

# Human rights in Pakistan

The Nation

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**S**peaking constitutionally, Pakistan guarantees all the essential human rights to its citizens and persons living in Pakistan. Part-II of the Constitution is essentially devoted to fundamental rights. These rights include the inviolability of dignity of man, freedoms of movement, assembly and association, freedoms of speech, trade, profession and religion. State of Pakistan protects property rights and prohibits retrospective punishments. Discrimination of any type including the one based on gender is not allowed. The list of fundamental rights can be justifiable projected as progressive, contemporary and specific inasmuch as that formation of political party is noted and recognised as a part of the freedom of association (distinguishing it from other constitutions).

In addition, the concept of due process coupled with the powerful instrument of judicial review by the superior courts is a part of the basic structure of Pakistan's Constitution. Brief reference to this provision may be appropriate. Article 4 declares that to enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen and of every other person for the time being within Pakistan and Article 199 of the Constitution grants to the High Courts jurisdiction to correct injustices and is expressed in language that enlarges the jurisdiction of the court; thus opening venue for public spirited litigation. Supreme Court is given special jurisdiction to directly entertain petitions for the enforcement of fundamental rights if they also involve issues of public importance.

Pakistan is signatory to number of conventions on human rights and political rights. It has also ratified the universal declarations of human rights. Only in March 1996 it appended its signature to the United Nations Convention on the Elimination of All Forms of Discrimination against Women. Pakistan is thus committed to honour and enforce the human rights contained in those declarations and charters.

There are also a few non-governmental organisations fairly active in the human rights field in Pakistan. Even the Government of Pakistan has allocated a portfolio on human rights and added a ministry for it. Superior courts of Pakistan have also devised ways and means of taking-up the human right's cases on priority basis.

In professing commitment to human rights Pakistan is second to none. Yet the human rights environment in Pakistan is far from being satisfactory. As a matter of fact the situation has progressively deteriorated over the years. One of the major human right's violation includes extra-judicial killings, torture or coercion by the state functionaries particularly in police custody resulting in mysterious deaths.

the said Convention. A report which was due on April 11, 1977, had not been submitted till October 1998 and may well have not been submitted till today. The only worth-mentioning event in this field is the report of the Commission of enquiry for women which was set-up by the government in the year 1994. The report has brought into focus the areas of the deprivation of rights suffered by women. The anguish of the Commission is expressed in their conclusion where the Commission has urged the decision-makers to give the issue of women rights the critical importance it deserves.

The attitude of our religious leaders and groups is a great hindrance in the political participation of women in the law-making bodies of Pakistan. It is a dismal picture that out of 207 members in the National Assembly there are only five women legislators, two Senators out of 83 and only one woman out of 483 male provincial legislators. Those who demand the political rights for women are criticised as *magribzada* (westernised). Thus making a fruitful dialogue on the issue almost impossible. The rigid interpretation of *Sharia* has infringed on the right of an adult female to seek her partner of life by her own freewill. As an informed member of the profession I am entitled to say that I notice judicial indifference towards the women's rights and to general issues concerning women. It is easy for the family members to convince a judge against a female litigating for her right by accusing her of *awarjee* (lewdness).

The religious intolerance is on the increase and as a result of preaching violence by the sectarian leaders, who in certain cases go to the extent of calling the other sect of believer as *kafirs* and thereby *wajibul qatl* (liable to be killed), the violence has taken the shape of gangsterism and terrorism resulting in the death of many innocent people. This area is becoming extremely dangerous and likely to gain uncontrolled proportion if not attended to in good time.

The present attempt of the party in power to make the Constitution subservient to *Quran* and *Sunnah* in general terms and without specification is to open a gateway for battle of *fatwas*. Some of the fundamental rights already enshrined under the Constitution may become open to various interpretations at the hands of *Alims* of different schools of thoughts some of whom wants to reproduce a society from the past instead of relying on the principles deduced from *Quran* and *Sunnah*.

I can understand that the impact of my statement on some of the listeners could be that despondency and disappointment. But I believe it is also a fundamental right of every citizen to know the truth. In speaking the truth I am fulfilling a national obligation towards the improvement of environment of human

Bonded labour and child abuse do invite occasional criticism and we read an odd statement once a while on these issues. But the practice has continued unabated and with impunity. Child employment is now accepted as a norm even amongst domestic servants. The plea is that these children are lucky that they are at least fed and paid.

