

**FOSTERING WOMEN'S DEFACTO PARTICIPATION IN PARLIAMENT  
THROUGH CEDAW'S SUBSTANTIVE EQUALITY APPROACH IN PAKISTAN**

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by

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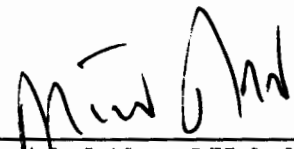
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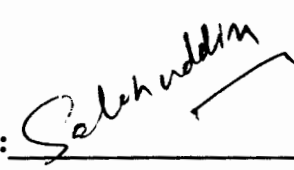
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## LIST OF ABBREVIATIONS

<b>ANC</b>	African National Congress
<b>APWA</b>	All Pakistan Women Association
<b>BPFA</b>	Beijing Platform For Action
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CGE</b>	Commission for Gender Equality
<b>CRC</b>	Convention on Rights of Child
<b>CSW</b>	Commission on the Status of Women
<b>FFRP</b>	Forum of Women Parliamentarian
<b>FIR</b>	First Information Report
<b>GoP</b>	Government of Pakistan
<b>GR</b>	General Recommendation
<b>HIV/AIDS</b>	Human Immuno Virus/Acquired Immune Deficiency Syndrome
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ILO</b>	International Labour Organization
<b>JMC</b>	Joint Monitoring Committee
<b>KTN</b>	Kawish Television Network
<b>LFO</b>	Legal Framework Order
<b>MDG</b>	Millennium Development Goal
<b>MIGEPROFE</b>	Ministry of Gender and Family Promotion
<b>MNA</b>	Member National Assembly
<b>MoWD</b>	Ministry of Women Development
<b>MP</b>	Member Parliament
<b>NA</b>	National Assembly
<b>NCSW</b>	National Commission on the Status of Women
<b>NHA</b>	National Highway Authority
<b>NPA</b>	National Platform for Action
<b>NWFP</b>	North West Frontier Province
<b>OSW</b>	Office on the Status of Women
<b>PBUH</b>	Prophet Peace Be Upon Him
<b>PIA</b>	Pakistan International Airlines
<b>RPF</b>	Rwandan Patriotic Front
<b>SAARC</b>	South Asian Association for Regional Corporation
<b>SADC</b>	South African Development Community
<b>UDHR</b>	Universal Declaration on Human Rights
<b>UN</b>	United Nations
<b>UNIFEM</b>	United Nations Development Fund for Women
<b>WBI</b>	Women's Budget Initiative
<b>WNC</b>	Women's National Coalition



## TABLE OF CASES

*Ms. Sheila Zia and others v. W.A.P.D.A*  
PLD 1994, SC 693.

*SGS Societe Generale v. Pakistan,*  
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*AZAPO v President of the Republic of South Africa,*  
1996 (4) SA 671 (CC).

## DEDICATION

**This Thesis is dedicated to my family.**

## ACKNOWLEDGEMENT

Special thanks to Sultan Rahim Khan (Late), my friends, teachers of Islamic University Islamabad, and all those people who make this difficult task easier for me so that I can be a part in Pakistani women's struggle for achieving substantive equality through this humble effort.

## ABSTRACT

Pakistan, the state party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1969 and other human rights treaties, has almost half of the population comprising of women. With such a large number of women it is expected by the human rights supporters that they will be well represented and participated in political decision making bodies like Parliament. Pakistani women are having *dejure* right to take part in political life on national and international levels. The highest ever number of women in Pakistani Parliament is 17% which though seems good in South Asian block but satisfactory in World rating. Besides presentation, women are lacking actual or *defacto* participation in Parliamentary politics which entails that they have formal equality but no substantive equality. It is suggested that **substantive/defacto participation of women in Pakistani parliament can be fostered by CEDAW's Substantive Equality approach.**

CEDAW, the first ever legal instrument for women on international level, advocates for substantive equality instead of centuries old concept of formal equality. This approach not only speaks for equal treatment but equality with actual impact of law. It deals with disadvantages faced by women instead of differences due to their gender. Its purpose is that law corrects the imbalance and impacts on the outcome by assuring equal opportunities, access and benefits for women. Linked with the concept of equality is the notion of Non-discrimination. It calls for the elimination of direct and indirect discrimination that spring from laws and practices that have a discriminatory effect though no discrimination was intended. States on becoming party to CEDAW are committed to fulfill these goals by all means as they are not only obliged by this convention but under the Maxim "*Pacta Sunt Servanda*" provided under the Vienna Convention on the Law of Treaties. Provisions of this convention and notion of state obligation urged Pakistan to realize this goal in her parliamentary culture.

