



*Between Promise and Practice: A Constitutional Analysis of Women's Rights in Pakistan*

<sup>1</sup>Syeda Hejab Zahra

<sup>2</sup>Dr. Shahid Rizwan

<sup>3</sup>Dr. Shahida Naz

<sup>1</sup>Advocate High Court

<sup>2</sup>Assistant Professor, College of Law, Government College University, Faisalabad

<sup>3</sup>Assistant Professor

Article Details:

Received on 20 July 2025

Accepted on 24 Aug 2025

Published on 28 Aug 2025

Corresponding Authors\*:

Abstract

This study critically examines the constitutional protection of women's rights in Pakistan under the 1973 Constitution. While Articles 25, 27, 34, and 37 clearly articulate equality and prohibit discrimination on the basis of sex, the lived experiences of Pakistani women often reflect systemic disparities. The research employs a qualitative, doctrinal legal methodology, analyzing constitutional provisions, judicial decisions, legislative enactments, and scholarly literature to assess how legal ideals diverge from real-world enforcement. Judicial interpretations are occasionally progressive but are still patchy, with weak institutional backing for gender-sensitive judgments. In addition, socio-cultural obstacles like patriarchy, illiteracy in law, economic dependency, and fear of stigma also persist in exclusion of women from the justice system, especially in rural and disadvantaged places. The study also criticizes Pakistan's minimum incorporation of global commitments, i.e., CEDAW, into the national legal system. It discovers that even though institutions like the Ministry of Human Rights and NCSW are present, their impact is diluted through the absence of enforcement, funding, and political will. Finally, the study concludes that constitutional protections are mostly symbolic unless there is judicial accountability, social change, awareness among citizens, and participatory policy-making. Filling the gap between legal promise and real experience needs not only legal reform but institutional and cultural change to achieve substantive gender equality in Pakistan.

**Keywords:** Women's Rights, Constitution of Pakistan 1973, Gender Equality, Fundamental Rights.



## Introduction

The Constitution of the Islamic Republic of Pakistan (1973) institutionalizes equality before the law and gender-based discrimination under Article 25(2). In spite of this pledge, the women's lived experience in Pakistan frequently reveals systemic inequalities. Women make up 22.7% of the workforce and 51% of the population, as cited in the Planning Commission (2015) their rights continue to be unevenly protected and applied. The 1973 Constitution is a pillar of Pakistan's legal system, aimed at balancing federal parliamentary rule, Islamic values, and basic human rights, such as gender equality and empowerment of women (Khan, 2014). Institutional, religious, and sociocultural obstacles have prevented them from being implemented practically.

Women's legal status in Pakistan remains influenced by conflicts between constitutional protections and patriarchal constructions of Islamic law. The overlapping application of religious injunctions tends to generate confusion, and thus judicial inconsistency and gender right marginalization ensue (Kennedy, 1990; Newberg, 1995). Legal experts contend that even with the constitutional formalization of women's rights, the constitutional mechanism fails to possess adequate institutional means through which these rights are given concrete legal claims for their enforcement. According to Aslam (2020), the lack of gender-insensitive reforms, the patriarchal court atmosphere, and the procedural delays discourage women from claiming their rights.

Protection of Women Act (2006) and other provincial domestic violence legislation have been reactive and narrow in focus, with little political will and administrative follow-through. As noted by Syed and Ali (2019), these laws tend to be underfunded, with untrained law enforcement officials and disjointed institutional coordination.

Another challenge is the intersectional exclusion of minority group women or underprivileged areas like interior Sindh or Balochistan. Such women are subjected to multiple discrimination on the grounds of gender, ethnicity, language, and geography which increases their legal invisibility. Public legal literacy is still very low (Bano, 2017). A study by Ayesha Khan (2021) established that more than 60% of Pakistani women interviewed had never heard of constitutional provisions such as Articles 25 or 34, and fewer still knew where to get legal aid. This lack of knowledge is aggravated by the absence of civic education and the non-availability of legal texts in local languages.

Islamic feminist re-interpretation of the Constitution has been suggested by feminist scholars that reconciles gender justice with Islamic values. According to Mir-Hosseini (2019), gender equality is not inimical to Islam but comes in its way due to patriarchal understandings of Sharia. A gender-sensitive, inclusive religious legal scholarship would act as a bridge between constitutional ideals and Islamic jurisprudence.

Pakistan's respect for global human rights obligations, including the (CEDAW), has not been matched with domestic enforcement (Weiss, 2012). The Human Rights Commission of Pakistan (HRC, 2020) still reports on entrenched barriers such as limited access to justice, inadequate representation in government, and pervasive gender-based violence.

Historically, colonial legislation and post-independence reforms like the Muslim Family Laws Ordinance of 1961 have played a role in shaping the path of women's legal rights. Nevertheless, there remains a challenge of bringing domestic law into line with constitutional and international norms. The judiciary has had an oscillating role, with



precedents influenced by stare decisis and ratio decidendi especially in sexual violence cases under CrPC Sections 375 and 376(A. Shahzad, 2024).

This study critically analyzes how the 1973 Constitution has aided or hindered women's rights in Pakistan. Through the examination of important constitutional provisions, judicial rulings, legislative changes, and socio-legal arrangements, the study seeks to assess to what extent gender equality is enshrined not just in principle but also in practice.