Child-beggars are paraded at the busy crossings on the streets in most of the towns and the money they earn becomes a part of the *mafia's booti*, which mafia takes hold of these children at the late hours of night and into the darkness of their secret holdups. No one seems to be really concerned about their future. Children who should be active and full of hope are used, abused and abandoned to despondency. To abuse a child is to abuse our own future. Right of child is the most neglected right in Pakistan. Women at least can speak and fight for their rights but these abused and discounted children have no spokesman.

Political parties of Pakistan who do acclaim their commitment to human rights and when in opposition take cover behind such rights, in reality lack conviction and suffer from double standards. Within their own ranks a worker is denied his political right and Constitutional Amendment No. XIV has put a constitutional seal. Now even the public representatives cannot openly differ on vital national issues from the party line or worse from the party boss. Whenever in power the political parties start to systematically, demolish institutions that could advance or protect fundamental rights.

The all pervasive corruption of the police which is the main instrument for enforcement of law and order have added to the complexity and polluted the human rights environment. Corruption in bureaucracy is denying the possibility of equal treatment under the law to the poor who cannot pay for his right or who are less fortunate than his adversary. The devil of corruption blocks the entry to administrative and social justice. The same applies to a part of judiciary. It has added inauspicious and ominous colour.

Women rights which were acclaimed in the women's conference in Beijing by Hillary Clinton as human rights has remained a dead letter in Pakistan. There has been no progress worth mentioning on women rights. In the male chauvinistic society of Pakistan very little effort has been undertaken or if any attempt has been made to remedy the wrong, it has not been able to end discrimination against women or to safeguard and protect their rights.

I am troubled at the rising incidences of rape in police custody and of gangrapes by influential sector of society. There are still cases of the killing of women on the mere allegation of harming the family's or clan's honour. I understand that the Government of Pakistan is in a quandary how to fulfil the obligations under Article 18 of the United Nations Women Convention which requires the party state to submit within a year of ratification and thereafter at least every four years, reports on the legislative, judicial administrative or other measures which they have adopted to give effect to the provisions of

rights in Pakistan.

We shall have to bridge the gap between our profession and our deeds. There is luckily a free Press operating in Pakistan and the Pakistani culture is pluralist in its tone and tenor. The federal structure of the society is also a source of allowing difference of opinion. In addition we are living in an era of dramatic changes wherein revolutionary information technology is leading to globalisation and interconnection among people and states. The recent Human Rights Development Report of 1998 has brought out the discrimination that exists in the human poverty index between the industrial countries and the poor countries and has raised the issue that the developed countries must recognise that human progress can only be achieved if the countries lagging in human development are helped and cautiously supported to achieve an appropriate level of human development. These global trends should help the society of Pakistan to become aware of the need for human rights also.

To the Pakistani citizens my appeal would be not to look-up for every relief towards the government and other state institutions. The primary responsibility for establishing and strengthening human rights is that of the citizens. I have earlier mentioned that some of the NGOs are fairly active in the field of human rights yet they have not achieved any significant results. The reason is that their participation is confined to the dedicated few members of those societies. The people have not yet participated. Organisation for consumer's right or citizen fora have not sprung up nor do the people of Pakistan take interest or participate in the activities of NGOs operating in the field of human rights. Human rights are not easily given by those who usurp or restrain it. These rights like all other rights have to be taken.

It will be, therefore, appropriate to demand through this forum from the government to complete its report on all the conventions which the government has signed and to make them public particularly with regard to Convention on the Elimination of all Forms of Discrimination against Women.

We should specifically demand from the government in power:

(i) not to press for the passing of the Constitutional Amendment No XV;

(ii) include in the educational curriculum material for awareness of human rights;

(iii) recently constituted *Khidmat* Committees should be directed to give priority to the human rights issues; and

(iv) make laws including constitutional to enable the presence and participation of women in political decision-making bodies.

Islam insists and places the responsibility of virtue and doing good on individuals. My message of the day will be let us privatise the issue of human rights and rely on our own sources and efforts.