Experiences show that countries where this approach is incorporated in political field, not only the number of women increased in parliaments but have made overall positive impact on their substantive participation there. It is also established that critical mass of women i.e. 30% and more not only made positive impact on the parliamentary culture in some countries but encourages women parliamentarians to bring issues of women's

interest in their political agendas besides their respective party politics. It is also shown that countries having this approach in their legal systems and especially in parliaments encourage women to show outcome of their political activism. Women parliamentarians were expected to bring women friendly legislation and they made it but it is suggested that legislation is not a sufficient gauge of their substantive participation but might be an early indicator of their prospective achievements. These countries overcome obstacles in their way to substantive equality in parliament by a number of means like introduction of quota system, women parliamentarians' caucuses, inclusion of women organizations in important gender issues, direct electoral system and party list system etc.

Government of Pakistan has taken certain steps under Legal Framework Order (LFO), 2002 (constitutional amendment) to uplift the women representation in parliament like introduction of 1/3<sup>rd</sup> reserved seats in the National and Provincial Assemblies, lowering the voting age from 21 to 18 etc. But certain other steps are needed to be taken like establishment of women forum on parliamentary level, discouragement of indirect election on reserved seats and promotion of party list system with inclusion of active women organizations in ensuring women's political activism.

By keeping in view the importance of this area of study I have decided to probe into the concept of substantive equality approach of CEDAW. Though the approach is required to be pursued in every sphere of women's life but to analyze the impact of this approach in political arena and especially in parliamentary life was important due to certain factors as explained above. Firstly an over view of history of women's political activism is given to show that how much freedom of expression and decision making was given to them in different spans of time.

Second part deals with some basic concepts like substantive equality, idea of non-discrimination, concept of gender and notion of state obligation and liaison between them. CEDAW's obligations are also discussed in order to see that how much Pakistan is obliged under this convention to bring substantive equality in women's parliamentary performance. Then situation of women parliamentary participation in Pakistan is analysed along with these conceptual terms. The period of study chosen is two-pronged. First the quantitative participation of women parliamentarians covers the period from 1947-2007 while their qualitative participation covers the time period of 1999-2007 as it

witnessed the highest increase in the number of women in parliament. As field visits were difficult for me therefore, to measure their actual input, I have sought help from secondary resources like interviews and opinions of different women parliamentarians published in newspapers and reports of government and independent organizations. It is shown that women though have *de jure* right to take part in political and public life but are hindered to take part fully in parliament.

Part Three deals with the limitations on the substantive participation of women in parliament. These are divided into political, social and economic problems with certain other important factors.

Part four deals with the experiences of Rwanda and South Africa and action taken by their governments to overcome the problem of non-equality and past discrimination of women in their parliaments by adoption of CEDAW's substantive equality approach. In the light of their experiences some steps are suggested to be taken to foster *de facto*/substantive participation of women in parliament.

Hopefully this thesis would be an addition towards the effort of all Pakistani women to achieve true equality and it will prove that by adoption of CEDAW's substantive approach in parliamentary politics, Pakistani government will not only duly fulfill her commitments under CEDAW and international law but would better respect, fulfill and protect women's right. Thus ensures that adoption of this approach in its true sense will foster *de facto* equality.

## CHAPTER 1

### HISTORY OF POLITICAL RIGHTS OF WOMEN

To depict the women's history right from the beginning of mankind is the most difficult yet interesting task. Generally, in order to study the history, historians have divided it into three phases, i.e. pre-history, proto-history and history.<sup>1</sup> This categorization can be done on different basis e.g. language, races of man, cultural achievements, chronology etc, thus gives an exact picture of the status, condition and role of women in all three phases of time. As the topic is related to women's political participation in parliament and the treaty's obligation, therefore, before going to probe into the history of political rights of women, one should find out the exact picture of the condition and role of women preceding their struggle for political rights and what exactly led them to raise their voices to grant them their due rights.

#### A PRE-HISTORY:

Pre-history is the period before recorded history. History can only be traced out from what human has written down and became literate only some six thousand years ago,<sup>2</sup> so before he/she became literate the time period is generally considered as pre-history. This stage is divided into three main categories on the basis of man's survival in society:

##### 1. PALEOLITHIC AGE:

The pre-historic era was matriarchal society in some places. The main concern of man at this stage was the quest for freedom from want.<sup>3</sup> Hominids were living in tribe, clan or extended family, where males engaged in hunting and gathering food for the survival. No well-defined political activism found in this age until

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<sup>1</sup> A.H. Dani, *Book one; Pre-Muslim Period: A Short History of Pakistan*, ed. I.H. Qureshi (Karachi: University of Karachi, 1984), 27.

<sup>2</sup> *Ibid.*, 26.

<sup>3</sup> Richard N. Frye, *Women in Pre-Islamic Asia: The Khatun of Bukhara*, ed. Gavin R.G. Hambley, vol. 6 (London and Hampshire: MacMillan Press Ltd), 56.

