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## An Analysis of Gender Based Legislation in Pakistan (1999-2013)

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### Abstract:

The role of women in Pakistan is not homogeneous since gender is correlated with numerous forms of social discrimination. As a result of unequal socioeconomic progress and the impact of tribal, feudal, and capitalistic social institutions on women's lives, women's positions vary drastically among professions, geographies, and the rural/urban divide. Gender based politics is a broad phrase with numerous connotations, particularly with reference to Pakistani society where gender discrimination is common. The state cannot remain indifferent and new legislation is urgently required on various aspects of women issues as the establishment of effective legal impediments can bring monetary prospects, employment, and social protection to the other half of the society. This study aimed to assess the role of women in politics in Pakistani society. A qualitative study method with explanatory analysis has been used to assess women's legislation in Pakistan from 1999 to 2013. It was determined that while great emphasis was placed on legislation, implementation and changing the mindset of the society, still remains a critical issue. This study assesses that Pakistan cannot progress until half of its population remains deprived and discriminated.

**Keywords:** Pakistan, gender, women, politics, legislation, political role.

### INTRODUCTION

*"No nation can rise to the height of glory unless your women are side by side with you; we are victims of evil customs. It is crime against humanity that our women are shut up within the four walls of the houses as prisoners. There is no sanction anywhere for the deplorable condition in which our women have to live. You should take your women along with you as comrades in every sphere of life."*

*(Muhammad Ali Jinnah, 1944)*

Despite great advances in many states around the world, women continue to face discrimination and are denied the same opportunities as men, particularly in third world countries. Gender discrimination is a significant contributing factor to poverty and a serious violation of women's rights. Women more often have fewer resources, less power, and less influence in decision-making process than men (Shami, 2009). They are victims of many forms of violence and subjugation, and they confront further injustices because of their ethnicity, religion, ethnicity, socioeconomic status, relationship status, sexual preference, or disabilities. There is a need to change women's roles in

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politics in order to effectively address all women's problems and contribute towards the issues of gender equality. It is only conceivable if elected officials reform their governance techniques. Legislation based on women's interests and effective law enforcement can truly empower women. The lack of male support for women's legislative rights is widening the gender gap in politics (Khatwani, 2016). In the social sciences, gender politics has several elements or traits. Gender and politics refer to both masculinities and femininities, as well as the political relationships between men and women.

In the Global Gender Gap Index 2020, Pakistan is placed 151st out of 153 countries, making it the world's third worst country for gender equality (R. Khattak & Higdon, 2020). Gender inequality and poverty are intricately related, as engrained prejudicial cultural practices exacerbate the low status of women and other marginalized groups. For decades, women's rights organizations in the country have sought to remove impediments to gender injustice and affect positive change. Governments have also taken constructive steps to decrease the gap between men and women by enacting legislation; nevertheless, varying cultural, economic, social, political, and religious hurdles to women's advancement persist. Women make up over half of Pakistan's population, hence their participation in politics cannot be neglected. Pakistan was founded on the principles of Islam, and it places no restrictions on women's participation throughout all aspects of life (Jejeebhoy & Sathar, 2001). We cannot confine women to the four walls of their homes because progress is impossible without their active participation. The role of women is critical to society's survival. Women are more active in all physical and mental pursuits in the contemporary times.

### **LITERATURE REVIEW**

According to Marilyn Friedman's book "Autonomy, Gender, Politics," women have been subjected to discrimination and oppression since birth, and the results are still felt today. Many feminists advocated for self-determination (Friedman, 2003). The author supported the ideal of feminist independence. Her behavior, according to her, is independent if it is related to her desires and obligations. She has classified independence as usually balanced and, at times, socially disruptive quality. She supported independence in the context of romantic love, arguing that it is how all social institutions respond to abusive relationships in which a woman is involved. Liberal societies must accept marginally enlightening activities that infringe women's rights. Furthering the argument, Vicky Randall and Georgina Waylen's "Gender, Politics, and the State" has elaborated on how, after two decades, notions of gender, politics, and the state, as well as their connections, have been reshaped by a shared understanding of feminism (Randall & Waylen, 2012). The author has mostly focused on philosophical and hypothetical topics such as the definition of 'gender,' the role of the state in the construction of gender in government and the commercial sector. Gender disparities in political representation are becoming more prevalent in liberal democracies.

