

Women Empowerment in Pakistani Law: An Analysis from the Islamic Perspective

Friya Mehmood

Research Scholar, Fatima Jinnah Women University, Rawalpindi

Dr Shahzadi Pakeeza^{1*}

Assistant Professor, Department of Islamic Studies
Fatima Jinnah Women University, Rawalpindi, Pakistan.
dr.pakeeza@fjwu.edu.pk

Abstract

Women constitute about one half of the global population but they are placed at various disadvantages positions due to gender differences and biasness. Women Empowerment is a most debated issue in developing countries. It is vividly recognized that women empowerment is essential for the economic growth and reduction in poverty in developing country. Firstly this research explained the concept of women empowerment at global perspective. This research focuses on the rights of woman in the light of Islam and Pakistani law. These rights are protected in the form of different Laws, Bills and Acts in Pakistan. True implementation of these laws will be applied on the status of woman they would able to empower themselves. The main purpose of this study is to show that having all the rights either in Islamic perspective or in Pakistan Penal code why women are not able to empower themselves. Different bills, acts and conventions were discussed in this research for elaborating the rights of woman and how these laws are protecting the right of women. Another purpose of this research is to know the gap between rights in theory and practical implementation of these rights. This is a descriptive research and based on qualitative method. This research has proved after analysis on rights of women in Islam and Pakistan Penal Code that these rights encourage women to empower themselves and new laws, bills and act for the improvement of the status of woman. This research also shows that women should be aware about their rights through increasing their literacy rate.

Keywords: Women Empowerment, Gender Discrimination, Reforms, Rights, Bills and Acts, Gender and Islam

* Corresponding Author

Concept of Women Empowerment

There are various view of women empowerment given by different scholars and activists who define the concept at different level which are as follows.

- Women Empowerment means the expansion of women choices and enhances the abilities of women to exercise choices.²
- The process of women understanding of what she wants to do, which abilities she has and to enhance her abilities and develop her will and courage as well as accomplishment is called empowerment.³
- Women empowerment means “To build ideas those are improving the status of women and to giving authority to the women control over their resources such as socio-economic and reproductive. This improvement will be helpful for the reduction of poverty and development of the country”.⁴
- The process that builds the awareness in the women for the purpose of decision making and to handle the issues of their daily life known as empowerment.⁵
- Empowerment means to enhance the power of individuals such as contemplation, freedom of action and the way to fulfill their need of life etc. as the equal members of society.⁶
- Empowerment means to have full access of employment, freedom of speech and expression.⁷
- The term empowerment is also applied to a change in the equation or level of power. It refers to the process as well as consequences of social changes.⁸
- Empowerment means the process by which people take action to remove the obstacles. ⁹
- Empowerment of women refers to the process through women’s power of self-realization is strengthen and promoted.¹⁰
- Empowerment of women is not a self-propelled action which cannot be attaining by their personal effort. It can be effective through the man cooperation as well.¹¹

²Indira kumara Y and Sambasiva Rao B, Empowerment of women and Rural Development (India: Serials Publications, 2005), 2.

³ Kumar Bipin, Women empowerment and sustainable development. (New Delhi, India: Regal publications, 2009), 58.

⁴ Patel Rashida, Gender Equality and Women’s Empowerment in Pakistan. (New York, 2010), 108-109.

⁵ Afshar Haleh and Stephanie Barrientos, Women Globalization and Fragmentation in the Developing World. (USA: Palgrave Macmillan, 2003), 6.

⁶ Indira kumara Y and Sambasiva Rao B, Empowerment of women and Rural Development (India: Serials Publications, 2005), 8. C. f Rani Sandhya, Das. Empowerment of women, third concept, an international journal of ideas.

⁷Hammet Julie, Empowering women in Russia. (Bloomington: Indiana university press, 2007), 21.

⁸ Rao M Koteswara, Empowerment of women in India. (New Delhi, India: Discovery publishing house, 2005), 4.

⁹Lal Dr Sunder, Social status of women. (Jaipur, India: Abd publishers, 2006), 4.

¹⁰ Ibid: 93.

¹¹Nagarajan N, Empowering woman for environmental conservation. (India, Journal of population education, 2006), 35.

Dimensions of Women Empowerment

There are four dimension of women empowerment which is following

- Economic Empowerment: Sustainable livelihood should be managed in a way that leads towards the better standard of life of women.
- Social Empowerment: The status of women should be decent and respectable in a society.
- Legal Empowerment: Law should be made effective in a way that will support the women towards empowerment.
- Political Empowerment: Through struggle and movement are important reconditions for economic empowerment.¹²

The clear indicator of the process of women empowerment is women's consciousness. Expansion of freedom of choice and action are related to the empowerment. It gives the women freedom of choice, liberty, fear and wants. An empowered woman has a better level of self-confident and she has enough awareness to scrutinize her daily issues and criticize and defend them.¹³ Women empowerment has four components:

- The self-esteem should be enhanced in the women
- To make the easy ways leads towards access of better opportunities and resources
- To create ability to control their own decision within the house and outside the home
- The ability and awareness should be create and enhances in the women to do a just in social and economic orders.