400,000 B.C.<sup>4</sup> It is only by 50,000 B.C. when women had got some decision-making power in domestic lives.<sup>5</sup>

## **2. NEOLITHIC AGE:**

The Neolithic age was the journey from hunting and gathering way of life to the agricultural settled way of life. "Neolithic revolution" pursued by irrigation was started about 12,000 B.C.<sup>6</sup> Women had same life style having no political or public roles as they were still busy in domestic, agricultural and to some extent economic activities.<sup>7</sup>

## **3. MEGALITHS AND METALLURGY:**

Now the pre-civilized man as hunter and then farmer, entered into new era of metal. No political activism found amongst the women of this era rather their condition deteriorated further.<sup>8</sup> From 2300-1500 B.C., in cultured Harrapan Civilization, women were found politically active in *Panchayat*. It is also evident from minority writers' records that in Vedic time women were active in this tradition but later on their role diminished.<sup>9</sup>

## **B POST-HISTORY:**

This phase of history is categorized in three major divisions i.e. Eastern, Western and Islamic, to easily depict the status of women and their political activism.

### **1. EASTERN HISTORY:**

The period of history when Indus Valley civilization was at its height, this part of the world was seething with political activities and trade in 2000 B.C. About 2500 B.C. urbanization was shaping from town-council government having temporary leaders to wealthy city-states with hereditary king-ship. Condition of women was somewhat better in this regime of city-state. By 1250 B.C. as the city states were

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<sup>4</sup> Elise Boulding, *The Underside of History: A view of women through time* (USA: Westview Press Inc, 1976), 72-73 (hereinafter referred to as Elise Boulding, *The Underside of History*).

<sup>5</sup> Ibid., 79.

<sup>6</sup> Richard N. Frye, *Women in Pre-Islamic Asia: the Khatun of Bukhara, The New Middle Ages: Women in the Medieval Islamic World*, ed. Gavin R.G. Hambley, vol. 6 (London and Hampshire: MacMillan Press Ltd), 56.

<sup>7</sup> Elise Boulding, *The Underside of History*, 121-132.

<sup>8</sup> Ibid., 161-170.

<sup>9</sup> Ibid., 187-189.



gone to be well developed thus resulted in the rise of international law regime, so all great dynasties of this time were linked by political marriages. Women were appearing in the priestess role at that time.

Despite the growth of urbanization women of this time were still lacking in decision-making power although increasingly participating in other social activities like ceremonial functions, high priestess of major temples, in papal-type role, erection of public monuments and international political life, administration of different works organizations etc. Some queens were enjoying ruling power as governesses of provinces conquered by their husbands, while some of them had absolute authority in their sovereign empires instead of deriving power from their husbands' position. The powerful political role played by the women of 8 to 6 century B.C. as sibyl was at its height. There were prophetesses in Arabia and early Israelites and sibyl in Greek colonies of Asia Minor and earlier Iranian origins. Their task as international figure was to advise kings and emperors.

About 1300 B.C. Assyria became the powerful central place to rule, the first ruler was an Assyrian woman, Queen Sannurmat in the late 9<sup>th</sup>, and early 8<sup>th</sup> century B.C. she had ruled for long time after the death of her husband and had great influence in monument building as well as civic and military affairs.

From 730-800 B.C. the history witnessed powerful queens like Zabibi and Samsi, Naqi'a, Atossa wife of Satrap of Cyrus, Artemisia of Halicarnassus, Queen Pheretima of Cyrene; the queen mother Amnestris, wife of Xeres and many others. Generally it is said that this was an era of long-drawn-out and sluggish constraint of social spaces and role opportunities for women. Only upper class and elite women had enjoyed the public role in temple services, education etc. While the leadership role in temple, marketplace or battlefield was in the hands of man.<sup>10</sup>

In the same time period of history, Egyptian women though had no ruling opportunities yet they were involved in wide range of economic, religious and social roles. But still some queens are found like Tausert, mother of Pepi II, who ruled as Pharaoh in 23<sup>rd</sup> Century B.C. Between 1600 and 1200 B.C. Queen

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<sup>10</sup> Ibid., 228-235

Ahotep, Hatshepsut, who ruled as Pharaoh for twenty years and was very successful. Cleopatra of the Ptolemies was also engaged in international affairs. She was Egyptianized Greek and highly genius in politics. Mediterranean marriage-alliance system was also at its height in Egypt at that time. Court women were well aware of international affairs. Women's courts were existed and were centre of political activities as well as a place for women to safeguard their rights. Alexandria that was more urbanized than Egypt, women had also no specific cultural and political role like Egyptian women of this era except in their own temple culture.

By 200 B.C. in India due to the growing infrastructure of empire women were squeezed out of the public role. Caste system in India had greatly suffered women and children. Their laws were discriminatory towards women, child marriages were forced and women were not permitted under law to get education. Only one caste '*Kshatriya*' the warrior class had ignored these laws. Their women were well educated and ruled the *Mauryan* dynasty. At the end of 1<sup>st</sup> Millennium B.C. in Northern India there were highly educated *kshatrian* women who were politically active in the public sphere. While southern part of India had matrilineal tribal and village patterns from Neolithic times continues up to 20<sup>th</sup> century.<sup>11</sup>

Thus the overall condition of women in all over the world at the verge of 1<sup>st</sup> millennium B.C. was almost the same. Only elite and upper class women had enjoyed the leadership role as queens while their poor urban and peasant women were lagged behind in their survival. They had no effective participation in political and social life. Actual power was more or less remained in the hands of men.<sup>12</sup> While no treaty or pact regarding political rights of women is traced out in this Millennium except Friendship and Peace treaties etc.<sup>13</sup>

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<sup>11</sup> Ibid.