### Research Gap

The Pakistani Constitution of 1973 has been extensively researched and discussed, especially in terms of its federal nature and democratic basis, but no focused scholarly research has been conducted to examine the provisions of the Constitution regarding women's rights. Much of the literature presently in print discusses fundamental rights in general, but gender-specific constitutional matters are omitted or receive less coverage.

- The lack of study on the everyday application of women's constitutional rights, including social justice, equality, and political participation, is one of the significant knowledge gaps. The active participation of women in national life is called for by Article 34, and equality before the law is assured by Article 25, but these rights are often not fully realised in practice, particularly for women belonging to marginal communities. Empirical research based on evidence showing how these regulations have evolved or not changed women's legal and social position over time is noticeably absent.
- The manner in which the judiciary has interpreted issues relating to women in accordance with the Constitution is also not paid adequate attention. The lack of thorough study on judicial trends however, makes it difficult to identify whether the courts have developed constitutional provisions for women in a positive or reverse manner.
- Furthermore, women's legal literacy and public awareness of their constitutional rights are quite low, and this topic is yet poorly studied. Women are frequently ignorant of their constitutional rights, particularly in conservative and rural areas.
- Finally, there is limited research on how women's rights were enforced at the provincial level after the 18th Amendment. It is very important to monitor how women's rights are being handled differently in every province, particularly in social areas such as health, education, and family law, where provinces enjoy greater legislative powers. But nonetheless, little scholarly work in this field exists.

These differences highlight the necessity of more intensive, gender-oriented studies of the Constitution that go beyond theory and examine how the everyday lives of Pakistani women are touched by the 1973 Constitution. The purpose of this study is to facilitate that endeavor.

### Theoretical Framework

The theoretical models of constitutionalism, legal positivism, and feminist legal theory provide the premises for this research and assist in the explanation of the role, limitations, and interpretation of women's rights under the 1973 Constitution of Pakistan.

The principle of constitutionalism, which places greater emphasis on the rule of law, limited government, and protection of fundamental rights, is the focus of our research. Vile (1998) explains, Constitutionalism ensures state power has to be exercised within the boundaries of a written Constitution safeguarding human freedoms, particularly equality



of the gender. This objective is sought to be ingrained in the 1973 Constitution with its clear enumeration of fundamental rights (Articles 8 to 28).

Nonetheless, political agendas, institutional weaknesses, and conflicting theological interpretations have all served to undermine the realisation of these rights, especially for women.

While positivism separates law and morality, thinkers such as Hart (1961) argue that it also leaves a space to criticize unjust laws based on reform of the legal system. Furthermore, this study is further strengthened by feminist legal theory. It questions the gender neutrality of legal systems and highlights how policies that look equal on paper can actually harm women. Catharine MacKinnon (1989) believes that laws often reflect dominant forms of power and, if not checked, can continue systemic inequality. This is most clearly seen in Pakistan, where inheritance, evidence, and family issues rules are ordinarily administered in practices that undermine women's constitutional rights and autonomy, yet grounded in legal bases.

Applying these frameworks, this research tries to find out how women's rights are interpreted, exercised, and contested in real legal, religious, and political contexts as well as examine what the Constitution has to say about them.

### **Significance of the Study**

Every Pakistani is assured equality, dignity, and participation by the 1973 Constitution; however, the realities of women's lives across the country reveal a persistent gap between the constitution's objectives and the social reality. The significance of this research lies in its effort to bridge that gap by examining the challenges faced in implementing the rights of women as well as reviewing the legal documents and principles concerning those rights. To begin with, by focusing on the gender dimension of constitutional protections, this research contributes to the ongoing academic debate regarding Pakistani constitutional law. Although a significant amount of work exists on democracy, federalism, and judicial power, the issue of women's rights as far as the constitution is concerned has often been overlooked despite its direct bearing on half of the population.

Secondly, it highlights how this research makes it clear how religious interpretations, social conventions, political inertia, and judicial ambivalence often undermine legislative commitments of equality through critically examining the content and context of these articles.

Thirdly, the study points to a deficiency of legal literacy and public awareness of women's constitutional rights in general. In an effort to convert constitutional rights into something more than abstract idealistic declarations, it emphasizes the need for civic education, institutional accountability, and readily available legal redress. Finally, this research has broader implications for gender justice and constitutional evolution in Islamic democracies. Women's rights are often caught up in political and ideological disputes in Pakistan, a state that seeks to balance Islamic and democratic values. An understanding of this dynamic is imperative to both national reform and engagement in global debate about women's rights in majority-Muslim nations.

### **Literature Review**

#### **Women's Representation in Politics and Constitutional Shortfalls**

Although Article 51 of the Constitution includes reserved seats for women in Parliament, scholars contend that symbolic representation is not necessarily converted into legislative influence on the policy agenda. Zia (2020) argues that political tokenism continues, with





numerous female legislators not having decision-making authority and being frequently designated through networks of elite male patronage. Jalal (2008) also criticizes the patriarchal character of Pakistani political parties, with gender-inclusive constitutional changes initiated very infrequently by female legislators. Such criticism underlines the constitutional shortcomings in providing not only numerical, but substantive political participation for women.