Development of a nation cannot be fulfilled without women empowerment. Empowerment of women requires development of women in terms of status:

- Educational status
- Economic status
- Financial status
- Social status
- Political status
- Occupational status¹⁴

Holy Quran says that both man and woman are equal, as it is mentioned;

وَقَرْنَ فِي بُيُوتِكُنَّ وَلَا تَبَرَّجْنَ تَبَرُّجَ الْجَاهِلِيَّةِ الْأُولَىٰ وَأَقِمْنَ الصَّلَاةَ وَآتِينَ الزَّكَاةَ وَأَطِعْنَ اللَّهَ وَرَسُولَهُ
إِنَّمَا يُرِيدُ اللَّهُ لِيُذْهِبَ عَنْكُمُ الرِّجْسَ أَهْلَ الْبَيْتِ وَيُطَهِّرَكُمْ تَطْهِيرًا وَادْكُرْنَ مَا يُتْلَىٰ فِي بُيُوتِكُنَّ مِنْ آيَاتِ اللَّهِ وَالْحِكْمَةُ إِنَّ اللَّهَ كَانَ لطيفًا خبيرًا¹⁵

¹²Meera, S. N and Rao, IT for Empowerment of Women. (Yojana: Dum, 2003), 82-83.

¹³ Pillai Jaya Kothai, Women and Empowerment. (New Delhi, Gyan publishing house, 1995), 48.

¹⁴ Women social justice and Human rights, (New Delhi, India: Balaji Offset, 2009), 270-275.

¹⁵ Al-Quran 33:33-34

“And abide in your houses and do not display yourselves as [was] the display of the former times of ignorance. And establish prayer and give zakah and obey Allah and His Messenger. Allah intends only to remove from you the impurity [of sin], O people of the [Prophet's] household, and to purify you with [extensive] purification. And remember what is recited in your houses of the verses of Allah and wisdom. Indeed, Allah is ever Subtle and Acquainted [with all things].”

Islam declared that women are equal partner in the term of procreation of humankind. Man is the one side of a coin, woman is another side of a coin, and both are essential element for life.

Abu Huraira reported that the Prophet (ﷺ) said

“The believers with perfect faith are those who have the best disposition and the best of you are those who are best to their wives.”

Again Prophet Muhammad (ﷺ) said

“Whoever has a female child and does not bury her alive, nor holds her in contempt, nor prefers his male child above her, God will make him enter into paradise.”

Women Empowerment Rights in the light of Quran

Muslim women empowerment is one of burning issue. Islamic values and encourages the woman empowerment. Shariah declares an equal status for a woman. Quran, the paramount of Islamic law, says;¹⁶

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً ۚ وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا. وَلَا¹⁷

“O mankind, fear your Lord, who created you from one soul and created from it its mate and dispersed from both of them many men and women. And fear Allah, through whom you ask one another, and the wombs. Indeed Allah is ever, over you, an Observer.”

The question of women empowerment has acquired great importance throughout the history among all the communities. Women were kept in subjugation in the patriarchal society and it was considered that women are inferior to men and she must submit herself to the superior authority for the sake of survival in this world. While in the light of Shariah men and women are both equal and entitled to enjoy all rights equally. Equal importance has been granted to both of them by Islam. Both are created by Allah Almighty. Both are judge by Allah Almighty for their good and bad deeds. There are different verses and traditions of the Holy Prophet (ﷺ) that explain the status

¹⁶Hasnat Syed Farooq and Faruqi Ahmed, Pakistan Unsolved Issues of state & Society (Islamabad, Pakistan: Vanguard books, 2008); 175-178.

¹⁷ Al-Quran 4:1

of women in the Islam and also some scholars opine that depicts the empowerment of women in the light of Shariah.¹⁸

وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِأَنفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ إِنْ كُنَّ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ۖ وَيُعْلِفْنَ لَهُنَّ أَهْلُ بَرِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ ۚ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ ۚ وَاللَّهُ عَزِيزٌ حَكِيمٌ

“And women shall have rights similar to those against them according to what is equitable.”¹⁹

In the Quran there is no difference between the creation of men and women.²⁰ The Quran states:

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا رُجُوعًا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً ۚ وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ ۚ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا

“O mankind, fear Your Lord, who created you from one soul and created from it its mate and dispersed from both of them many men and women. And fear Allah, through whom you ask one another, and the wombs. Indeed Allah is ever, over you, an Observer.”²¹

A number of verses describes that human beings are created in pairs thus one is not superior to another.