<sup>12</sup> Ibid., 205-235

<sup>13</sup> Gary Beckman, Richard Jasnow, Baruch Levine, Martha Roth and Raymond Westbrook, ed., *A History of Ancient Near Eastern Law*, vol. 2 (Leiden, Netherlands, 2003), 1054

## 2. WESTERN HISTORY:

### a. **STATUS OF WOMEN IN ROMAN AND BYZANTIUM SOCIETY:**

General condition of women in Roman Empire was quiet good. They earned respect and dignity in this era. Women were also involved in administration on large scale, free to move in public, went into courts, attend senate meetings, and own large estates in country sides. Due to their economic and political roles and power, their male counter parts argued that they should not take part in administration outside Rome as it can lead to secrete government. Besides this, poor economic conditions of middle class women prevented them taking part in public life. Despite the allegations of un-chastity merely on political basis, some politically active women were admired for their jobs as stated by Eugene A. Hecker; "The political influence wielded by women was as great during the first three centuries after Christ as it has ever been at any period of the world's history; and the powers of a Livia, an Agrippina, a Plotina, did not fail to show pointedly what a woman could do".<sup>14</sup> Although women were admired for their heroic deeds but ironically they were remembered by names like Brutus's Mother, Caesar's Mistress etc.<sup>15</sup>

### b. **WOMEN IN CHRISTIAN'S ERA (354-364):**

Women under early Christian era were considered as "the cause of all the woes of mankind"<sup>16</sup> and were not prominent in public life, despite this they appeared to be active as clerics in Christian community but their persecution was at its peak. Thecla, Helina, Cornllia and Priscilla, ladies of early church, were famous for their courage and struggle for Christian community. Women as Nuns and in cathedral role started to establish educational institutes and charity work, convents and public welfare work and raised voice for problems of women at the time of decline of Rome.<sup>17</sup>

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<sup>14</sup> Ibid. , 7

<sup>15</sup> Elise Boulding, *The Underside of History*, 351

<sup>16</sup> Eugene A. Hecker, *E-Book, A Short History of Women's Right*, 2<sup>nd</sup> Edition (March 2004), 43.

<sup>17</sup> Elise Boulding, *The Underside of History*, 364-484.

**c. WOMEN UNDER GERMANIC PEOPLE:**

They were the wandering tribes that after the decline of Roman Empire formed the modern Nations of Europe i.e. England, Germany, France, Spain, Italy, and Austria. Women under this era had limited political role as queens and prophetesses but they were treated better by male counterparts unlike their Christian sisters. "Among the Germans women seem to have been held in somewhat greater respect. German matrons were esteemed as prophetesses and no battle was entered upon unless they had first consulted the lots and given assurance that the fight would be successful."<sup>18</sup> Women of Northern Germany and Britain had enjoyed the royal power. Famous queens were, Boadicea, queen of the Britons, and Velaeda ruler of the tribe of Bructeri. Between fifth and ninth century A.D. these Barbarians introduced written laws like Visigothic, Burgundian, Salic, Ripuarian, Alemannic, Lombardian, Bavarian, Frisian, Saxon, and Thuringian law books that were stringent for women. Although their social status had improved but on the whole women were subordinate to men, especially Church.

**d. EUROPEAN WOMEN IN MIDDLE AGES (1000-1450 A.D):<sup>19</sup>**

Through out the Middle Ages<sup>20</sup>, rulers had absolute power and could do whatever they wished. Therefore it was period of turmoil and war. Many suffered from this warfare. Women were kept aloof from the church establishment and had no place in new secular offices. Consequently their political and economic role became lessen. Crusades, urbanism and statism further deteriorated their status. While their Eastern contemporaries were enjoying splendor of political and social life. Elite women had some space under this situation; they were active in marriage diplomacy and had either to manage property or to attend the court. They could also get military training perhaps due to continuous warfare. The famous warrior woman of this age was a peasant girl, Joan of Arc, from France. She set example

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<sup>18</sup> Eugene A. Hecker, *E-Book: A Short History of Women's Right*, 2<sup>nd</sup> Edition (March 2004), 59.

<sup>19</sup> Elise Boulding, *The Underside of History*, 415-482.

<sup>20</sup> It started from the fall of Western Roman Empire in the 5<sup>th</sup> Century to the beginning of the Early Modern Period in 16<sup>th</sup> Century.

for her succeeding sisters that a peasant woman can have as much impact on the society as a queen has.

