committee. The establishment of Ombudsperson as an external mechanism is to ensure that victims are not discouraged from pursuing sexual harassment cases.

The Inquiry Committee is empowered to conduct a formal inquiry into charges of sexual harassment at work at multiple levels to bring the accused to justice. The Inquiry Committee will submit its findings and recommendations to the Competent Authority within thirty days of the initiation of the inquiry. It is entitled to make recommendations on penalties, in case it finds accused guilty of the charges levelled against him/her. The penalties include censure, bar on promotions, demotion, financial compensation and dismissal, depending on the gravity of the crime.

It has also been made obligatory for organisations to arrange for psycho-social counselling or medical treatment in case the complainant is in trauma. The legislation also provides for structures for confidentiality

Women's Protection and Empowerment

requiring the Inquiry Committee and others to respect the privacy and dignity of all involved in a sexual harassment case.

Appellate Authority

The Act provides for Appellate Authority to facilitate any party seeking recourse in case of dissatisfaction from the findings of the Inquiry Committee or the Competent Authority. The Appellate Authority will also act as ombudsperson providing an external mechanism for sexual harassment cases.

For Government employees, the Appellate Authority shall be as prescribed in the laws applicable to them. For private organizations, the Government will constitute Tribunals, headed by a High Court judge, at the provincial headquarters. The Appellate Authority would be empowered to consider an appeal and documents supporting the appeal. It would be empowered to set aside, vary or modify the decision of the Competent Authority.

Amendments in Pakistan Penal Code 1860 and the Code of Criminal Procedure, 1898

Though certain sections of the Pakistan Penal Code (PPC) address sexual harassment, problems in terminologies restrict opportunities for effective implementation of the Code. Language such as "violate the modesty of women" leaves the space open for interpretation. Section 509 of the PPC deals with harassment in the public places only. Workplace is considered a private place and these clauses are not applicable there.

The set of Sexual Harassment Legislation has made amendments in Section 509 of the PPC 1860 and the CCP 1898, expanding its ambit to cover sexual harassment at work place. The amendments outline definition of sexual harassment and also increase the maximum

punishment for such acts from one year to three years.

In the past, any woman who complained against harassment was further intimidated by the perpetrator to take the case back. The fear of reaction and further harassment kept women from coming forth with complaints. The changes in the PPC and the CCP make the offence non-compoundable, minimizing any possibility of a forced deal to allow the perpetrator to escape the course of justice.

The amendments in the PPC and the CCP facilitate a safer environment for women at workplace, as well as in public spaces. These two amendments, along with the Protection Against Sexual Harassment at Workplace Act, lay down formal structures for a safer and secure work environment for our workforce.

The legislation on sexual harassment covers women working in formal organizations. As the next step, the Government would be expanding the ambit of protection to cover women working in informal sector as well as those who face harassment outside work engagement. Related laws are being worked on, and would be presented in the Parliament after consultation with the stakeholders.

A Woman's Dream

President Asif Ali Zardari signed the three laws pertaining to sexual harassment of women in the presence of women activists, parliamentarians and members of civil society organizations at the Presidency. On this occasion, he expressed the People's Government's resolve to ensure equal rights for men and women in accordance with the Constitution: "We have to create a Pakistan where the coming generations, my daughters, can be proud of the fact that they live as equals. We will make sure that those who wish to harm the ideology of the Quaid-e-Azam, which was for equality for men and women, shall not succeed."⁸

⁸Dawn, March 10, 2010.

Women's Protection and Empowerment

The President promised that by the end of the tenure of this Parliament, the women will also have all those rights which are now exclusively enjoyed by men: "The world needs the gentle touch of women. Let us mobilize the collective power of women to help make our country, the region and the world more tolerant and secure for all."

Speaker National Assembly, Fehmida Mirza, was elected as the first woman speaker in a Muslim country on Pakistan Peoples Party's ticket. The President has appointed Shama Khalid as the Governor of Gilgit-Baltistan.