قَالُوا أَرْجِهَ وَأَخَاهُ وَابْعَثْ فِي الْمَدَائِنِ حَاشِرِينَ

“Exalted is He who created all pairs - from what the earth grows and from themselves and from that which they do not know.”²²

The Quran states:

وَمِنْ كُلِّ شَيْءٍ خَلَقْنَا زَوْجَيْنِ لَعَلَّكُمْ تَذَكَّرُونَ

“And of all things We created two mates; perhaps you will remember.”²³

The Quran states:

يَا أَيُّهَا النَّاسُ إِنْ كُنْتُمْ فِي رَيْبٍ مِّنَ الْبُعْثِ فَإِنَّا خَلَقْنَاكُمْ مِّنْ نُّرَابٍ ثُمَّ مِنْ نُطْفَةٍ ثُمَّ مِنْ عَلَقَةٍ ثُمَّ مِنْ مُّضْغَةٍ مُّخَلَّقَةٍ وَغَيْرِ مُخَلَّقَةٍ لِّنَبَيِّنَ لَكُمْ وَنُقَرُّ فِي الْأَرْحَامِ مَا نَشَاءُ إِلَىٰ أَجَلٍ مُّسَمًّى ثُمَّ نُخْرِجُكُمْ طِفْلًا ثُمَّ لِتَبْلُغُوا أَشَدَّكُمْ وَمِنْكُمْ مَّنْ يُتَوَفَّىٰ وَمِنْكُمْ مَّنْ يُرَدُّ إِلَىٰ أَرْدَلِ الْعُمُرِ لِكَيْلَا يَعْلَمَ مِنْ بَعْدِ عِلْمٍ شَيْئًا وَتَرَىٰ الْأَرْضَ بَامَدَةٍ ۖ فَإِذَا أَنْزَلْنَا عَلَيْهَا الْمَاءَ اهْبَرَّتْ وَرَبَتْ وَأَنْبَتَتْ مِنْ كُلِّ رَوْحٍ بِهِجٍ

O People, if you should be in doubt about the Resurrection, then [consider that] indeed, We created you from dust, then from a sperm-drop, then from a clinging clot, and then from a lump of flesh, formed and unformed - that We may show you. And we settle in the wombs whom We will for a specified term, then We bring you out as a child, and then [We develop you] that you may reach your [time of] maturity. And among you is he who is taken in [early] death, and among you is he

¹⁸ Sayyid Mumtaz Ali, “Haquq-un-Niswan: An Advocate of women’s Rights in Islam in the Late Nineteenth Century,” Journal of Modern Asian Studies 24, no. 1(1990): 155-156.

¹⁹ Al-Quran 2:228

²⁰ Khan M.A, Women and Human Rights (New Delhi, India: SBS Publishers & Distributors Pvt .Ltd, 2006), 321-330.

²¹ Al-Quran 4:1

²² Al-Quran 36:36

²³ Al-Quran 51:49

who is returned to the most decrepit [old] age so that he knows, after [once having] knowledge, nothing. And you see the earth barren, but when we send down upon it rain, it quivers and swells and grows [something] of every beautiful kind.²⁴

Another verse use the dual form in Quran which it is a general verse and can be used for both sexes. Allah Almighty says:

وَيَا أَدَمُ اسْكُنْ أَنْتَ وَزَوْجُكَ الْجَنَّةَ فَكُلَا مِنْ حَيْثُ شِئْتُمَا وَلَا تَقْرَبَا هَذِهِ الشَّجَرَةَ فَتَكُونَا مِنَ الظَّالِمِينَ فَوَسْوَسَ لَهُمَا الشَّيْطَانُ لِيُبْدِيَ لَهُمَا مَا وُورِيَ عَنْهُمَا مِنْ سَوَاتِمِهِمَا وَقَالَ مَا نَهَاكُمَا رَبُّكُمَا عَنْ هَذِهِ الشَّجَرَةِ إِلَّا أَنْ تَكُونَا مَلَائِكَةً أَوْ تَكُونَا مِنَ الْخَالِدِينَ وَقَاسَمَهُمَا إِنِّي لَكُمَا لَمِنَ النَّاصِحِينَ فَدَلَبَهُمَا بِغُرُورٍ فَلَمَّا ذَاقَا الشَّجَرَةَ بَدَتْ لَهُمَا سَوْآتُهُمَا وَطَفَفَا خِصْفَيْنِ عَلَيْهِمَا مِنْ وَرَقِ الْجَنَّةِ وَنَادَاهُمَا رَبُّهُمَا أَلَمْ أَنْهَكُمَا عَنْ تِلْكَ الشَّجَرَةِ وَأَقُلْتُ لَكُمَا إِنَّ الشَّيْطَانَ لَكُمَا عَدُوٌّ مُبِينٌ قَالَا رَبَّنَا ظَلَمْنَا أَنْفُسَنَا وَإِنْ لَمْ تَغْفِرْ لَنَا وَتَرْحَمْنَا لَنَكُونَنَّ مِنَ الْخَاسِرِينَ