**e. THE RENAISSANCE PERIOD AND WOMEN (1450-1900 A.D):<sup>21</sup>**

After the long suffrage of Middle Ages, the women started to take active part in economic and political activities. The famous queens of this era were Isabel of Castile, having vision of united Spain, a warrior queen. Her great success was the establishment of a political system in the towns of Castile that enabled the inhabitants to have both local self-government and an inter-town alliance. There was Marguerite of Navarre, a minor queen, known as "peace queen". She left behind her a heritage of local welfare structures in Navarre a model of peacemaking in the midst of the most virulent hatreds Europe had known. Then there was Elizabeth Tudor, who made England strong by making alliances with different countries.<sup>22</sup>

All around Europe women got educated and learnt different arts and talents. Italian women were fond of getting education in as much as many flourished as patrons of art. In 1400 A.D. humanist's school was established in Italy having the same basic course for women and men. By 1500 distinguished artists were women in Italy and Spain while French ladies were more inclined towards education. Education was promoted by means of scholarships offered by the convents, musicians, poets and scholars were produced in large number.<sup>23</sup> Life of middle and lower class women was yet not as bright as compared to their upper class sisters. They had no political and social rights. The possible reason for their downfall obviously was keeping them away from education.<sup>24</sup>

**f. INCREASING DISSENT: THE 1600s:**

Due to American colonial settlements, this century witnessed women movements for the first time. Women as intellectuals, workers, religious dissenters and as overseas migrant became publicly articulate. Women exercised their right of

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<sup>21</sup> Elise Boulding, *The Underside of History*, 535-538.

<sup>22</sup> *Ibid.*, 535-538.

<sup>23</sup> *Ibid.*, 541-546.

<sup>24</sup> *Ibid.*, 551-555.

expression openly and in 1640 published pamphlet in England. Women community joined a battle for their rights although their right of expression was not recognized by the patriarchal society yet. Women dissenters were arisen not only in Europe, but also in the colonial America, and Asia, they were upper, middle, and working class. They were Catholics, Protestants, and Quakers. They were also barred from economic activities as there was no women banker at that time of colonial settlement. Consequently a new type of thinkers appeared known as 'Feminist scholar'. Due to the deteriorating condition of women in every walk of life those scholars outlined new form of thinking for women's rights.<sup>25</sup>

**g. THE CENTURY OF REVOLUTIONS: THE 1700s:**

This century is marked with industrial revolution in England, political revolutions in France and North America, and unrest in Russia. Despite being the century of queens, female education, social and economic conditions were not as good as they should have been. Famous empresses of this century were, Anne, presided over England and Scotland, introducing a new set of election laws (1711) that did not exclude women from voting. Martha presided over Russia for two years (1725-27). Catherine I followed by Anne in (1732-1740) who eventually left power in foreign hands, Elizabeth, daughter of Peter the Great, and Catherine II. General condition of middle class and poor class women was increasingly degenerated due to industrial revolution in England. Whether women worked in field or factories they faced unemployment, low wages and long hours to work etc.<sup>26</sup>

In the eighteenth century, France was suffering from nation-wide famine. The working class and peasantry revolted in 1700 against long-continuing persecution of the Huguenots by the Catholic regime. From 1725 to 1788, country suffered from periodic epidemics of bread riots. These continuous riots and revolts affected badly the economic, social and political conditions of French administration. France became bankrupt; women were debarred from participation but they were mobilized under the leadership of French queen to

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<sup>25</sup> Elise Boulding, *The Underside of History*, 556-561.

<sup>26</sup> *Ibid.*, 576-577.

revolt against monarchy. Women of lower class were the actual heroines of this revolution and had done unique piece of work in the annals of European history.<sup>27</sup>

#### **h. EMERGENCE OF THE MODERN WORLD-1800s:**

By 1800, most of the ruling power was gone into hands of elected men, noble and elite women were no more active in the political affairs of the state. The most strong and last ruling queen of nineteenth century was, queen Victoria. Acceded to throne in 1837, she restarted political alliance system though it was on decline, by marrying of each of her nine children in royal families of Europe. Thus became matriarch of Europe. She was strong, intelligent and decision-maker, and had started an era of imperial nationalism when became empress of India in 1876.<sup>28</sup>

Later on women though helped to liberate Latin America in 1811, ending with Brazil and Central America in 1822-1825 and vigorously participated in revolutions of 1848 in Germany, Austria, and Italy, this did not reward them any place or position in new parliaments.<sup>29</sup>

In some Muslim countries like Persia, women though kept in seclusion but 1861's famine and government's failure to control food price led them to revolt against government.<sup>30</sup>

Women of middle and lower class first time started thinking that for task-oriented cooperative relation-ships with men in social welfare work was difficult to be carried out as far as women had no power of decision-making on equal basis with men. This phenomenon faced violent reaction from men. For the first time it was articulated by Fourier that status of women could be used as indicator of the progress of the society. As revolutionaries, women were supposed to do all sort of jobs but prohibited to participate in the political decision making of the male revolutionaries. American women were also to some extent involved in social change movement of their time in 1890. Middle class women were tried to debar

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<sup>27</sup> Ibid., 587-590.