#### **Customary Law and Parallel Legal Orders**

Asides formal constitutional legislation, women's rights are also influenced by customary and unofficial justice mechanisms like jirgas and panchayats. These parallel systems, though extra-constitutional, tend to supersede formal legal procedures in rural Pakistan. Yefet (2011) contends that the traditional institutions frequently abuse constitutional rights in the name of cultural legitimacy, particularly in marriage, divorce, and honour-based violence cases. As Sharia and customary law overlap, they create a hybrid legal order in which constitutional guarantees for women are subverted by social enforcement mechanisms out of judicial control.

#### **Gender-Neutral Laws and Concealed Biases**

Increasingly, feminist legal scholarship criticizes the notion that "gender-neutral" laws are adequate to secure equality. Nussbaum (2003) argues that formal equality conceals structural disadvantages to which women are subject in conservative cultures. In the context of Pakistan, Shah and Shah (2021) contend that laws may look neutral (e.g., criminal law or labor law), but implementation remains influenced by ingrained gender bias, often exempting women from protection or justice. These occasions doubt how constitutional provisions are read and whether they genuinely speak to the lived inequalities of women.

#### **Role of Legal Education in Reproducing Patriarchy**

The contribution of legal academia and curricula to constitutional meaning is frequently neglected. Cotterrell (2006) and Naseem (2018) contend that Pakistan's law schools contribute to the reproduction, to a large extent, of patriarchal templates through ignoring gender-sensitive legal theory and a failure to critically engage with women's constitutional rights. Consequently, future judges and lawyers practice with minimal exposure to feminist jurisprudence or rights-based argument. This deficiency in legal education has a direct impact on the interpretation and enforcement of women's constitutional protections in courts and policymaking.

#### **Constitutional Principles & Islamic Provisions**

Ali (2000) discusses further how Article 25(3) allows "special provisions" and how the Dissolution of Muslim Marriage Act gives rights to women in property and matrimonial disputes. Siddiqui (2021) mentions CrPC safeguards, including gender-sensitive arrest and bail (Sections 48, 52, 497), but indicates their poor enforcement owing to institutional unreadiness again, all referencing a formal functional gap.

#### **Feminist Mobilization: Secular & Islamic Feminisms**

Saigol and Chaudhary (2021) define the "fourth-wave" feminism in Pakistan, wherein digital platforms are employed to challenge religious dogma as well as gender norms. Mir- Hosseini (2019) promotes Islamic feminism on the grounds that it is not the religion but patriarchal readings of it that restrict women's rights. Zia (2018) conducts a comparative analysis of secular and Islamic feminisms in Pakistan, illustrating how WAF and the likes of Shirkat Gah introduced sophisticated advocacy into public spaces.



### Activist Organizations & Legal Aid

Hina Jilani's work with AGHS Legal Aid (1980) and PWLA's legal interventions (DAWN reports) have been instrumental in gender-sensitive litigation. Mumtaz (2016) and Shaheed (2012) document the establishment of legal centers, shelters, and civic awareness campaigns aimed at empowering marginalized women. These interventions demonstrate how legal aid networks bridge gaps in access to justice.

### Intersectionality & Structural Disadvantage

Bano (2017) identifies intersectional exclusion: women in Balochistan, interior Sindh, or religious minorities are discriminated against on language, ethnicity, and infrastructure. Rubab et al. (2025) describe how legal literacy and inheritance deprivation in South Punjab express multiple layers of systemic gender discrimination. Saigol (2016) demonstrates that Pakistani feminism is neither monolithic nor Eurocentric but politically negotiated and multi-faceted.

### Legislative Reforms & Enforcement Challenges

Syed and Ali (2019) outline significant legal milestones e.g., the Protection of Women Act (2006), Domestic Violence Laws (2012–16), and Punjab's Protection against Harassment at Workplace Act (2010) which, nonetheless, are plagued by a lack of funding, inadequate training, and inadequate coordination. Anwar, Nazir, and Islam (2022) analyze ongoing legal and cultural impediments, observing that in spite of well-publicized laws, resistance from society persists.

### Gaps in Scholarship & Contribution of This Study

While there are numerous scholars tackling issues of women's rights, fewer combine constitutional text, judicial precedent, legislation, institutional approaches, activism, and lived experiences within one research study. This study seeks to bridge that gap by directly challenging the 1973 Constitution on whether or not it is capable of providing gender justice in Pakistan.

### Historical and Constitutional Context of Women Rights

The Constitution of the Islamic Republic of Pakistan, 1973, is the law of the land, and all later laws have to adhere to its provisions. It provides a detailed set of basic rights under Articles 8 to 28, asserting equality before the law, protection of dignity, freedom of speech, movement, association, and equal opportunity for livelihood to all citizens irrespective of gender.

In spite of these assurances, the experience of women's rights in Pakistan has been influenced by shifting political ideologies, religious interpretations, and uneven enforcement.

### The Ayub Khan Era: Liberal Reform Meets Religious Conservatism

Under the rule of General Ayub Khan (1958–1969), Pakistan experienced considerable legal reforms for women, especially in family law. The Muslim Family Laws Ordinance (1961) established procedural protection in marriage and divorce, such as marriage registration and restriction on polygamy. These reforms were impressive in challenging the power of conservative religious scholars, whom Ayub considered as hindrances to modernization (Burki, 1991).