"And "O Adam, dwell, you and your wife, in Paradise and eat from wherever you will but do not approach this tree, lest you be among the wrongdoers. "But Satan whispered to them to make apparent to them that which was concealed from them of their private parts. He said, "Your Lord did not forbid you this tree except that you become angels or become of the immortal."

And he swore [by Allah] to them, "Indeed, I am to you from among the sincere advisors. "So he made them fall, through deception. And when they tasted of the tree, their private parts became apparent to them, and they began to fasten together over themselves from the leaves of Paradise. And their Lord called to them, "Did I not forbid you from that tree and tell you that Satan is to you a clear enemy?"

They said, "Our Lord, we have wronged ourselves, and if You do not forgive us and have mercy upon us, we will surely be among the losers."²⁵

In another verse Allah says to human that whatever the role they play and whatever responsibilities they offer having equal reward and punishment for their actions.

مَنْ عَمِلَ سَيِّئَةً فَلَا يُجْزَى إِلَّا مِثْلَهَا وَمَنْ عَمِلَ صَالِحًا مِمَّنْ ذَكَرَ أَوْ أَنْتَىٰ وَهُوَ مُؤْمِنٌ فَأُولَٰئِكَ يَدْخُلُونَ الْجَنَّةَ يُرْزَقُونَ فِيهَا بِغَيْرِ حِسَابٍ

"Whoever does an evil deed will not be recompensed except by the like thereof; but whoever does righteousness, whether male or female, while he is a believer - those will enter Paradise, being given provision therein without account."²⁶

This status of equality refers to the highest level of equality and worth in life. This status of equality is recognized in the spiritual life as well as in the temporal realm of social, economic and political domain.

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً ۚ وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا

"O mankind, fear Your Lord, who created you from one soul and created from it its mate and dispersed from both of them many men and women. And fear Allah,

²⁴ Al-Quran 22:5

²⁵ Al-Quran 7:19-23

²⁶ Al-Quran 40-40

through whom you ask one another, and the wombs. Indeed Allah is ever, over you, an Observer."²⁷

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاهُ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ

*"O mankind, indeed We have created you from male and female and made you people and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted."*²⁸

These verses explained the status of women in a fabulous manner. The religious obligation of the Islam does not differentiate the women from men.

Role of United Nation to Empower the Status of Women

United Nation Commission in 1946 decided to improve the status of women through utilizing their rights and empower them in every area of life. This decision was made due to the continuous struggle of women rights activists and organization. They depicted that these legal rights are neglected and disregarded in all over the world. The main purpose of this commission was to establish the socio-economic, political and educational rights to women in all over the world. Pakistan being a member of that treaty was obliged to fulfill its demands. The UN Convention was adopted by the UN Generally Assembly in 1952 which promoted the political rights of women. Nationality of married women was also adopted by General Assembly of UN Convention in 1957 that elaborated some basic elements of marriage such as consent to marriage, minimum age of marriage, registration of marriage. ORC had been also verified in 1990 and in 1993 by Pakistan.²⁹

Relevance/ Compatibility to Women Empowerment

United Nation promotes the rights related to a woman in every corner of the world and Pakistan being a member of UNO is obliged to follow these clauses. Different conventions encourage the rights of a woman at different levels.

Manifestation of Women Empowerment in Pakistani Law through Laws, Acts and Bills

Women have a basic role in the progress for the country. In Quaid e Azam views,

"No nation can ever be worthy of its existence that cannot take its women along with the men. No struggle can ever succeed without women participating side by side with men."

After the independence, government passed a number of laws, bills and ordinance for ensuring the protection of women rights and empowering them in all aspects of life. The status of a woman in a society is a main indicator of the level of development³⁰. It is directly linked with their economic position and the level of economic participation in nation's life. Economic status of women is the

²⁷ AL-Quran 4:1

²⁸ Al-Quran 49:13

²⁹ Ibid: 2.

