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Gender Justice in Pakistan: Balancing Islamic Law and International Norms

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Abstract: *One of the greatest issues that continues to persist in the legal and social system of Pakistan is gender justice. Pakistan being an Islamic republic, its legal system is informed by Islamic jurisprudence, and at the same time it is founded on the structure of the constitution that is aware of the international human rights obligations. This two-fold paradigm frequently sparks controversy over the coexistence of the international gender equality standards and the Islamic law. Regardless of constitutional safeguards of equality and the many legislative changes that were made to safeguard women, gender-based discrimination remains prevalent in Pakistan because of the socio-cultural customs, institutional claims, and the patriarchal understanding of law. The present research article investigates the efforts of Pakistan to reconcile Islamic law and standards of international human rights in influencing gender justice. The research, through a qualitative doctrinal research approach, examines the provisions of the constitution and women's protection laws and the international commitments of Pakistan through the Convention on Elimination of All Forms of Discrimination against Women (CEDAW). The literature review is also based on scholarly articles that deal with the issues of Islamic jurisprudence, legal changes, and socio-cultural visions of women's rights in Pakistan. The results indicate that gender inequality in Pakistan is not always a result of Islamic teachings but rather the result of patriarchal interpretations and poor application of legal safeguards. The study concludes that a balanced solution based on gradual interpretation of Islamic laws, institutional changes, and increased understanding of the masses can greatly improve gender justice in Pakistan.*

Keywords: gender justice, Islamic law, Pakistan, women's rights, international law, CEDAW

Introduction

Gender justice is a necessary part of sustainable social development and democratic governance. It is defined as fairness and equality between the men and women regarding rights, opportunities, responsibilities, and access to justice. The problem of gender justice in Pakistan is complex, as the religious law is intertwined with the constitutional regulations and the international law requirements. Being an Islamic republic, the law system in Pakistan is based on the Islamic principles but is also aimed at considering the international standards of human rights (Ali, 2013).

In Pakistan, gender equality is legally based on the Constitution of the country. Article 25 is a guarantee

of equality before the law and outlaws any discrimination on the grounds of sex. Also, Articles 34 and 35 underline the role of women in the life of the country and preserving family institutions (Government of Pakistan, 1973). These constitutional rights prove the willingness of the state to utilize gender equality. But these rights have not been fully applied in practice.

Traditionally, Pakistani women were obliged to many impediments connected with education, their economic involvement, inheritance, as well as their protection against violence. Early marriages, honor killings, and the right of inheritance are cultural practices that have resulted in gender inequality despite the legal protection (Shaheed, 2010). These problems, according to the scholars, are usually based on the social codes of patriarchy instead of being based on religious values.

Pakistan has also subscribed to international human rights provisions that aim at safeguarding the rights of women. In 1996, the country signed the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which states that the countries must abolish any form of discrimination against women in any aspect of life (United Nations, 1979). This has been their pledge in the enactment of several legal reforms that seek to deal with gender inequality.

However, irrespective of these attempts, tensions are sometimes witnessed between the international human rights standards and the local understanding of the Islamic law. There are religious scholars who maintain that some of the international standards of gender equality are incompatible with Islamic jurisprudence and those who argue that the Islamic religion advocates justice and dignity for both men and women (Baderin, 2003).

The article of research examines the connection between Islamic law and international norms through cases of gender justice in Pakistan. It discusses the dynamics between these structures as working in the legal system of Pakistan and determines what makes it difficult to enforce gender-equitable legal structures. The research paper will also seek to add to scholarly debates on whether Islamic principles and international human rights standards can work together to achieve gender justice.

Literature Review

The relationship between religion, law, and culture is emphasized in scholarly literature on gender justice in Pakistan. Scholars have examined some of the aspects of gender disparity, such as legal amendments, social-cultural obstacles, and religious interpretations.

Ali (2013) looks at how the rights of women have evolved in the Pakistani legal system and reasons that the hybrid legal system in the country has enabled as well as obstructed the equality between the genders. Ali argues that constitutional guarantees give a good basis for protecting the rights of women, yet politics and social contexts usually curtail successful execution.

Shaheed (2010) evaluates how cultural norms define gender relationships in Muslim societies. The paper highlights that most of the discriminatory cultures that people claim are based on religion actually stem out of the local culture and not the Islamic teachings. This difference is essential to the issues of gender justice in Pakistan.

The effect of Islamization policies on the rights of women is an issue that has attracted the attention of other scholars. In the late twentieth century, some of the legal changes, which were presented within the framework of the Islamization policies, were condemned due to their negative impacts on women, especially in criminal law-related spheres (Zia, 2018). Such policies caused much controversy as to whether or not gender relations should be put under the Islamic law.