Though Ayub embraced an apparently liberal ideology, using Islamic identity instrumentally as Bengali nationalism emerged, inconsistencies remained. Support for Fatima Jinnah's presidential campaign by some religious leaders, who had hitherto been



opposed to women taking part in politics, underlined the politicization of Islam in election settings.

### **Bhutto's Progressive Push and the Emergence of Gender Awareness**

The administration of Zulfikar Ali Bhutto (1971–1977) was a progressive era in the political and legal establishment of women's equality. Women increasingly participated in the military, government, and professions in law. A national commission was established in 1976 to evaluate women's status and propose legal reforms, even though the report was never officially enacted. Nevertheless, Bhutto's administration set the foundation for institutional acknowledgment of gender equality (Shaheed, 2009).

### **Zia-ul-Haq's Islamization: A Regressive Constitutional Development**

This advance was overthrown to a great extent under General Zia-ul-Haq (1977–1988). His government suspended basic constitutional rights and enacted the Hudood Ordinances (1979), Qisas and Diyat Ordinance, (Jahangir & Jilani, 2003). Zia's state ideology fostered the rehabilitation of patriarchal interpretations of Islam, restoring the "sanctity of the chardiwari", the domestic space to which women were confined to withdraw.

These actions not only eroded women's legal rights but also legitimized gender segregation, restricted mobility, and made access to justice more difficult. Even democratically elected governments during the 1990s, including those of Benazir Bhutto and Nawaz Sharif, did not repeal these laws, which most times they feared would incur political retribution (Matsui, 1990).

### **Barriers Beyond Law: Culture, Literacy, and Access**

Legal guarantees in themselves have not been converted into actual change. Illiteracy, particularly of rural women, is a major hindrance to exercising rights. Few women are aware of the rights guaranteed in the Constitution or even of their Nikah Nama (marriage contract). This ignorance is sustained due to the lack of civic education, inadequate access to legal aid, and patriarchal norms pervasive in the public and private domains (HRCP, 2020).

According to Islamic norms, women have rights in regard to property, marriage, divorce, and legal capacity. The Quran grants these rights unequivocally. Misinterpretation and selective reading of religious scriptures, however, resulted in institutionalizing discriminatory practices violating both Islamic values and constitutional guarantees (Mir-Hosseini, 2019).

### **Continuity of Violence and Institutional Weakness**

Gender violence ranging from domestic abuse, harassment, and child marriage to others still terrorizes women's lives. They are not social evils but violations of human rights against the dictates of constitutional norms of dignity and equality. Institutional inefficacy and political turmoil have held back effective reforms, though the Ministry of Human Rights was created and necessary legislation was enacted.

### **Ideals at the Beginning vs. Contemporary Reality**

In his historic 1947 speech to the Constituent Assembly, Muhammad Ali Jinnah envisioned a state where religion, caste, or gender would not determine a citizen's status. That ideal was enshrined in the 1973 Constitution but has yet to be fully realized. More than seven decades later, Pakistani women continue to fight for recognition, representation, and enforcement of the rights guaranteed to them both by divine injunction and constitutional text.



### Judicial Interpretation of Women's Rights

In a number of sensationalized verdicts, the Pakistan judiciary has recognized the institutionalized discrimination against women. For example, courts have stepped in to hear women-initiated divorce cases (khula), forced marriages, and honor killings trying to combat entrenched patriarchal traditions in the name of customary practice (Jahangir & Jilani, 2003). These verdicts mark the changing realization that the Constitution is not just a legal instrument but an ethical pledge to defend the dignity and autonomy of all citizens.

### Rape Prosecution and the Evolution of Judicial Sensitivity

One of the most controversial fields in judicial interpretation is rape prosecution. Previously, stringent evidence conditions based on the Hudood Ordinances resulted in more victimization of survivors, generally equating rape with adultery. The historic judgment in Khadija Siddiqi Case (2018) represented a turning point, where the court assigned importance to the testimony of the survivor, denounced society induced victim blaming, and emphasized institutional support for survivors (HRCP, 2020).

Nowadays, the courts are more and more acknowledging the requirement of trauma-informed judicial processes. This encompasses steps like in camera trials, protection from direct cross-examination, and consideration of psychological proof. These all mirror a higher judicial perception that rape is not merely an offensive act legally it is a violent violation of bodily liberty and human dignity (Aslam, 2020).

### Legal Recognition of Women's Inheritance Rights

Hereditary continues to be among the most significant domains in which judicial interpretation overlaps with cultural and religious tradition. Women are denied their rightful share in many parts of Pakistan through unofficial channels such as verbal gifts (hiba) or forced surrender. Courts have started resisting these strategies by demanding documentary evidence and compulsory registration of property transfer (Shaheed, 2009). Significantly, the Supreme Court has held that exclusion from inheritance is not just unlawful but a breach of constitutional equality (PLD 2014 SC 330). Such judgments reaffirm that Islamic law affords women rights in property and any customary exclusion goes against religious intent and constitutional assurances (Mir-Hosseini, 2019).