³⁰ Joshi S C, Women empowerment myths and reality. (New Delhi, India: Akansha publishing house, 2004), 221-223.

one of parameters of the progress of country. It is important that state should provide new opportunities to the woman with the resource of self-reliance and economic independency. Different acts and bills that were formulated for the protection of women empowerment are as following:

- Constitution of Islamic Republic of Pakistan 1973
- Muslim Family Law Ordinance 1961
- Dowry and Bridal Gifts Restriction Act, 1976
- Protection of Women Act, 2006, revised the Hudood Ordinance
- Criminal Law (Amendment) Act, 2010 on sexual harassment
- The Women in Distress and Detention Fund (Amendment) Act, 2011
- National Commission on the Status of Women Act, 2012
- The Khyber Pakhtunkhwa (KPK) Elimination of Custom of Ghag Act, 2013
- The Punjab Protection Act against Violence 2016³¹

Constitution of Islamic Republic of Pakistan 1973

Some of the clauses of Constitution 1973 that cover the rights of women which are given below;

- Article 3 declares the state to eliminate all type of discrimination and exploitation. It includes all type of discrimination such as color, caste, language, sectarianisms, region etc.
- Article 4 states that every individual have equal rights of protection and shall be treated equally in front of law. This applies to all citizens of Islamic Republic of Pakistan and on those persons who are staying in Pakistan for some days or a time without any prejudice. No one has authority to suspend these rights without any solid reason.
- Article twenty five provides that all individuals are equal before the law and discrimination shall be eliminated related to the sex.
- Article twenty five (3) and twenty six (2) provides that protection of women and children is the responsibility of the state and state will be obliged to eliminate previous laws and to create new laws for them with the passage of time.
- Article twenty six and twenty seven ensures that everyone has freedom to enter in the public place and to do jobs in both institutions (Government and Private).
- Article thirty two provides special provisions for the representation of women in local government.
- According to Article thirty two, local governments will provide special laws for the representation of women.
- Article thirty four ensures that participation of the women in every area of life is the responsibility of a state and it must be obliged to take steps for their empowerment.
- Article thirty five declares to the protection of marriage, the family, the mother and the child.

³¹Sohail, Mariam. "Women Empowerment and Economic Development –An Exploratory study in Pakistan." Journal of Business Studies Quarterly 5, no. 4 (2014): 210-221..

- Article thirty seven specifies all the organizations that women should have maternity vacations during their employment.
- Article 11 & 37 prohibits all kind of trades of unlawful and illegal means.
- Article 51 & 106 allocates the seats for women in the legislation.³²

Relevance/Compatibility to Women Empowerment

These articles play a significant role in the empowerment of women. They were modified with the passage of time due to rapid social change as well as the change in women's need. The purpose behind formulating these articles was to secure women rights.

Muslim Family Law Ordinance 1961

Family law is an area of law that deals with the matters of family and domestic relations. It includes child custody, dower, law of inheritance, marriage, divorce etc. The first major law that protects the rights of women in Pakistan was Muslim Family Law Ordinance 1961. The MFLO was based on the recommendation that were given through the commission on marriage and family given in 1955. This law brought a change in the traditional family laws. It discouraged the tradition of polygamy and divorce. It consists of thirteen sections and thirteen paragraphs. It is mandatory in its nature and if someone violates its rule, he will be charged with imprisonment or fine.³³

Relevance/ Compatibility to Women Empowerment

Muslim Family Law was the first law that encourages the rights of a woman related to family matters. This law was made to safeguard the rights and to provide legal assistance in procurement of these rights.

The Dowry and Bridal Gifts (Restriction) Act 1976

This act was made to impose prohibition on the exhibition of dowry and presents. This act was the replacement of the "*West Pakistan Dowry (Prohibition on Display) Act 1967*" that was promulgated previously. In this act demonstration of dowry and presents were completely prohibited as well as demanding heavy dowry and presents behalf of the bride from her guardians. The punishment to breach this restriction was imprisonment of one year or fine of five thousand which may be exceeded or both. This act only explained the prohibition of dowry and presents demonstration but there was no restriction on the measurement of quantity, value of dowry, bridal gifts and presents given to bride and groom from her maternal side. This Dowry and Bridal Gifts (Restriction) Act 1976 puts limits in the value of dowry. This act also imposed a restriction on the expenditure during marriage and prescribed that expenditures in marriage ceremony. The penalty to breach these clauses was imprisonment for six months or fine. The Law and Justice Commission of Pakistan had put different recommendations in this act in 1992. They enhance the limit of dowry and bridal gifts from Rs 5,000 to 50,000. It also improved the value of expenses during marriage

³² Malik Nafeer Ahmed, *The Constitution of the Islamic Republic of Pakistan 1973*, (Lahore, Pakistan: Irfan Law Book House, 2011), 3-64.