<sup>28</sup> Ibid., 617-618.

<sup>29</sup> Ibid., 619-621.

<sup>30</sup> Ibid., 587-590.

from every kind of education and men were of view that more education would let them out of their hands. Women working in govt. employment were not much enthusiastic in dealing with women's issues and problems. With the growth of communication systems, women across the world had got access. Between 1851 and 1893, many national and international congresses were held. Elite women from Europe, the Americans, and the Orient gathered and shared their experiences. It was twentieth century when women from middle classes also joined these international events. In 1857, Denmark women achieved legislation on employment. Women in Other parts of Europe had also provided with similar benefits.<sup>31</sup>

**i. FEMINIST MOVEMENT IN THE WEST:<sup>32</sup>**

Women rights Movement was not burst suddenly but the consequence of many events that activated women to joined together in nineteenth century. The landmark event that led women rights movement at its height was a publication in England in 1825, by William Thompson and Anna Wheeler on removing women's legal and civil disabilities. James Mills famous 'Article on Government' was published and there was Appeal against it as it did not recognize women having full interest rather dependent on their father and husband. Women got together to promote Wheeler-Thompson clause, as clause was removed by charter declaration as pre-mature but women association stayed alive. Later on women wrote on suffrage rights of women. First suffrage movement started about 1830s by merging of different groups.

Different political organizations were formed like the Sheffield Women's Political Association 1851; the Kensington Society 1865, composed of outstanding women leaders, the London National Society for Women's Suffrage 1867. The famous incident in London in 1840, when American women delegates were refused seats at the International Anti-Slavery Congress held there, played decisive role in the American movement. It was fury over that event that brought Elizabeth Cady Stanton and Lucretia Mott back to the United States to organize

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<sup>31</sup> Ibid., 617-661.

<sup>32</sup> Ibid., 676-683.



the Seneca Falls Convention of 1848 that launched the American suffrage movements. Before 1867, in suffrage movement from the past three decades, two types of interest were evolved in it, i.e. enfranchisement in order to overcome *economic disadvantage* was the theme of the working-class women, the **Chartists**, who were suffering severely from economic setbacks during this period; Enfranchisement for *political decision making* was the theme of the middle-class women, the **suffragettes**, who had personally secure situations, but wanted a freer hand to set things straight for society at large.

**j. RADICALISM OF THE WOMEN SUFFRAGE MOVEMENT:**

By the advent of 1903, the suffragettes went radical with the formation of the Women's Social and Political Union. It was tried to join hand with working class women but after three years it was ended. American women also took part in the women rights movement as they already entered this field by means of participating in temperance and abolition. Before 1869, American women were not considered as 'political person'. Even their Constitution did not recognize this fact until the Fourteenth Amendment was ratified in 1869. After which women openly demanded their right to vote.<sup>33</sup> But ironically American women remained successful as compare to their British sisters. English women could vote over thirty from 1918 and it took them ten more years to have vote equally with men at twenty one in 1928.

In northern Europe, right to vote was not the main issue for women rights movement, rather it was the *Mutterschutz* idea that became the prime goal for the movement. The concept of *Mutterschutz* was to protect women wherever they were, including the factory, and to protect their right to bear children without harassment. The first World War had postponed many countries' policies to grant suffrage to their women but still many had got this right before its ending e.g. Australia, in 1902; Denmark, 1915; Finland, 1906; Iceland, 1915; New Zealand, 1893; Norway, 1913; and the USSR, 1917 (United Nations, 1964). (It is only concerned with the right to vote in national elections at par with the men). Some

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<sup>33</sup> Anne Phillips, ed. *The Radicalism of the Women Suffrage Movement: Feminism and Equality*, by Ellen Dubois (New York: New York University press, 1987), 130.

countries, like Sweden, had limited municipal suffrage as far as back as 1863. So the date to grant universal suffrage was not result of previous political engagement of their women. Scandinavia and parts of the British Commonwealth did best on early achievement of enfranchisement, but these were not areas of high suffrage activity. When women had the vote they used it conservatively, to support existing power structures. They did not use it to elect women to office, or to promote radical reforms.<sup>34</sup>

**k. WOMEN POLITICAL RIGHTS AND TREATY REGIME:**

Early 20<sup>th</sup> century was the story of success of women under suffragette movement in different parts of the world. Women political rights further enhanced by the formation of United Nations in 1945 with emergence of international treaties under its umbrella, but their participation remained minimal in national politics. It can be said that during the later half of 20<sup>th</sup> century women's movement's main concern shifted from suffrage issue to equal political participation with men in all tiers of government in all around the world. This century is known as 'women's century' as many countries were headed by women leaders e.g. Corazon Aquin in Philipines, Ertha Pascal-Trouillot in Haiti, Violeta Chamorro in Nicaragua, Mary Robinson in Ireland, Golda Meir in Israel, Indra Gandhi in India, Benazir Bhutto in Pakistan, etc and many more.<sup>35</sup> Beside these women leaders the overall political participation of women had increased in some countries like, France, Uganda, Costa Rica, Pakistan etc at the verge of this century.