Pro-Women Initiatives in the Budget

The Government has also made targeted pro-women allocations in the Federal Budget 2009-2010 with the intention to bridge the gap between men and women in acquiring access to basic service. Health and education, the two core social sectors, are the main recipients and sources of gender specific allocations, with the Benazir Income Support Program (BISP) also having emerged as a key source of growth in gender targeted allocations.

In order to create space for women within the public sector, the Federal Government increased quota of women from 5% to 10% for recruitment in all the Federal jobs. Exclusive women universities are being established in Multan and Sukkur. Pilot project for economic empowerment of women has also been initiated. Government has established 25 Shaheed Benazir Bhutto Women Centers in selected districts to provide protection, free medical, legal and psychological aid to women victims of violence.

During 2008-2010, the Ministry of Women's Development also provided buses to public

and private institutions, colleges in rural and less developed districts of the four provinces, FATA, Gilgit-Baltistan, and Islamabad Capital Territory.

Hostels for orphaned girls by Women Development Department, Government of Sindh and an NGO, Aangan, were established, while a day care center at Female Campus of International Islamic University, Islamabad was also established for facilitating women and concentrate on their work.

The Government allocated additional funds amounting to Rs.100 million for economic empowerment of women by funding of development projects of Federal, Provincial, and District Governments and NGOs. The Ministry, accordingly, requested Women Development Departments of the provinces, AJK and Gilgit-Baltistan to submit projects up to Rs.10 million for the purpose. The Ministry approved 13 projects at a cost of Rs.148.468 million for the economic empowerment of women besides an allocation of Rs.343.156 million for 19 ongoing projects.

The Ministry is also developing a comprehensive database on modern lines, featuring complete information on the country's women as part of efforts to streamline its working pattern. The computerized system would link systems installed in other Ministries and information on the country's women would appear on a click. The plan, if materialized, would be a landmark achievement, as presently the Ministry has to rely on data received from other Ministries, consuming both time and money besides providing shaky ground for its projects. The project called "Gender Mainstreaming Information System and Database Section" would further improve efficiency of the Ministry and provide information and data to policymakers. The system would also help facilitate organizations including NGOs working on

Women's Protection and Empowerment

women rights, and researchers to get answers to their queries pertaining to women in Pakistan.

Besides launching a media campaign for creating awareness among women, the Ministry has imparted training to more than 3,000 women councilors in the field of Information Technology. It is also making efforts to kickstart its IT project meant for educating women councilors on basic computer skills.

Gender Reform Action Plan (GRAP) is the biggest program of the Ministry, which aims to promote women's access to economic, political and social empowerment at national, provincial and district level. GRAP has arranged several workshops, seminars and conferences on gender sensitization to encourage women and enable them to participate in the national development process by bringing them into the mainstream.

The Ministry has established Gender Development Sections in five key Ministries under GRAP. These sections should be developed in all 48 Ministries and Divisions, while such initiatives are also being planned to extend at the provincial level. In Vision 2030 of the Government, GRAP is also included to ensure gender mainstreaming while the mid-term 2005-2010 plan goal is the implementation of GRAP. The federal implementing partners of GRAP are Ministries of Finance, Law, Justice and Human Rights, Labor and Manpower, Information and Broadcasting, Planning and Development, and Establishment Division.

In order to provide legal empowerment to women, workshops were conducted for sensitization of judiciary and legal officers for more effective prosecution of cases under the acts including Prevention and Control of Human Trafficking Ordinance, 2002; Criminal Law (Amendment) Act, 2004; Protection of Women (Criminal Laws Amendment) Act,

2006; Code of Criminal Procedure (Amendment) Ordinance, 2006.

The Government has also initiated a land allotment policy whereby land will be allotted to women peasants. Ten percent quota has been fixed for female candidates in the Central Superior Services. The President has approved a scheme to give Mohtarma Fatima Jinnah Award and Shaheed Mohtarma Benazir Bhutto awards to outstanding women in different fields of life.