### Balancing Culture and Law: The Judiciary's Dilemma

Even with considerable advances, judicial work is regularly undermined by cultural resistance, political meddling, and differential implementation. In rural Pakistan, a court might enforce the legal right of a woman, yet concurrent informal systems (such as jirgas) still withhold justice. This tension between constitutional safeguards and social norms leaves the judiciary in a precarious position. Judges have to struggle between upholding public credibility and enforcing progressive meanings that counter deep-rooted traditions (Siddiqui, 2021).

The courts alone cannot change the status of women. But when courts uphold women's rights through courageous decisions, procedural changes, and values-based interpretation they make a very strong statement: the Constitution is for everyone, not merely the privileged few.

### Research Methodology

This study utilizes a qualitative, doctrinal legal approach to critically analyze the constitutional framework underpinning women's rights in Pakistan. Doctrinal research is particularly suited to examining legal provisions, judicial rulings, and academic critique





since it enables systematic and rigorous comprehension of how the 1973 Constitution states, develops, or limits women's rights.

### Research Design and Rationale

The main objective of this research is to analyze how constitutional documents, especially Articles 25, 27, 34 and 37 think through gender equality and whether the ideals are translatable into enforceable rights on the ground. The researcher adopted the doctrinal approach as well, which offers a systematic framework to read the legal documents in context with the socio-political and religious environment in which they function. It allows detailed examination of what the law states, but also how it is enforced, contested, or reinterpreted by the courts, legislation, and broader legal culture.

### Data Sources

#### 1. Primary Sources

This study draws on primary legal materials that constitute the foundation of Pakistan's legal and constitutional framework. These are:

The Constitution of Pakistan (1973), with a particular emphasis on equality provisions and Islamic clauses.

Supreme Court and High Court judgments of Pakistan, which serve the purpose of interpretive illumination and precedent in women's rights issues.

Statutory laws like the Muslim Family Laws Ordinance (1961), Protection of Women Act (2006), and Provincial Domestic Violence Laws, which are central to the understanding of how gender-related law has evolved.

#### 2. Secondary Sources

In order to place legal developments in context and critique them, a broad universe of secondary sources is used, including:

Academic books and articles by prominent legal minds and feminist scholars like Hamid Khan (2014), Martin Lau (2006), Rubya Mehdi (2002), Khawar Mumtaz and Farida Shaheed (1987).

Human rights reports from organizations like the Human Rights Commission of Pakistan (HRCP), Aurat Foundation, and UN Women, which provide ground-level observations about women's actual life and issues.

International legal documents such as the Universal Declaration of Human Rights (1948) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which assist in analyzing Pakistan's compliance with international legal requirements regarding gender equality.

### Comparative Perspective

To make meaningful comparisons, the research takes on a comparative aspect, briefly looking at how other Muslim-majority nations like Tunisia, Indonesia, and Malaysia have treated women's rights in their constitutional and legal frameworks. The comparative lens serves to put into relief how Islamic principles may coexist alongside contemporary gender justice, providing possible models for reform in Pakistan.

### Structural and Institutional Loopholes in Implementation

These issues are examined to underscore contradictions between the commitments in the Constitution and social reality for women that persists. The analysis also examines the record of state institutions like the judiciary, legislature, and religious establishment in enforcing or eroding women's rights.



### Limitations

It doesn't involve fieldwork, interviews, or surveys. It is restricted to textual and legal analysis, which, although narrow in scope, is counter-balanced by the richness and diversity of legal, academic, and policy-based literature consulted. It is acceptable for an academic inquiry based on constitutional law and doctrinal legal research.

### Critical Analysis

While the Constitution of Pakistan, 1973, contains a robust theoretical commitment to equality for all citizens, including women, the real proof of any legal instrument is in its implementation and interpretation. A close reading of the Constitution from a gender perspective demonstrates an underlying tension between its espoused ideals and the socio-political, religious, and institutional forces that operate to influence women's rights in reality.

### Practical Enforcement

Articles 25(2) and 34 give statutory recognition to gender equality and confirm the place of women in the life of the nation. But they are worded in general and inspirational terms with no effective enforcement machinery. This imprecision permits interpretive freedom, which in Pakistan is exercised more by political convenience and religious orthodoxy than by a sense of justice and equality.

### The Role of the Judiciary: Mixed Outcomes

Judicial interpretation has functioned on dual fronts at times broadening women's constitutional rights and at other times supporting patriarchal norms. Courts have supported women's right to marry without a guardian's consent and ventured into harassment cases. However, in family or personal status law cases, a large number of judgments have deferred to traditional or religious authorities, thus circumscribing the scope of gender justice (Jahangir & Jilani, 2003; Bano, 2017).

The underrepresentation of women judges and gender-insensitive legal training further limit the responsiveness of the system to women's legal issues. In the absence of a consistent, rights-based interpretive frame, improvement in court remains patchy and context-dependent.

### Socioeconomic Disparities and Legal Access

Constitutional assurances are undermined by entrenched socio-economic disparities. Most women particularly in rural communities are denied education, legal awareness, or monetary means necessary to negotiate the legal system. Legal assistance is inadequate, and social stigma discourages women from seeking recourse, particularly in sexual violence or family matters cases (HRCF, 2020; Weiss, 2012).