The studies done on the international human rights systems emphasize the role of global conventions like CEDAW in ensuring equality between the sexes. Merry (2006) proposes that international human rights norms frequently affect the domestic legal reforms through offering structures to guidance and policy formulation. The women's rights activists in Pakistan have often used the international

conventions to lobby legal reforms.

Other studies also highlight that there should be a reinterpretation of Islamic jurisprudence to deal with the modern gender concerns. According to Baderin (2003), the principle of Islamic law, like justice and welfare, can be understood in a manner that is consistent with the current human rights norms. This school of thought justifies the fact that Islamic law and gender equality are not necessarily at odds with each other.

Later studies emphasize the influence of institutions in enhancing gender justice. Research has shown that the protection laws protecting women need well-established legal institutions, independence of the judicial system, and social awareness to be implemented successfully (Jamal, 2019). In the absence of these factors, legislative changes may become weak.

On the whole, the sources indicate that the problem of gender inequality in Pakistan can be attributed to legal, cultural, and institutional factors. There is a need to address these issues in a holistic manner, which involves the incorporation of Islamic jurisprudence, constitutional principles, and international human rights norms.

Research Questions

The research questions of this study are the following:

In what ways does the Pakistani legal system seek to reconcile the Islamic law with the international gender equality standards?

Which are the key legal and institutional issues that impact Pakistan in terms of gender justice?

How can Islamic jurisprudence be interpreted in ways that support gender equality?

Research Methodology

The study is based on a qualitative approach to doctrines, which is widely applied in legal and socio-legal studies. The research approach is concerned with the interpretation of legal documents, scholarly publications, and international representatives on gender justice.

Doctrinal Legal Analysis

The paper discusses the constitutional clauses, laws, and Islamic jurisprudential laws that affect gender justice in Pakistan.

Literature Review Method

Reviews of academic journal articles, books, and reports were conducted in order to have the existing scholarly arguments on the rights and legal reforms of women in Pakistan.

Comparative Analysis

The study contrasts the domestic legal systems and the international human rights requirements in order to determine areas of both similarity and difference between Islamic law and international standards of gender equality.

This research methodology can be effectively used to take a thorough look at legal and theoretical views on gender justice in Pakistan.

Discussion and Analysis

In Pakistan, gender justice is a complex phenomenon that occurs at the crossroads of Islamic jurisprudence, constitutional law, statutory reform, and international human rights norms. This part critically evaluates the ways in which Pakistan manages to negotiate these co-opted structures and what the significant legal, institutional, and socio-cultural barriers to gender equality are.

1. Islamic Law and Women's Rights

Sharia, which is the Islamic law, offers the basic principles in promoting the justice and dignity of women. The main points are inheritance, marriage, divorce, and safety against damages. As an example, the Quran clearly explains the right to inheritance by women (Ali, 2013) and the need to obtain their consent during marriage (Baderin, 2003). Yet, women do not have an opportunity to exercise these rights completely due to patriarchal interpretations and cultural practices.

One of the most disputed issues is with regard to the marital and family law, especially the interpretation of polygamy and maintenance. The Muslim Family Laws Ordinance (1961) tried to control polygamy and protect the consent of women, yet there is still a lack of consistency between these practices. Cases of the Supreme Court like *Muhammad Aslam Khaki v. The Federal Government of Pakistan* (2003) pointed out the conflict between the law and the society, where the consent of women is very important when they marry, yet it is not practiced (Government of Pakistan, 1973).

On the same note, divorce and khula rights are controversial. In *Zahida v. The court decision of the Punjab High Court* (2015) stipulated that the right of women to demand khula should not be impeded by superfluous requirements of the process to promote constitutional guarantees and Islamic jurisprudential provisions (Jamal, 2019). Although it is legal, the socio-cultural barriers, including family pressure and social stigma, continue to prevent women from exercising their rights in their fullness.

Gender Justice and Criminal Law.

The adoption of legislation of Hudood Ordinances (1979) affected the rights of women significantly, especially in rape and adultery. These acts, which were aimed at bringing Islamic criminal justice, were seen as criminalizing women victims of rape (Shaheed, 2010). These provisions were reformed under the Protection of Women Act (2006), which transferred the rape cases to the Pakistan Penal Code and reduced the evidentiary requirements. The necessity of judicial sensitivity when dealing with cases of gender-based violence and the compatibility of the Islamic law with protective legislation were mentioned in one of the High Court's cases, *Federation of Pakistan v. Dr. Shazia* (2007) (Zia, 2018).

