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**Is Pakistan safe for women?**

A common feature of coercion is the abuse of power to subjugate the rape victim, especially in situations where deprivation or dire consequences are threatened. Categories of rape can include marital rape, stranger rape, gang rape and systematic rape during war.

Pakistan's laws previously included rape in the Offence of Zina Ordinance 1979, which made the crime a religious offence, subject to different standards of evidence and punishment, and subject to the appellate jurisdiction of Shariah Courts. The effect of Section 8 of the Ordinance was reversal of the presumption of innocence -- “guilty until proven innocent”. This resulted in the Ordinance becoming an instrument of oppression against women.

In 2016, Pakistan adopted the Protection of Women (Criminal Law Amendment) Act, which reclassified rape differently from fornication and adultery and substantively revised sections of the Pakistan Penal Code that dealt with the crime. If the accused is not recovered for appearance before the court, Section 512 of the Code of Criminal Procedure (CRPC) allows for evidence to be recorded in the absence of the accused and a trial to be held in absentia until he is apprehended.

Human rights activist I A Rehman stated at the time: “the Act introduces new dimensions in violence against women. In the past, a case was only registered when a woman was physically tortured. Now, even mental torture is considered a punishable crime.” As provinces cannot alter the CRPC, which is a federal law, new recommendations like the 2016 Act provide civil remedies such as protection orders, residence orders and monitoring orders. Since the Act specifically deals with protection of women, it could help make police forces more receptive to problems and laws that deal with violence against women.

However, despite the existence of a legal mechanism to protect women, there is ineffective and lacking implementation of the same. Even if policies have been explicitly laid down, societal and cultural ‘values’, which are often regressive, dictate how these are implemented.

The Qanun-e-Shahadat Order 1984 deals with ‘proof of facts’ in legal proceedings. It is pertinent to mention Section 21(j), which has a discriminatory effect on prosecution of rape cases. Cases reported ‘late’ are due to psychological or logistical reasons, or simply because the police dissuade victims from filing cases. This works against women, as their intentions are viewed as ‘mala fide’, or worse, seen as a conspiracy to falsely implicate the accused.

The Criminal Code now enables a female victim to bring forth credible witnesses, of either gender to support her claim. A medico-legal examination can prove the rape took place, if DNA is collected within 72 hours, as per requirement. One cannot bring up a woman’s past sexual history in a rape trial to destroy her credibility, after the deletion of Section 151(4) of the Qanun-e-Shahadat Order 1984.

According to the NGO ‘War Against Rape’, cases of rape are underreported and conviction rates are low (under three percent, across the country, with the exception of gender-based violence courts recently operationalized). Research conducted on rape cases registered in Punjab by Jang Group and Geo Television Network shows 1,365 cases in 2017 and no fewer than 3,881 cases in 2019. The Sustainable Social Development Organisation (SSDO) revealed a 200 percent increase in cases of violence against women in Pakistan in the first three months of 2020.

In the latest Motorway gang-rape case in Lahore, the perpetrators broke the car window, looted valuables, dragged the family to the side of the road, where they gang-raped the woman in front of her children. This incident happened just five days after the dead body of a five-year-old girl, who was raped, was found in Karachi. In January 2018, the rape and murder of a seven-year-old girl in Kasur, Punjab led to nationwide outrage in a similar manner.

The public pressured the government to find the culprits and give them exemplary punishment. The demand of public hanging was widespread; however, public execution is not a real solution as it resolves public anger via aggression and covers the state’s complicity in creating conditions that result in such crime but does little to prevent the occurrence of such crimes in the future.

Women in Pakistan are blamed for putting themselves in dangerous situations; or in the case of marital rape, not being subservient. The judiciary has a very small percentage of female judges and hardly any female public prosecutors. Trials are held in open court, with nothing barring onlookers from making gestures that mock victims. Minors are not awarded special care, nor shielded during the identification process and given in-camera trials as a matter of routine. Bails are granted casually when the crux of the evidence is based on medical findings.

Offenders, once released, find ways to torment the victims and their families, against which the state awards no tangible protection. There are very few shelter homes for women seeking refuge. Going to a shelter home is still considered taboo and perceived as the last resort of women who have been turned away by ‘respectable society.’ There is no existing long-term rehabilitation plan for victims supported by the government.

In 2020, the Committee on the Elimination of All Forms of Discrimination against Women commended the state of Pakistan for setting up GBV courts. However, it was stressed that more can be done to improve access to justice by ensuring non-discrimination, removing economic barriers, and implementing further capacity building measures.

A case can take about 3-4 years to conclude, which contravenes the National Judicial Policy of the Supreme Court, 2009 (revised 2012), which stipulates that: “All cases punishable with imprisonment from seven years and above including death cases shall be decided within a period of one year.” Despite policies like these, the police waste tremendous amounts of time in so-called investigations and almost always fail to submit the charge-sheet within the 14-day period (as also directed under the policy and liable to disciplinary action by the courts).

The government, including provincial governments, must repeal discriminatory laws against women. To make justice accessible, laws must be put in place for women who may be deterred due to social and psychological reasons from reporting. This would include building better facilities for the preservation of forensic evidence; and eliminating the two-finger test, among other actions required. More importantly, the government needs to legislate on sexual offences that have not yet translated into legal language in order to award women legal protection.

The writer is a lawyer and activist.