This leads to a two-levelled system of justice: urban, educated women can seek courts and claim their rights, while rural, poor, and minority women are still outside. Therefore, the promise of equality is not uniformly actualized but mediated by class, geography, and social capital.

### Political Will and Policy Implementation

While various governments have enacted laws to safeguard women like domestic violence laws, harassment in the workplace, and honor killings these measures have been mostly repressive. Promoted by political pressures, media backlash, or international commitments, they tend to be short-term and lack institutional backing, or follow-up mechanisms.



Gender equality is often incorporated into party platforms but never accorded major priority in parliamentary debate or the budget. The disconnect between words and deeds is symptomatic of a larger institutional reluctance to advance women's rights.

#### **The Cultural Challenge: Law vs. Norms**

Legal rights are never fully effective in a culture where norms continually oppose them. Women's roles are still defined by patriarchal norms that value domesticity and compliance. Even when women are legally protected by inheritance or freedom from violence, social pressure and family control usually stop them from being able to claim those rights.

The government has made few attempts to redirect these values through civic activities or public education. In the absence of widespread cultural change, reforms are severed from the realities of daily life.

#### **Institutions of Reform: Strengths and Shortcomings**

Institutions such as the Ministry of Human Rights and the National Commission on the Status of Women (NCSW) have contributed to legal reform and awareness. The most important legislations, including the Protection Against Harassment of Women at the Workplace Act (2010), and provincial domestic violence laws, are notable achievements.

Yet, these initiatives are usually incomplete. Most are underfunded, have limited grassroots outreach, or are countered by bureaucratic inefficiency and opposition from local officials. Reform is piecemeal and susceptible to political change.

#### **Results**

The analysis of Pakistan's 1973 Constitution reveals a notable discrepancy between its stated commitment to gender equality and the lived realities of women. Despite constitutional provisions that guarantee non-discrimination and equal participation in national life, practical enforcement remains inconsistent and often ineffective.

#### **Textual Commitment vs. Enforcement Gaps**

Even when the Constitution does specify formal guarantees of gender equality, it does so in ways that remain vague and unenforceable. As Khan (2014) puts it, this vagueness enables selective and uneven enforcement, frequently driven more by religious and political than by legal considerations.

#### **Judicial Ambivalence and Inconsistency**

The judiciary has, at times, shown progressive interpretation, most notably in matters related to khula, workplace harassment, and women's inheritance. Courts have, for example, asserted women's right to choose marriage and equal treatment in the workforce. Nevertheless, as noted by Jahangir and Jilani (2003), these rulings are still sporadic and frequently undercut by concurrent judgments deferring to patriarchal or conservative religious principles, most notably in family law.

#### **Institutional Shortcomings**

Although institutions such as the Ministry of Human Rights and the National Commission on the Status of Women are in place to safeguard and advance gender equality, they are hindered by inadequate resources, limited independence, and a scarcity of political will. Human Rights Commission of Pakistan (HRCP, 2020) and Weiss (2012) reports suggest that these institutions have made very little concrete difference in translating policy into concrete protections.



### **Socioeconomic and Geographic Inequalities**

The research also uncovers extreme inequalities between urban and rural women. Women in tribal or underdeveloped areas frequently experience multiple disadvantageous factors such as poverty, illiteracy, and unavailability of courts. According to Bano (2017) and Rubab et al. (2025), the intersection of gender with geography, class, and ethnicity leads to profound legal and social exclusion.

### **Unrealized International Commitments**

In spite of Pakistan's ratification of international frameworks such as the (CEDAW), domestic incorporation is weak. Substantive reservations on the most important treaty articles and a lack of legal alignment have restricted their effects on national law and judicial practice (Weiss, 2012; Shaheed, 2009).

### **Discussion**

This study identifies the enduring disconnect between the constitutional promise of gender equality in Pakistan and the everyday lives of women throughout the country. While the 1973 Constitution enunciates a robust commitment to non-discrimination and equality, above all the implementation of these rights is uneven and patchy informing by a multifaceted interplay of religious interpretation, cultural tradition, political will, and institutional vulnerability.

### **A Constitution in Tension: Equality vs. Religious Interpretation**

Perhaps the greatest enduring dilemma is the existence side by side of progressive and conservative constitutional provisions. On the one hand, the Constitution protects equality before the law and the right to engage in all aspects of public life. Conversely, Article 227 requires that all legislation has to be in accordance with Islamic injunctions without specifying the extent or the institution that has the authority to interpret these injunctions. This lack of clarity has traditionally been used to impose limitations on women's autonomy, particularly under family law, inheritance, and personal status (Lau, 2006; Mehdi, 2002).

### **Judicial Interpretation: Progress and Pitfalls**

The courts have an important role to play in influencing the interpretation and enforcement of constitutional protections. Even though, on occasion, courts have issued progressive verdicts upholding a woman's right to marry as she pleases, or prohibiting harassment in the workplace such rulings have been infrequent. On most occasions, courts have accommodated patriarchal tradition or religious orthodoxy, particularly in the cases dealing with personal law (Jahangir & Jilani, 2003; Shaheed, 2009).