³³ Chaudhary G. W, *Constitutional Development in Pakistan*. (London: Longman Group Ltd, 1959), 74-76.

ceremony. Apart from other amendments proposed by the commission, this act also recommended prohibition of pretentious celebrations such as decorate of streets, roads and public place where marriage is not being held, fireworks and illuminations etc. Further all those things that can be harmful for other peoples shall be prohibited.³⁴

Relevance /Compatibility to Women Empowerment

This act plays an important role in the restriction of extra marriage expenses. Exhibition of dowry and bridal gifts are not allowed in Islam and this act also prohibits it. This act increases women confidence to speak for her right and to eradicate this custom. This act also empowers freedom of expression.

Women Protection Act 2006

The process of revocation of Hudood Ordinance was started in June 2006. General Pervez Musharraf asked Islamic Ideology Council to rewrite the Hudood laws in accordance with Islam and give recommendation to the state to elaborate these laws in appropriate way to make it part of Pakistan Penal and Criminal Procedural Code. On 1st December after the receiving approval by the president, this bill was set forth. Its preamble was started: *“It is incumbent to provide relief and protection to women against misuse and abuse of law and prevent their exploitation.”*

In Pakistan penal code section 365B, 367A, 371A and 371B, different kinds of violence against women such as kidnapping a woman for the sake of marriage, selling and buying the women for the purpose of prostitution are punishable by either death or imprisonment which may extend to twenty five year and fine may be charged with imprisonment as well. The new sections 371 and 372 referred to the rape where this act is liable to punished by either death or imprisonment not less than twenty five years and may be charged with fine. The protection of woman act 2006 states that all sexual criminal acts committed by man against the consent of woman under the age of sixteen will be considered an offence and would be punishable under the sections of 493A, 496A, 496B and 496C. The punishment of Zina will be five years of imprisonment and charged with fine as well; false accusation of Zina (Qazaf) will also be liable to same punishment. Under this law women will not stay in police custody for more than 24 hours and police are obligated to bring the woman within 24 hours to the judiciary custody.

Relevance/ Compatibility to Woman Empowerment

This act encourages the right of dignity of woman. This act declares rigorous punishments for the reduction of hudood crimes. This act proposes ta’zir punishment instead of hudood punishments prescribed in the Quran. However, these punishments build the confidence of woman and give them protection inside or outside home.

Protection of Women (Criminal Laws Amendments) Act 2006

³⁴ Ibid -83

Parliament passed this Act on 15th November 2006. This bill was divided into many sections. It amended the Zina and Qazaf crime punishments, while others are remain practice in original form. Women right are defined in the constitution 1973, article 25(1) declared that;

“All citizens are equal in front of law and are entitled to equal protection of law.”

There are some clauses of this Act which are as follows:

- **Section 365 B: Kidnapping, Abducting or Inducing Woman to Compel for Marriage**

“Whoever kidnaps or abducts any woman with the intention that he will compel her to marry against her will or in a sense that she will be forced or seduced to illicit intercourse shall be punished with imprisonment for life and also charged with fine.”

Relevance/ Compatibility to Women Empowerment

This clause encourages the right of dignity and marriage of a woman. Dignity is the most important right and women not asked for their consent which is the basic right given by Islam and in Pakistani law. If a woman will be married with her own will and choice, her dignity will be preserved. She will gain confidence in every field of life whether related to social, domestic or economical life.

Section 367A was included after **section 367** in the code:

- **367A: Kidnapping and Abducting to Subject Person to Unnatural Lust**

“Whoever kidnaps or abducts any person for the unnatural lust and his or her life being subjected to danger shall be punished with vigorous punishment of imprisonment which may extend to twenty five years and also charged with fine.”

Relevance/ Compatibility to Women Empowerment

This clause encourages the right of respectful life and protects the freedom of woman. These crimes are prevailing in a large number now a day with new methods and technologies is being employed for them. Through these punishments these crimes are reduced and their true implementation will preserve women right and dignity in a better manner.

Section 371A was included after the **Section 371**, namely:

- **Selling Person for the Purpose of Prostitution**

“Whoever sells, hire or take any person for the sake of prostitution or for any unlawful and immoral purpose shall be punished with vigorous punishment of imprisonment which may extend to twenty five years and also charged with fine.”

- **Section 371B: Buying Person for the Purpose of Prostitution**

“Whoever buys, hire or take any person for the sake of prostitution or for any unlawful and immoral purpose and used for employment shall be punished with vigorous punishment of imprisonment which may extend to twenty five years and also charged with fine.”

Relevance/ Compatibility to Women Empowerment

These clauses encourage the right of dignity of woman and emphasize those rights that are directly related to Allah Almighty. Prostitution is one of the offences of hudood crime but these clauses suggested these crimes to be liable to ta'zir. But the purpose of these sections was also to reduce the prevailing criminal practice in the society and preserve the dignity of a woman.