**i) EMERGENCE OF INTERNATIONAL TREATIES:**

International treaties like United Nation Charter 1945, Universal Declaration of Human Rights (UDHR) 1948, International Convention of Political Rights of Women 1952 and later on the Convention on the Elimination of All Forms of Discrimination Against Women 1969, had further boosted their political rights. But equal presentation of women with men (Gender mainstreaming) in all level of political governance is hitherto not achieved.

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<sup>34</sup> Elise Boulding, *The Underside of History*, 680-683.

<sup>35</sup> [http://www.jlhs.nhusd.k12.ca.us/Classes/Social\\_Science/Anderson%27sWomen.HTML/Political.html](http://www.jlhs.nhusd.k12.ca.us/Classes/Social_Science/Anderson%27sWomen.HTML/Political.html)  
(8/6/2006)

In 1946 as a sub-commission of the Commission on Human Rights, and later granted the status of full commission as a result of the pressure exerted by women's activists, the mandate of the Commission on the Status of Women included the preparation of recommendations relating to urgent problems requiring immediate attention in the field of women's rights with the object of implementing the principle that men and women should have equal rights, and the development of proposals to give effect to such recommendations. Between 1949 and 1959, the Commission elaborated the following instruments:

- The Convention on the Political Rights of Women, adopted by the General Assembly on 20<sup>th</sup> December 1952.
- The Convention on the Nationality of Married Women, adopted by the Assembly on 29<sup>th</sup> January 1957.
- The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages adopted on 7<sup>th</sup> November 1962, and
- The Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages adopted on 1<sup>st</sup> November 1965.<sup>36</sup>

ii) **MAKING OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW), 1969:**

Journey towards Convention on the Elimination of All Forms of Discrimination Against Women was not easy one as it was full of women rights struggle and movements that made it possible to consider women as distinct group more vulnerable to discrimination and inequality. Mere inclusion of words 'women' with men in Universal Declaration of Human Rights 1948, International Convention on Civil and Political Rights 1966 and International Convention on Economic, Social and Civil Rights 1966 were not guaranteed to prohibit discrimination against women. It became more specific and private by the adoption of certain other conventions. The establishment of the Commission on the Status of Women (CSW)<sup>37</sup> defined and elaborated the general guarantees of non-discrimination in these instruments from a gender perspective. For example,

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<sup>36</sup> United Nations Division for the Advancement of Women Department of Economic and Social Affairs, *History of CEDAW* (New York, NY: United Nations Department of Public Information), available at: <http://www.un.org/womenwatch/daw/cedaw/history.htm> (accessed 7/28/2006)

<sup>37</sup> Ibid.

- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others 1949,
- ILO Convention 100 on Equal Remuneration 1951,
- Convention on Political Rights of Women 1952,
- Supplementary Convention on the Abolition of Slavery 1956,
- Convention on the Nationality of Married Women 1957,
- Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages 1962,
- Declaration on the Protection of Women and Children in Emergency and Armed Conflict 1974,

Rigorous efforts on the part of women and all above mentioned legal multilateral instruments paved the way for more comprehensive and effective mechanism for women rights in the form of CEDAW. By 1963, 22 countries originated a resolution at 18<sup>th</sup> UN General Assembly calling for a declaration eliminating discrimination against women. The resolution noted that discrimination against women still existed "in fact if not in law" in spite of the equality provision of the UN Charter and the Universal Declaration of Human Rights (United Nations 1963). On November 7, 1967, four years following the resolution, the United Nations General Assembly adopted such a declaration (United Nations 1967). The declaration, in turn, became the basis on which to draft the CEDAW Convention. The UN Commission on the Status of Women steered the drafting process and transmitted it through the Economic and Social Council for debates in the Third Committee of the UN General Assembly. On December 18, 1979, CEDAW was adopted by the United Nations General Assembly and came into force on September 3, 1981, when twenty countries had ratified it.<sup>38</sup>

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<sup>38</sup> Dongxiao Liu, "Making the Case: The Women's Convention and Equal Employment Opportunity in Japan", *International Journal of Comparative Sociology* (2001): 389.

### 3. ISLAMIC HISTORY

#### a. **WOMEN IN JAHILIYYAH PERIOD:**

Pre-Islamic Arabian women in Bedouin tribes (as compared to their urban sisters) were enjoying a position of respect and influence. But with the degeneration of *Jahiliyyah* period the status and position of women also deteriorated. They had no property, no rights, no social and political role to play no respect and honor in the male oriented society. Polyandry and other social evils were on rise like gambling, wine-drinking, prostitution etc.<sup>39</sup> Infanticide was on at its height not only in Arabia but it was practiced throughout the history in other part of the world too like, India, China, Ancient Greek, Brazil, London, Florence, France, in some parts of Africa and New Guinea etc.