Another prominent women's rights activist, Farzana Bari asserted in her article "Women Parliamentarians Challenging the Frontiers of Politics in Pakistan" that women's control over evocative representation will result in substantive participation (Bari, 2010). Women urgently require a network with victims, legislators, and implementation officials, which is only possible if they all work together, and collective efforts can only work in Pakistan. We need to identify women's issues and pass legislation to prevent them.

## **RESEARCH METHODOLOGY**

The issue was studied using a qualitative research method. Secondary sources were employed to determine the answers to the research questions, and it was concluded that more authentic laws are required to ensure representation of women and their participation in legislation formulation mechanism. The period from 1999 to 2013 was characterized by degradation, and during that timeframe, this subject was widely discussed. This study explores following questions: What changes have been made to enhance the role of women in global politics? What role did Pakistan's political leadership play in enacting women's empowerment laws from 1999 to 2013?

## **HISTORY OF PAKISTAN'S POLITICAL LANDSCAPE & WOMEN'S PARTICIPATION**

Throughout the history of Pakistan, there have been various governments in which women's rights were granted at varying degree of success. Pakistan's present political system incorporates features of both the presidential and parliamentary systems. Previous changes in political structure have resulted in a shift in political systems. Women's participation and share of seats in national and provincial assemblies have historically varied based on political systems(Bano, 2009). For example, in the first Pakistani parliamentary session from August 10, 1947 to October 24, 1954, women only had 3% of the total seats. There were 30 total seats, and women held two of them. From 1947 until 1956, there was no president's office(M. Hussain, 2011). The Governor General served as the country's Head of State. In the second legislative session which lasted from May 2, 1955 to October 7, 1958, women had 0% representation as the total number of seats was 80. Between 1956 and 1958, the political landscape transformed yet again(Rahman, 1973). Since the governor general's role was dissolved, Sikander Mirza, who was the Governor General at the time, was named President. For the next 13 years, from 1958 to 1971, the country was governed by the military(Riley, 1978). There was a constructive and liberal approach toward women throughout Bhutto's reign, which lasted from 1970 to 1977. He took multiple initiatives to improve the lives of women. During his presidency, women had access to government services that had previously been restricted for them. To ensure women's political empowerment, almost 10% of seats in the National Assembly were allocated to them. They could run for general seats in elections. Gender equality was incorporated into the 1973 constitution. According to the 1973 constitution, "There shall be no discrimination solely on the basis of Sex." General Zia-ul-Haq's regime worked to a certain extent for Women's progress and development. A division was established for women by the Cabinet Secretariat and General Zia appointed twenty women to the MAJLIS. General Zia also introduced laws of Islamization in Pakistan. The rise of Islamization had severely impacted women during his tenure. He draped all of the fundamental rights of women enshrined in the 1973 constitution, particularly the right to live freely and without gender discrimination. By 1988, women had secured 22 National Assembly seats, 21 women elected and one woman directly elected, as well as 5 percent of provincial assembly seats, having received 3 percent of the quota that had been allocated to the first legislative assembly since the first parliamentary assembly. However, women's reserved seats were no longer viable from 1990 to 1997(A. Ahmad, Malik, & Humayoun, 2010). As a result, no seats for women were allocated in the elected assemblies of 1990, 1993, and 1997, at either the provincial or national levels. As a result, women's representation was low in 1990, at 0.9 percent, with only two directly elected women out of a total of 217. Women's representation in elected assembly was 1.8 percent in 1993, when there were four directly elected women out of 217, but it

increased dramatically to 2.8 percent in 1997, when there were six directly elected women out of 217(N. u. R. Khattak, Ahmad, & Khan, 2010). Benazir Bhutto was opposed to gender discrimination in politics; thus, she took numerous initiatives to improve women's social status. She promised that the contentious HUDOD legislation that weakened women's rights will be repealed(Imran, 2005). However, she did not remain successful in this aspect. During the Nawaz Sharif regime in 1997, it was urged that the HUDOD legislation be repealed since it victimizes women and their rights. The quota for female political participation at the local government level was initially increased to 33 percent under Musharraf's regime in 2000. Quotas were implemented at three levels of local government: union council, tehsil, and district(N. Ahmad, Bano, & Ashfaq, 2019, pp. 15-16). Similarly, prior to the 2002 election, the proportion of women in both the national and provincial legislatures was boosted to 17 percent, with women constituting 61 of the 342 members of the national house(S. G. Khattak, 2010). A significant increase in the quota for the 2002 election increased women's overall political engagement. As a result, more women than ever before have run for and won general election seats. In the 2002 general election, 188 women ran for general seats; 101 were nominated by political parties, and 39 were elected. In the 1997 election, this ratio was roughly one-third: only 56 women campaigned for office, 39 of them were nominated by political parties, and only 7 were elected. Later in 2006, during Musharraf's government, the parliament passed the Women's Protection Bill, repealing some of the provisions of the HUDOD Ordinances, and a 10% quota for women was increased in all sectors(Weiss, 2012).