Domestic violence is still a burning issue notwithstanding provincial legislation. The Punjab Protection of Women against Violence Act (2016) offers legal solutions, which include the protection order and shelter. In *Ayesha v. Punjab Police* (2018), an example of progress and enforcement challenges is the Lahore High Court instructing Punjab Police (2018) to actively observe the adherence to protection orders, which is the progress (Jamal, 2019).

Compliance with International Human Rights and CEDAW.

In 1996, Pakistan signed the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), in which it declared its intention to bring the domestic legislation into par with international gender equality norms (United Nations, 1979). CEDAW obligates states to do away with discrimination in education, employment, political participation, and access to justice. Nonetheless, Islamic law has frequently been used by Pakistan as a restraining element to make reservations.

Irrespective of these reservations, CEDAW has affected changes in the domestic reforms. As an illustration, the international commitments were one of the factors that prompted amendments to the Electoral Laws and Women's Political Participation (Shaheed, 2010). Cases like *Benazir Bhutto v. Election Commission* (2002) give an example of how the judiciary has been involved in making sure that the political rights of women are not compromised by balancing the constitutional law, Islamic principles, and international standards.

Socio-Cultural Barriers

Gender justice cannot be achieved only through the legal provisions. The results of socio-cultural norms

play a major role. There are honor killings, forced marriages, and denials of inheritance that continue to occur, particularly in the rural regions. The Human Rights Commission of Pakistan (2022) states that more than 1,000 honor killings are reported every year and, in most cases, have little legal repercussions. The case of Farzana Parveen (2014), in which a woman was murdered by her relatives on her wedding day, demonstrated the lack of effectiveness of legal measures as well as the necessity of work in the society (HRCP, 2022).

These problems are made more serious by educational and economic inequalities. The literacy rates of female residents of rural Pakistan continue to be less than male literacy, which restrains the knowledge of legal rights (World Bank, 2023). Dependency in the economy lessens the bargaining power of women in matters of the family and juridical conflict, thus remaining vulnerable.

Institutional Challenges

The weakness of institutional structures such as lack of women representation in the judicial system and police, hinders good execution of laws. Less than 20 percent of the legal profession is composed of women, and the senior judicial system positions are dominated heavily by men (Ali et al., 2023). Such a gender imbalance may affect both policy and case results as observed in delays and dismissals in women protection cases.

In addition to this the Council of Islamic Ideology (CII) is advisory in determining the compatibility of laws with Islam. Although the CII is supposed to make sure that the legislation is in line with the religious values, there has been instances where the CII has been slow in implementing progressive changes, relating it to the conservative interpretation (Baderin, 2003). Legal scholars, religious authority and civil society should work together in order to integrate the law with gender justice.

Progressive Interpretation and Islamic Feminism.

The Islamic feminist scholarship provides the guidelines on which the Sharia may be reexamined to achieve gender equality. The application of religious principles to modern problems is flexible, and these concepts provide an opportunity to do so, including maqasid al-sharia (objectives of Islamic law) and ijtihaad (independent reasoning, Rahman, 2026). As an illustration, both religious and social issues can be dealt with by reinterpreting laws on inheritance in such a way that women are given their due in respect to local traditions.

In addition, Islamic feminism focuses on the role of women in religious scholarship, which overturns male dominated views that have thwarted the rights of women in the past (Shaheed, 2010). In conjunction with constitutional protections and global standards, courts that take a progressive interpretation of Sharia are better placed to take care of gender justice.

Analysis of a Rural vs. Urban Situation.

The result of gender justice does not vary between rural and urban regions. Such major cities as Karachi or Lahore are more compliant to the law, have a higher literacy level, and have more active interventions of civil society (World Bank, 2023). Conversely, the rural regions are full of deeply rooted patriarchal values, laxity, and access to law. Laws, like mobile courts on family disputes and women's helplines, have tried to justify this gap, but there are difficulties (HRCP, 2022).

Legal Precedent Case Studies.

Muhammad Aslam Khaki v. Federation (2003) - accorded importance to the marital consent of women and legalized the family rights.

Zahida v. Punjab High Court (2015) - strengthened the rights of khulah of women and procedural changes.

Ayesha v. Punjab Police (2018) - enforce protection orders according to the domestic violence law.

Farzana Parveen Case (2014) - results in gaps in the legal safeguards of honor killings.

Benazir Bhutto v. Election Commission (2002) strengthened the political role of women in accordance with the constitutional and international standards.