Shaheed Bibi's Role in Women's Empowerment

Excerpt from "Forty Years of Progressive Politics" by Sherry Rehman, December 2, 2007⁹

Women, minorities and the media always got the attention of PPP government, from the rights written in for them in the 1973 Constitution to the institutional entitlements ushered in by [Shaheed] Mohtarma Benazir Bhutto's two governments.

Despite the limited time the last two PPP governments had, their role in pursuing a pro-women agenda is acknowledged even today by independent organizations that work with public sector bodies on gender mainstreaming projects. It was Ms. Bhutto's government that set up a Human Rights Ministry to watch and investigate human rights abuses, particularly those against women. In February 1996, in a move acknowledged by all women's activists in the country, and against a cacophony of strong right-wing pressures, Pakistan ratified the United Nations' Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW). This was a major achievement of the People's Party Government on international covenants related to the rights of women, and to this day is used as a critical benchmark by rights activists when measuring Government performance in this area.

Much is made today, as it should be, of the need for crisis centers for women in Pakistan. The first such centers were established by the PPP Government under Ms. Bhutto. Legal aid centers and burn units in hospitals were instituted in response to domestic violence complaints, for the first time in Pakistan, and as the Government was dismissed, a Domestic Violence Bill was caught in the cracks of political changes.

On the development side, the largest credit program was established for easy credit for women, a full-fledged Women's Bank set up and the first vocational training program for women got going. Targeting public health as a poor woman's burden, the PPP government set up the largest public sector program of Lady Health Workers, which established a vast network of 133,000 health practitioners to service rural and urban households in Pakistan, exclusively to cater to women's health needs as well as to address reproductive health issues. These women health workers today constitute all that is left of Pakistan's public health sector backbone, and is touted by all governments as Pakistan's showpiece health program.

This is by no means all. After the institution of a job quota for women in public service, which was quietly reversed by the Musharraf regime, women judges were appointed all over the High courts and District courts, and a network of Women's Police Stations set up.

It was the PPP which once again, begun the process of dismantling the Hudood Ordinances bit by bit both by executive order and acts of parliament in 1996, when whipping was abolished as a punishment, and all women booked under the Hudood were released as well as rehabilitated. Bhutto's government instituted the new National Commission on the Status of Women under (Justice) Nasir Aslam Zahid, which paved the way for the repeal debate on the Hudood Ordinances.

Even in the post-Zia days, the PPP was in the frontlines of the struggle to reverse the draconian laws introduced by Zia, its membership on the streets swelling the ranks of the new women's groups that had come up in resistance to the reactionary politics of the General. In 2002, it was the PPP again, with the specific backing of Ms. Bhutto, which introduced the first legislation to completely repeal the odious Hudood Ordinances. In fact, it was the PPP's constant pressure through private member's bills that led the Musharraf regime to finally respond with a Women's Bill, which again was steered and amended in committee by the PPP. As most will recall, the party made history by voting on the issue with the Government, when all others voted against, while the treasury benches had 44 votes absent.

Sherry Rehman is former Federal Minister for Information & Broadcasting and a Pakistan Peoples Party Member of National Assembly.

⁹ Excerpt taken from: http://www.ppp.org.pk/party/issues/p_articles132.html.

Women's Rights: Completing Old Agendas, Meeting New Challenges

By Afiya Zia

Most actors within the women's rights movement in Pakistan would acknowledge the cumulative practical and tangible progress made by and for Pakistani women, especially over the last decade. It is one of the ironies of the Pakistani experience that the women's rights struggle has been arguably the most dynamic under dictatorship.

Unlike the dictatorship of General Zia-ul-Haq, the regime of General Musharraf spearheaded several progressive policies with reference to women. However, these were only successful because women activists, as well as women representatives in Government (often across party lines), chose to strategically cooperate in order to further the women's rights agenda.