However, if we compare the 2008 and 2013 elections, we may see some shifting trends. Women won 70 of the 342 seats in the lower house of the national assembly in the 2013 election, accounting for over 20.5 percent of the total number of seats. Women were elected to 17 of the 100 seats in the upper house, accounting for 17% of the total number of seats. Political parties nominated 34 women to run for office in the 2008 election(Tabassum, Afzal, Taherani, & Tabassum, 2014). While comparing the general elections of 2008 and 2013, a higher proportion of women voted in 2013. Following the 2008 election, a government formed by the Pakistan People's Party (PPP) included women in the cabinet. Several women served as ministers in critical positions, such as social welfare, while Samina Khalid Ghurki headed the ministry of special education. Sherry Rehman, Firdous Ashiq Awan, and Hina Rabbani Khar were appointed as Ministers of Information and Broadcasting, Health, and Foreign Affairs, respectively. After that, some of these female legislators continued to work in other ministries(Ispahani, 2014). During President Zardari's regime, his main focus was legislation on discriminatory laws against women. His government introduced legislation for fortification adjacent to Harassment of Women at "Workplace Act 2010, Criminal Law (Amendment) Act and "Prevention of Anti-Women Practices Act, Acid Control and Acid Crime Act"(Mirza, 2011). Pakistan's legislative history proves that laws were enacted to protect women's rights, but their proper execution has several flaws. We may be unable to develop our country if women's rights are violated. As a result, it is essential for the country's development that women have the equal opportunities as males to participate in all aspects of life.

### **ROLE OF GENDER IN WOMEN'S INTEREST BASED LEGISLATION**

According to various scholars, there is a difference in the preferences of female and male legislators. Women, in general, place an emphasis on women's social issues. In comparison to women, male politicians are least interested in the socioeconomic challenges faced by women.

Their primary concerns are related to legal and constitutional issues, as well as business and commerce. The facts and statistics reveal that female legislative MNAs are more engaged in legislating on women's issues (Sardenberg, 2011). In a nutshell, women's quotas in parliament do not give females a power base; it may be claimed that not much is accomplished in practice as the National Assembly passes least women-specific laws.

### **Hurdles in Women's Political Empowerment**

Women's political participation in Pakistan is constrained to voting. It encompasses a number of liberties, such as the ability to speak out and advocate towards something; the ability to establish groups; participation in public affairs; the ability to run for political office; and the ability to be elected and hold political office at the top levels of decision-making. According to international conventions and agreements, men and women have equal rights and opportunities to participate in all aspects of political life. Nevertheless, although discussing about privileges is trivial, putting them into action is sometimes harder for women. Women encounter several difficulties and problems when pursuing a political career in traditional and cultural civilizations. Men have always dominated politics, which many women find unwelcoming and unpleasant. Pakistan is a traditional and patriarchal state with deeply embedded traditional ideology that hinders women's political engagement (Hadi, 2017). In addition, cultural issues such as a lack of financial means, lack of education, lack of access to information, enhanced family obligations, and harassment and lack of liberty hinder their capacity to develop political experience. Women who enter politics, like Benazir Bhutto, Begum Naseem Wali Khan, Maryam Nawaz, Maryam Aurangzeb, Saira Tarar, and others, are blood relatives of male leaders.

### **Case Study of the Assassination of Saima Sarwar**

Human rights activists were outraged in August 1999 when a bill proposed by a few senators was rejected, as a protest against the death of Saima Imran, a young lady who was murdered in her Lahore apartment on the charge of challenging the "Honour" in April 1999. However, the chairman refused to allow debate on the motion. This was the reason for the resolution's "unceremonious end." Ardeshir Cowasjee, veteran columnist in his essay, 'Stand we safe?', spoke about the motion approved against the Senate Chairman Waseem Sajjad by the Oxford University Students' Union, as the debate on the 'honour killings' was not permitted in the Senate of Pakistan (Cowasjee & Kamal). Students of Oxford University argued that violations of women's rights in South Asia are traditional practices. Even human rights organizations have been emphasizing on the issue of "Honor Killing." Honor killing is the phrase used for a girl who is killed by her family for humiliating her family, and her acts are usually regarded immoral for choosing her marriage at her own will. Honor killing has a long and illustrious history (Zia Ullah, 2010). The assassination of Saima Sarwar by her family on April 6, 1999, caused widespread societal turmoil. This issue also grabbed the attention of mainstream national and international media.