The absence of sustained gender-sensitive jurisprudence, combined with women's underrepresentation in the bench, further reduces the Constitution's transformative possibilities. Redress through the law becomes less about rights and increasingly a matter of maneuvering the discretion of particular judges and cultural inclinations of the courts.

### **The Socio-Cultural Disconnect**

Since earlier research by Mumtaz and Shaheed (1987) has contended, legal reform will fail without context. Cultural norms, especially in rural and tribal contexts, tend to be influential impediments to women claiming their rights. It might be the right to education, property, autonomy over one's body, or economic engagement; cultural stigma, fear of retaliation, and reliance on male power brokers tends to inhibit women's voices claiming justice.

This disjuncture is aggravated by the failure of the state to invest in legal literacy, civic education, and affordable justice infrastructure. Without mass public consciousness or





support systems, constitutional rights continue to exist as distant promises rather than lived entitlements.

### **Institutional Weaknesses and Symbolic Reform**

The creation of institutions like the Ministry of Human Rights and the National Commission on the Status of Women indicates some policy responsiveness to gender concerns. Similarly, legislative reforms such as the Protection Against Harassment of Women at the Workplace Act (2010) and provincial domestic violence legislation demonstrate increased legal recognition of women's needs.

But these reforms are regularly not meaningfully enforced. Local police, courts, and bureaucracies either do not know of these laws or do not have the training or resources to carry them out. In addition, these efforts are often reactive due to public pressure or international pressure more than part of an ongoing national approach to gender justice.

### **Unequal Access: The Geography of Rights**

This study confirms a harsh geographical and socioeconomic fault line in the achievement of constitutional rights. Educated, urban women are commonly able to access courts, participate in legal proceedings, and garner support. Conversely, rural women particularly those experiencing poverty, minority status, or reduced literacy are systematically disenfranchised from justice systems.

To most people, the Constitution is an abstract concept rather than a living document. The obstacles they encounter are legal, logistical, cultural, and psychological.

### **Conclusion**

The Constitution of Pakistan, 1973, is a historic constitutional instrument that clearly enshrines in itself the ideals of justice, equality, and safeguarding the fundamental rights of all citizens, irrespective of gender. It prohibits sex discrimination, ensures equality before the law, and pledges the state to the cause of ensuring full participation of women in all areas of national life. Still, as this study has critically shown, the distance between constitutional promise and social reality is great.

In spite of the progressive rhetoric of Articles of constitution, women in Pakistan still face systemic barriers that undermine the integrity of these assurances. Instead of being mobilized to further gender justice, these contradictions are used to limit women's freedom and rights, creating a dual narrative where equality on paper does not equate to equality in life.

The institutions tasked with protecting these rights like the Ministry of Human Rights, the National Commission on the Status of Women, and the related legislative frameworks are weak and usually ineffective. Underfunded, politically marginalized, and weakly coordinated with enforcement mechanisms, these institutions have often been unable to convert policy into protection. The judiciary, though sometimes progressive, is not governed by a coherent gender-sensitive policy. The repeated underrepresentation of women in both judicial and legislative arenas also curtails the development of inclusive policy and legal frameworks.

A further significant obstacle is the general lack of legal awareness among women, especially rural and marginalized women. They are largely unaware of the constitutional protections to which they are entitled, exacerbated by illiteracy, economic subservience, and the risk of social ostracism or retribution. Collectively, these serve to make the justice system in effect out of reach to the majority of Pakistani women.



Even in countries where legal protection is available, cultural attitudes and conventional power relations prove a powerful obstacle to women exercising and enforcing their rights.

As this research illustrates, constitutional change is not enough. Legal reform needs to be accompanied by social change, policy change, and institutional accountability. Real gender justice in Pakistan needs to happen on multiple levels and over an extended period of time through judicial education, gender-sensitive governance, civic education, representation of women in decision-making forums, and a critical reinterpretation of religious understandings that have so far limited women's rights.

Finally, the 1973 Constitution offers a sound basis for gender equality. But to make it into a genuinely empowering tool, it needs to be accompanied by radical reforms, liberal jurisprudence, and a society ready to protect the ideals it espouses. Then only can the Constitution move from an expression of ideals to a living blueprint of justice and equality for all Pakistani women.