However, some of the criticism of the policies promoted between 2000 and 2007 suggests these were corrective and symbolic in intent for image-enhancement rather than sustainable in effect. This meant that the incumbent democratically elected national government of 2008 had to convert all the previous symbolic empowerment, into substantive and sustained policy.

In some ways, the ability of the PPP Government to retain women's rights at the top of the agenda has been because traditionally the party has chanced to appoint key women within the State machinery. These (often non-partisan) women then play critical roles in furthering women's rights policy. They also insist on developing consensus with the non-governmental sector, which allows critical input, radical ideas and a broader representative voice. Having said that, it is a disappointment that this Government, despite its stated commitment to women's rights, has not appointed a minister for women's development, despite two years into its term.

The first two years of the Democratic Government on women's issues can be assessed on the basis of two main policy approaches.

The first is legislative progress marked by the passing of the Criminal Law Amendment Act, 2010. This law is a watershed in that it marks the long struggle by women to get State recognition of violence against women. It also marks a positive collaboration between the Government and non-governmental activists.

The other more controversial policy, popular amongst international financial institutions such as the World Bank, has been the Benazir Income Support Program (BISP). This has met far more criticism and has troubled policy-watchers and development activists in Pakistan. The politicized selection process, exclusion error, haphazard forays into micro-credit, skill training and linkages with health schemes have relegated the BISP into a vertical structure that repeats the flaws of other such schemes of the past.

In terms of continuing the pace towards achieving minimum goals of women's rights nationally, as well as in terms of Pakistan's international commitments, the Government seems to be inching along benchmarks of set agendas. However, in light of new challenges, this administration is out-paced and besieged by the conflict situation and human security threat to women in Pakistan.

In addition, while political empowerment has improved by way of increased women's representation in Parliament, the discontinuation of the local bodies will have abandoned thousands of trained women councillors at grassroots levels. A political safety-net should be created for such aspiring political actors. Additionally, the Government needs to set its own methods of assessment of projects that are supported by donor agencies, rather than depending on time frames set by donor requirements exclusively.

Women's Protection and Empowerment

Apart from revisiting the flawed policy measure that limits economic empowerment to BISP, there is an urgent need to introduce a universal social security program that covers all women, regardless of political affiliation. Moreover, female-headed households and home-based workers need to be prioritized with regard to policy attention.

The ad hoc approach to limited land distribution amongst women also needs a systematic redefinition. There is a need to understand how women's ownership to land is impeded, appropriated by men and used as a tool for negotiating social and marital rights by women. Further, the Government needs to recognize the simultaneous significant rise of women's entry into higher education while primary level enrolment for girls is one of the lowest in the world.

The accompanying social fallout needs attention but also a more focused gender responsive budget that prepares for increasing number of women in the workforce is required. This can only be expected if there is a clear understanding and consultative process between Government and an acknowledgment of the future needs of a young generation of women by the bureaucracy. A few examples would include comprehensive child-care, transportation and mobility needs, equal pay, and a safe working environment.

Most of all, women activists are deeply concerned about State machinery and institutional mechanisms that are meant to convert all the good plans, goals and ideas on policy paper into good practices on ground. This gap between policy and implementation is not unique to this Government. But precisely because good governance has become an acceptable buzzword in the corridors of Government, it is time to set targets for departments to demonstrate through identifiable indicators how each integrates gender concerns into concrete outcomes. Another one of the main challenges with regard to progress on women's rights policies has been the internecine resistance by male members of the ruling party itself on the question of women's rights.

While the pragmatists may be satisfied with the performance of this Government on women's issues, the political caliber required to truly achieve minimum rights for women is far more challenging. For this, the Government would need more breadth of understanding of the issues at hand as well as a serious commitment to treat women's rights as an urgent, even emergency concern in this country.

Afiya Zia is a gender studies and women's issues specialist based in Karachi, Pakistan.