### **GENDER-BASED LEGISLATION: AN ANALYSIS**

In 2002, female legislators began a new wave of gender-based legislation supporting women's rights and interests, which spanned until 2007. In this regard, human rights organizations offered their support to the Senate and the four provincial assemblies. All women's NGOs contributed to the establishment of women's interest-based laws. Female legislators were more active in advocating

for women's legal rights, and with only a few males on board, they were successful in establishing the "National Commission on the Status of Women in 2000." Women legislators did an excellent job of expressing their interest throughout this time frame (A. Khan & Naqvi, 2018). Although most of their objectives were not achieved, their actions paved the way for meaningful policies in favour of women today.

### **Bills Presented by Women in Pakistani Parliament**

Miss Sherry Rehman (PPPP) and her party members introduced a bill titled "THE PROTECTION AND EMPOWERMENT OF WOMEN BILL 2003" during the National Assembly session in 2003 (Shami, 2009, pp. 146-148). Miss Sherry Rehman introduced a second bill on the issue of 'Honour Killing' in 2004. On July 30th, a formal law was also introduced to put an end to "Honour Killing". The bill was introduced by Ms. Nilofar Bakhtair. However, Miss Nilofar Bakhtiar, Miss Mehnaz Rafi, and Miss Kashmala Tariq (PML-Q) played an important part in amending the law. Yet, due to opposition from the government and the opposition, they were unable to succeed. Miss Mehnaz Rafi (PML-Q) introduced the Pakistan Penal Code (Amendment) Bill, 2004 (Amendment in 366-C), Miss Samia Raheel Qazi (MMA) introduced the Uplift and Welfare of Women Bill in 2004, Miss Kashmala Tariq (PML-Q) introduced the Pakistan Penal Code (Amendment) Bill, 2004, and Miss Mehreen Anwar Raj introduced the Family Court (Amendment) Bill (PPPP) (Muhammad & Shafiq, 2018).

### **Legislation for Raising the Status of Women**

The main focus in 2005 was on legislation to improve women's status and eliminate gender discrimination. Domestic Violence Bill, 2005, Equality of Opportunity for Women Employment Bill, 2005, the Prevention of, and the Hudood Law (Repeal) Bill, 2005, all introduced by Miss Sherry Rehman while the Family Courts (Amendment) Bill, 2004, the Offence of Zina Enforcement of Hudood (Amendment) Bill, 2005, and the Offence of Zina Qazf Enforcement of Hudood (Amendment) Bill, 2005 were all introduced by Miss Kashmala Tariq. The establishment of the "Wafaqi Women Mohtasib Bill, 2005, the Senior Citizens Bill, 2005, by Miss Mehnaz Rafi, the Protection of Serving Women Bill, 2005, which was moved twice, the Inheritance for Women Bill, 2005, and the Hudood Laws Effective Enforcement and Protection Bill, 2005 were presented by Miss Saima Raheel Qazi (S. Hussain, Rasool, & Rasool, 2020). The Code of Criminal Law Procedure (Amendment) Bill, 2005, moved by Miss Samina Khalid Gurkhi (PPPP); the prohibition of Marriage with the Holy Quran Bill, 2005, and the Dowry and Bridal Gifts Restrictions Bill, 2005, both moved by Doctor Farida Ahmad Siddiqui (MNA); and the Criminal Law (Amendment) Bill, 2005, moved by Miss Rubina Sadaat Qaim.

### **Struggle of Women for Legislative Protection against Discrimination**

On August 21, 2006, the government passed the Protection of Women (Criminal Laws Amendment) Bill. Political groups such as the PPP and the MQM were ambivalent about Musharraf's legislative reforms, and the PML-N even refused to vote on the bills (Mehdi & Khan Niazi, 2015). Two Hudood Ordinances were fundamentally changed by the bill. Miss Mehnaz Rafi and Miss Kashmala Tariq introduced a bill to amend the Hudood Ordinance in the same year, 2006. Miss Shakeela Khanam Rasheed (PPPP) introduced "the Bonded Labour System (Abolition) Amendment Measure, 2006," which is a significant bill. The National Assembly accomplished a significant task by passing the DVB (Domestic Violence Bill). Miss Sherry Rehman and Miss Mehnaz Rafi were instrumental in