### Reference

- Ali, S. S. (2000). *Gender and human rights in Islam and international law: Equal before Allah, unequal before man?* Kluwer Law International.
- Anwar, S., Nazir, M., & Islam, S. (2022). Legal and cultural barriers to women's rights in Pakistan. *Journal of South Asian Studies*, 37(2), 114–129.
- Aurat Foundation. (2020). *Annual report on violence against women in Pakistan*. <http://www.af.org.pk>
- Bano, S. (2017). *Female justice: Women in the legal profession in Pakistan*. Oxford University Press.
- Burki, S. J. (1991). *Pakistan under Ayub Khan, 1958–1969*. Oxford University Press.
- Choudhury, C. R. (2015). *Women's rights in Islamic law: Identity and justice in the Muslim world*. Routledge.
- Cotterrell, R. (2006). *Law, culture and society: Legal ideas in the mirror of social theory*. Ashgate.
- Farooq, M. O. (2011). *Toward our reform: From legalism to value-oriented Islamic law and jurisprudence*. International Institute of Islamic Thought.
- Hamid, A. (2014). *Human rights and Islam: The struggle for universal justice*. Oxford University Press.
- Khan, H. (2014). *Constitutional and political history of Pakistan* (6th ed.). Oxford University Press.
- Human Rights Commission of Pakistan. (2020). *State of human rights in 2019*. <http://www.hrcp-web.org>
- Hussain, N. (2018). *Gender justice in Pakistan: The role of judicial activism*. *Pakistan Journal of Legal Studies*, 5(2), 91–109.
- International Commission of Jurists. (2013). *Authority without accountability: The search for justice in Pakistan*. <https://www.icj.org>
- Jahangir, A., & Jilani, H. (2003). *The Hudood Ordinances: A divine sanction?* Rhotas Books.
- Jalal, A. (2008). *Democracy and authoritarianism in South Asia: A comparative and historical perspective*. Cambridge University Press.
- Kennedy, C. H. (1990). Islamization and legal reform in Pakistan, 1979–1989. *Pacific Affairs*, 63(1), 62–77. <https://doi.org/10.2307/2759829>
- Khan, S. (2001). *Do Muslim women need saving?* Harvard University Press.



- Khan, A. (2021). Civic awareness among women: A gap in legal literacy. *Pakistan Journal of Gender Studies*, 14(1), 33-49.
- Lau, M. (2006). *The role of Islam in the legal system of Pakistan*. Brill.
- Matsui, Y. (1990). *Human rights and the politics of culture*. United Nations University.
- Mehdi, R. (2002). *The Islamization of the law in Pakistan*. Nordic Institute of Asian Studies.
- Ministry of Human Rights. (2019). *National report on gender equality in Pakistan*. Government of Pakistan.
- Mir-Hosseini, Z. (2019). *Muslim legal tradition and gender equality: Reclaiming justice*. Oxford University Press.
- Moghadam, V. M. (2004). *Modernizing women: Gender and social change in the Middle East* (2nd ed.). Lynne Rienner Publishers.
- Mumtaz, K., & Shaheed, F. (1987). *Women of Pakistan: Two steps forward, one step back*. Vanguard Books Ltd.
- Nasir, J. J. (2002). *The status of women under Islamic law and modern Islamic legislation* (3rd ed.). Brill.
- National Commission on the Status of Women. (2018). *Status of women's rights in Pakistan: Annual report*. Government of Pakistan.
- Nussbaum, M. C. (2003). Capabilities as fundamental entitlements: Sen and social justice. *Feminist Economics*, 9(2-3), 33-59.
- PILDAT. (2018). *Public opinion on democracy and democratic development in Pakistan*. <http://www.pildat.org>
- Quraishi-Landes, A. (2012). Islam and constitutionalism: A comparative perspective. *University of Pennsylvania Journal of Constitutional Law*, 14(3), 385-410.
- Rehman, J. (2007). *The Sharia, Islamic law and the global human rights discourse*. Hart Publishing.
- Rubab, F., Imran, S., & Shahid, S. (2025). Inheritance and gender justice in South Punjab: A socio-legal analysis. *Pakistan Law Review*, 12(1), 55-78.
- Saigol, R. (2016). *Feminism and the women's movement in Pakistan: Actors, debates and strategies*. Friedrich-Ebert-Stiftung.
- Sattar, H. (2015). Women and access to justice in Pakistan. *Asian Journal of Law and Society*, 2(2), 351-367.
- Shaheed, F. (1998). The other side of the discourse: Women's experiences of identity, religion and rights in Pakistan. *Women Living Under Muslim Laws Dossier*, 22, 35-57.
- Shaheed, F. (2009). *Gender, religion and the quest for justice in Pakistan*. United Nations Research Institute for Social Development.
- Shah, S., & Shah, H. (2021). Gender-neutral law and patriarchal enforcement in Pakistan. *Journal of Contemporary Legal Issues*, 5(2), 122-137.
- Siddiqi, D. (2010). Gender and law in Pakistan: Violence against women in the legal sphere. *South Asia Research*, 30(2), 155-170.
- Siddiqui, R. (2021). Judiciary and gender: Trends and inconsistencies. *Pakistan Law Review*, 11(2), 77-96.
- Syed, J., & Ali, F. (2019). Legal reforms and institutional challenges: Protecting women from domestic violence in Pakistan. *Gender in Management: An International Journal*, 34(5), 355-372.
- Tamimi, A. (2000). *Islam and secularism in the Middle East*. C. Hurst & Co.



- UN Women. (2019). Progress of the world's women 2019–2020: Families in a changing world. <https://www.unwomen.org>
- United Nations. (1948). Universal Declaration of Human Rights. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>
- United Nations. (1979). Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). <https://www.un.org/womenwatch/daw/cedaw>
- Weiss, A. M. (2012). Moving forward with the legal empowerment of women in Pakistan. United States Institute of Peace.
- Yefet, K. C. (2011). What's the constitution got to do with it? *Columbia Journal of Gender and Law*, 21(2), 279–337.
- Zia, A. S. (2018). Faith and feminism in Pakistan. SAP-PK & Heinrich Böll Stiftung.
- Zia, A. S. (2020). Symbolic politics and women's representation in Pakistan. *Asian Politics & Policy*, 12(3), 456–470.