- **Section 493A: Cohabitation Caused by a Man Deceitfully Inducing a Belief of Lawful Marriage**

“Every man who has belief that she will be marrying in real but in reality it is just deceitfulness and causes hurt any woman who is not lawfully marries to him, shall be punished with rigorous imprisonment which may be extend to twenty five years and shall also be liable to fine.”

Relevance/ Compatibility to Women Empowerment

This clause protects the right of marriage of a woman that consent of a girl is most important for the marriage.

- **Section 496A: Enticing and taking away or detaining with Criminal Intent to Woman**

“Whoever takes away any woman with intent that she may illicit intercourse with any man, or conceal with that intent any woman shall be punished with imprisonment which may extend to seven years, and shall also be charged with fine.”

- **Section 496B: Fornication**

- (1) *A man and a woman have sexual intercourse to each other willfully without the bonding of marriage.*
- (2) *Whoever commits fornication shall be punished with imprisonment which may extend to five years and charged with fine which may not extend ten thousand rupees.*

Relevance/ Compatibility to Women Empowerment

These clauses discuss the right of dignity and honor of a woman. Without practicing these rights woman cannot survive and attain a good status in a society because the honor and dignity is a basic and fundamental right. These clauses are not compatible with Shariah as they abolished the Hudood crimes punishment and declare only the ta'zir punishment for these crimes.

- **Section 496C: Punishment for False Accusation of Fornication**

“Whoever provides, brings evidence of false accuse of fornication against any person, shall be punished with imprisonment which may extend to five years and charged with fine which may not extend ten thousand rupees.”

Relevance/ Compatibility to Women Empowerment

This clause also promotes the rights of dignity and honor of a woman. The punishment of this clause is incompatible with Shariah. Because Islam prescribe eighty lashes for this offence but this clause declares the ta'zir punishment for this offence.

- **Section 203A: Complaint in Case of Zina; Section 203B: Complaint in case of Qazaf; Section 203C: Complaint in Case of Fornication**

Relevance/ Compatibility to Women Empowerment

These sections discuss that the case should be legal and in accordance with the offence registered in the Pakistan Penal court. The presiding officer will investigate the proofs and take decision with justice. If he considers that proofs are insufficient then he will issue summon to the accused for further investigation. This clause ensures the woman that decision will be taken on justice.

The Criminal Law Amendment Act 2010

This law declared sexual harassment as an offence and liable to rigorous punishment. This bill relate to the dignity of woman and protection of women rights against violence. This law was not considered as a crime in Pakistan penal code of 1862. The amendments have taken place in the section 509 of Pakistan penal code that if someone induces the privacy of a woman such as abuse the modesty, makes any gestures and utters bad words etc. against any woman. This offence will be punishable for the imprisonment of three years if needs and charge with fine of five hundred thousand rupees as well. This bill was proved the first bill in the Pakistani history leads towards the protection of woman rights from harassment. The main aim was to secure the women against any kind of sexual harassment at a private and public places.³⁵

Relevance / Compatibility to Woman Empowerment

This bill was made for the protection of dignity and honor of women. This was first bill proved against the sexual harassment in the history of Pakistan. This bill defined the places where this type of activities happens on the regular basis. This bill removes the hurdle in the way of women and empowers them to so work at every level. It also encourages women to stand for their rights by protecting the dignity and confidence of women about their rights.

The Woman in Distress and Detention Fund (Amendment Act) 2011

This bill was presented in support of those females who are living in the prison, detention and distress. The purpose of this act was to modify the distress and detention fund act 1996. Ministry of human rights distributed these funds to the women. But after the eighteenth amendment of constitution a separate entity were administrated by the ministry of human rights. These funds were used for the betterment of a status of women under the authority of ministry of law. These funds used in two ways: To help those woman who are at the stage of detention whether they are living in prison, stage before prison and in Dar ul Amman to provide them jobs if they are not eligible for the job then provide them books to make able for jobs and a respectful citizen. Medical care must be available at the spot if they needed, those women who are investigated if they don't have shelter provide them if they need legal help that will also provide them as soon as possible.³⁶

Relevance / Compatibility to Woman Empowerment

³⁵ Munir Muhammad, Precedent in Pakistani Law. (Karachi, Pakistan: Oxford Publishing Press, 2014), 53-55.

³⁶ Basit Muhammad Abdul, The Constitution of the Islamic Republic of Pakistan,(Lahore, Pakistan: Federal Law House, 2015), 74-78.