getting the bill passed. At the time, women lawmakers worked hard, with the assistance of the NCSW and the Aurat Foundation, to enact measures on domestic violence in provincial legislatures (Munir, 2008). Two formal bills to limit sexual harassment against women were introduced in 2010 as a result of the activities of a civil society organization known as AASHA (Saeed, Pervaiz, Jan, & Ahmad, 2019). Sexual harassment is defined under the Act as an offence that "must be punished with imprisonment for a term not exceeding three years or with a fine not exceeding five hundred thousand rupees, or with both." The other law, titled "The Protection Against Harassment of Women at Workplace Act, 2010," was enacted in 2010. Women's interest-based legislation was enacted in 2011 in order to eliminate injustice and prejudice against women by prosecuting offences such as acid attacks and customary practices (M. Khan & Ahmed, 2016). Miss Donya Aziz, a member of the political party PML-Q, is the primary sponsor of the "Prevention of Anti-Women Practices Bill, 2011." Her party's leadership backed her completely. The bill was approved by the National Assembly on November 15, 2011, and by the Senate on December 12, 2011 (Abbas & Riaz, 2013). The bill specifies a 14-year prison sentence and fines of up to Rs. 1 million. Miss Marvi Memon, Begum Shahnaz Sheikh, and Miss Anusha Rehman were the driving forces behind the passing of the "Acid Control and Acid Crimes Prevention Bill, 2011" (Mirza, 2011).

### **Women Wings in Political Parties in Pakistan & Quota System**

Women's wings are primarily dedicated to increasing women's participation in the political process matters in parties around the world, particularly in Pakistan. Parties are using this tactic to allow women to participate in politics and gain political experience. Women's wings can influence party elections, particularly women's election results, and can help to reduce women's discrimination within the parties (O'Brien, 2019). Parties can use their platforms to tackle gender disparities as well as other issues affecting females by increasing women's representation in decision-making and providing policy incentives for them. As a strategy for enhancing women's representation, the quota system strives to address the issue of women's underrepresentation (Dahlerup, 2005). Quotas have been found to be one of the most efficient affirmative strategies for increasing women's political representation, with a positive impact on the number of women represented. Though the quota system has boosted the number of women in legislature, it is merely a band-aid solution until gender parity is reached. It makes it more difficult for women to compete and participate in democratic processes. Despite their lack of political and economic clout, women are sometimes considered as numbers to fill out statistics, despite the fact that quotas have significantly increased their participation in the political process of the country. Women are now becoming increasingly conscious of their political rights, which is a crucial facet of their individual and collective status (Weiss, 2019). This political knowledge has grown as a result of increased awareness from various sources, including the mainstream news, social networking sites, non-governmental organizations, and civil society groups, enabling women to participate in Pakistani politics and development. As a result, civil society, particularly women's campaigns, are required to boost women's political participation and influence in order to control economics and development in their favour (Mumtaz, 2019). Women's overloaded and demanding occupations as creators, mothers, and public figures necessitate a stress-relieving regimen.

### **CONCLUSION**

The legislative history of Pakistan demonstrates that whenever women's issues were raised for legislation, male legislators showed little or no interest. It should be mentioned that these were the

women who felt the responsibility and worked for women's legislation. However, because they were elected by female voters, representatives must equally strive for it, and they must work for all strata of society without prejudice. Legislation is the primary obligation of parliamentarians, regardless of gender. However, female parliamentarians did well in the previous National Assemblies. The Aurat Foundation revealed that primarily female parliamentarians remained active in women's legislation from 1999 to 2013. The Free and Fair Election Network (FAFEN) reported that women elected on general seats contributed 8% of the involvement made by all women parliamentarians from 2010 to 2011. Women's rights were vigorously promoted by the female members of the assembly. Given their lack of political and parliamentary expertise, the Aurat Foundation report recognizes women's pioneering, tenacious, and goal-oriented roles. Benazir Bhutto, a role model for young women in Pakistan was elected as Pakistan's first female Prime Minister. She also actively advocated for women's rights in Pakistan. Interestingly, it has been noticed that women's preferences in legislators differed significantly from men. Women's priorities in society were social and women's problems. The increasing involvement of women and their outstanding performance was also witnessed between 1999 and 2013 as many vital legislations to protect women were passed during this time period, and they now have security and assurances from the state as a result of these laws.

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