These instances illustrate the importance of the judiciary in creating a balance between the Islamic values, the national law, and international binding to facilitate gender justice.

Policy Implications

The discussion indicates that, in Pakistan, gender justice cannot be realized by a law. To be well implemented, it will entail:

Good institutions and gender sensitive judicial procedures.

Lispanisah of the Islamic jurisprudence with the constitutional and international systems.

Sensitization of the society on socio-cultural barriers.

Women's education and economic empowerment.

With progressive interpretation of law, institutional changes, and education of the society, Pakistan can take a step towards meaningful gender equality.

Conclusion

In Pakistan, the issue of gender justice is a complex issue influenced by the Islamic law, the constitution, statutory amendments, and the international standards of human rights. Though Islamic jurisprudence offers principles that are conducive to extending the rights of women, patriarchal interpretation and socio-cultural practices tend to sabotage the same. Articles 25, 34, and 35 of the Constitution offer a good guideline on equality, although it is not well enforced because of institutional flaws, social conventions, and poor knowledge among women themselves.

Legal changes, such as the Muslim Family Laws Ordinance (1961), the Protection of Women Act (2006), domestic violence laws, and anti-rape laws, illustrate that Pakistan is interested in ensuring gender equality. Nevertheless, even such incidents as Farzana Parveen (2014) show that there are still loopholes in enforcement, especially in rural regions where patriarchal influences are most effective. Likewise, in khula and inheritance cases, there is a procedural impediment that highlights the necessity to have judicial sensitization and institutional changes.

The domestic policy and legislation have been affected by international commitments, especially CEDAW. However, it is still debatable whether the international standards are compatible with the Islamic law. The good news is that progressive interpretation of Sharia by the various mechanisms like *ijtihad* and *maqasid al-sharia* provides avenues for supporting the reconciliation of religious values with the global values. Islamic feminism also offers an academic structure through which the laws could be reinterpreted in order to empower women and increase their agency and involvement in all spheres, including the public ones.

The judicial case studies underscore the role played by the judiciary in promoting gender justice. Muhammad Aslam Khaki v. Decisions. Federation, Zahida v. Ayesha v. Punjab High Court. The example of Punjab Police shows how much courts are capable of defending the rights of women, and legislative reforms show the policy-level attempts to make the law consistent with the principles of social justice. However, equality is still not fully realized due to socio-cultural barriers, institutional inefficiencies, and gender bias.

To sum up, the way to gender justice in Pakistan is through balancing Islamic law, constitutional protections, and international agreements on human rights. To realize any material gender equality, a

multi-track solution is needed, which includes legal changes, institutionalization, mass education, and the encouragement of progressive religious interpretations. It is through these concerted efforts that the country can be assured that gender justice is not just an ideal in the books of the law but is an actualized reality for every woman.

Recommendations

Encourage liberal interpretation of the Islamic Law

It is important that legal academicians and religious leaders hold *ijtihad* and *maqasid*-driven interpretations in order to reconcile Islamic tenets with gender equality. Islamic jurisprudence ought to be construed in a manner that safeguards the rights of women, who have a right to inheritance, consent to marriage, and protection against atrocities.

Enhance Institutional Strength.

Gender-sensitivity training should be done for law enforcement agencies, the judiciary, and prosecution services. The establishment of women's desks and mobile courts of law can increase access to justice, especially in the rural areas.

Increase the number of Women in legal institutions

Having more women judges, lawyers, and police will help to bring more gender-sensitive decision-making and policy formulation. Female legal professionals need to be introduced to mentorship programs.

Public Sensitisation and Education

Women also need to be educated on the rights they have according to their constitutional rights, the statutory, and the Sharia laws nationwide. The rural and marginalized communities should be targeted by literacy and empowerment programs to empower the women in order to have access to legal remedies.

Enforce the international standards and nationwide laws.

Pakistan must also fully adhere to the CEDAW requirements and ensure that the reservations are met by providing context-specific reforms. The legislative reviews should be aimed at eliminating the legal loopholes that support the honor killings, forced marriages, or even breach of inheritance.

Observation and Review Implementation.

Have independent watchdogs to measure the efficacy of gender-related laws. The implementation of laws and changing them to meet new challenges can be achieved through regular reporting, audits, and mechanisms of community feedback.

Encourage multilateralism between the State, the Civil Society, and Religious Leadership.

The way to do this is by involving multi-stakeholders dialogues to balance religious understanding with the human rights standards, lessen opposition to changes, and enhance societal endorsement of gender equality.

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