This act protects those women who are living at the stage of prison and misery. This act ensured that government of Pakistan fulfills the basic need of women like food, cloth and shelter. If they are educated then provide them job. If they are not able to avail the opportunity of job then Government shall be responsible for their education because when they will come outside of prison they should be a respectful and responsible citizen. If they have children during the time of imprisonment. This act provides a food, shelter and education to the children. Finally this law promotes the assistance to women so that their ways towards the empowerment and rehabilitation should not stop and they will contribute for the betterment of country.

National Commission on the Status of Woman Act 2012

The purpose of this law was to encourage the implementation of clauses made for women in the constitution of Pakistan 1973. This act refers to implementation of all dimension of women empowerment as legal, socio-economic and political. The commission shall be liable to investigate the information related to the violation of rights of woman and give suggestions to amend the law and make new strategies for eliminating the discrimination against women.³⁷

Relevance /Compatibility to Women Empowerment

This act was made to defend the women rights at every level. It also refers to the implementation of all those aspects which leads towards the women empowerment.

National Commission for Human Rights Act 2012

National Commission for human rights Act 2012 was established to prevent the women against violence. Since all women rights are part of human rights as well, so this commission taken into consideration the compatibility of human rights and women rights and their implementation in Pakistan.³⁸

Relevance / Compatibility to Women Empowerment

This human rights act directly refers to the women empowerment. The purpose behind this commission was to protect the woman against any kind of violence. This commission was a result of continuous struggle of government and human rights activists and civil societies in favor of woman empowerment.

The Khyber Pakhtunkhwa Elimination of Custom of Ghag Act 2013

The Khyber-Pakhtunkhwa (KPK) Assembly passed this bill in 2012. This bill was made to eradicate the social evil custom of Ghag in KPK. In this custom a man can marry any woman of his choice without her consent by making an observation either by words or written directly or indirectly and in a private place or a public place. After this declaration no other man can marry that woman. Even if the man only claim to marry and does not marry that woman, she cannot marry to any other man. The offence under this act will be non-bail able, non- compoundable and cognizable. The punishment of the violators shall be seven years which may be exceed but not less

³⁷ Aqeel Warker and Abdul Basit Ahmad “Struggle for Equality (New York, USA: Dar us Salam Publishing House, 2015), 112-116.

³⁸ Rashmi Sharma,. Women Law and Judicial System. (New Delhi, India: Regal Publications, 2009) 28-33.

than three years or fine shall be 0.5 billion. This bill ordains that cases of these offences will be handled by session courts.³⁹

Relevance /Compatibility to Women Empowerment

Consent of a girl is most important element of a marriage in Islam and also in Pakistani law but in the Northwestern areas these things are ignored this custom eliminate the confidence of a women and suppressed her that is totally prohibited in Islam and in Pakistani law. Through this bill a woman can gain her confidence and speak out for her marriage. This act directly empowers women to marry a man with her choice. This act also promotes the consent of a girl at the time of marriage.

The Punjab Protection of Women against Violence Act (PPWVA) 2016

The Protection of women against violence act 2015 was ratified on 26 February 2016. The purpose behind to this bill was to provide a comprehensive protection to women against a range of crimes. This bill contains 31 articles. This bill declares all kinds of violence such as Physical violence, stalking, psychological violence, sexual violence, abusive languages, and cyber-crimes against women will be consider a crime in Punjab. The aim of this bill was to promote gender equality in the province. This bill established a committee to investigate complaints by women. A UAN was instigated to record all kind of complaints.

Relevance /Compatibility to Women Empowerment

This bill protects the women from every kind of violence. This bill ensured that protection will be provided to woman at every level. If she claim that she is suffering violence and she needs protection, government would obliged to give her protection after the investigation. This main purpose behind of this bill was to promote gender equality and to protect woman at every level. After investigation if her complaint will not accurate then she will also liable to punishment. This bill was admired at academic level and by the many human rights activists. This bill directly gives the confidence to the woman to do work and take decision without any kind of fear related to violence. When woman have fear of violence she could not go outside the house the fear of violence suppressed her at degrading level.

Conclusion

This study concludes that women empowerment is a mandatory component for the development of a country. Women have been given equal rights by Shariah without any discrimination. This study describes that the right of dower, right of ownership, right of inheritance directly promote women empowerment. Other rights are the right to work, right of mother, right of marriage and divorce; these rights also strengthen the status of women in a society. In Pakistan, despite many laws, bill and amendments in previous laws, women are still the victim of crimes of sexual harassment, rape and domestic violence. Theoretically, these laws were made for the protection of women but practically the true implementation is not fully done. Both Islam and Pakistani Law encourages the rights of women and enable them to empower themselves through protecting these rights and their implementation in true spirit.

³⁹ Ibid- 43

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