#### b. **WOMEN IN PROPHET AND CALIPHATE PERIODS (570-1258 A.D.):**

Advent of Islam had uplifted the status of women and granted rights in all spheres of life on equal footings with men. As Islamic state was not based on pure political basis (like modern political governments) therefore, women were not accustomed to take part freely in political activities and they had limited political and public roles. The only political activity in which women participated in proper manner was of *Bay'a* and consultation at all levels of *Shura* (mutual consultation), i.e. a foundation of Islamic political system, during the Prophet and his companions' time. Unlike their contemporaries in Western world they had never enjoyed the ruling power in this era. There are some examples of Muslim women who had taken part in political activities but those were exceptional cases. For example, *Hazrat Umm Salamah* was consulted by prophet after the treaty of *Hudaibiyah*. The wisdom and judgment of *Umm Salamah* helped the Prophet (PBUH) in this crucial situation and secured the community from splitting up.<sup>40</sup> Prophet (PBUH) had always encouraged the discussion with women on issues related to women or by women. He often received delegations of women

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<sup>39</sup> Mazhar-ul-Haq, *A Short History of Islam* (Lahore: Bookland Pvt. Ltd., 1977), 11.

<sup>40</sup> Afzalar Rahman, *Role of Muslim Women in society* (London: Seerah Foundation, 1986), 214

presenting their cases.<sup>41</sup> The Prophet's (PBUH) wives, *Umm Salamah*, *Ayesha*, were used to ask searching questions and they were admired by the Prophet (PBUH) for their inquiring attitude. Some Muslim women had played the role of regional judges e.g. *Hazrat Ayesha* a great scholar became a regional judge during the caliphate of *Abu Bakr*, *Ummar* and *Othman*. They sought her guidance in crucial matter and she used to judge the matter on pure legal basis. *Hazrat Hafsa*, daughter of the second caliph, was also famous for her insight and guidance in public matters. In early Islam women, beside their traditional role, used to participate in armed conflict by taking care of wounded soldiers, fetching water to them, arranging food and often participating in fighting whenever needed.<sup>42</sup> Women were not only engaged in domestic political arena but also participated on international level i.e. diplomatic activities e.g. sister of '*Adiy ibn Hatim*, is well known for what she had done for her tribe.<sup>43</sup> Whereas women under Western rulers in that time period though enjoyed political role of queens and priestesses but generally they were subordinate to men and Church.<sup>44</sup>

Women had limited political freedom in Caliphate period. Under the caliph *Umar's* era, women got more legal security but very few women were appointed on the positions of high responsibility. For example, *Al-Shafa* was appointed as market inspector in Medina. Women's political awareness can also be determined from the case of one woman who publicly criticized *Hazrat Umar* for restricting the female's right of dower. *Hazrat Umar* once addressed the people in the Mosque of the Prophet: O People! Why have you started fixing the dowers of women at fantastically higher amounts, while the Messenger of Allah had never fixed the dower of any of his wives at an amount exceeding four hundred *Dirham*. Beware! I should not hear in future that any of you has fixed dower exceeding 400 *dirhams*. He then descended from the pulpit. There and then came a woman of *Quraish* and said: O *Umar*! Have not you heard the word of God (in Al-Qur'an

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<sup>41</sup> Afsar Bano, *Status of Women in Islamic Society: Role in Politics*, vol. 2 (New Delhi: Anmol Publications Pvt. Ltd., 2003), 314

<sup>42</sup> Naseem Ahmed, ed., *Women in Islam: In Political Arena*, vol. 1 (New Delhi: A.P.H. Publishing Corporation, 2003), 260.

<sup>43</sup> Charis Waddy, *Women in Muslim History* (London and New York: Longman Group Ltd., 1980), 24-25.

<sup>44</sup> *Ibid.*, 26. (Hereafter referred to as Charis Waddy, *Women in Muslim History*).

4:20). Allah says. Even if you have given a big treasure to a woman, don't take back anything out of that. *Hazrat Umar* at once returned, withdrew his order and announced: Any one of you can fix as much dower as he pleases: I can't stop him.<sup>45</sup>

Under Umayyad, when the foundations of Islamic civilization and culture of Middle Ages were laid down and feudal society was rising<sup>46</sup> and Arab boundaries were expanding to Central Asia, North Africa and Spain and when *Sind* was conquered by Muslims. Social and political position of women was at decline. Equality, dignity, freedom and liberty declined to inferiority, subjection and luxurious captivity. As Umayyads adopted many political and military institutions from Byzantines they had also borrowed *Purdah* (Veil) system from Persians and eunuchs to guard their *harems* from Byzantines. Many renowned women for their insight, dignity and knowledge of this period of history were *Ayesha bint Talha*, *Umm-ul-Banin*, the sister of Umar II and the wife of Walid I, the regal lady, famous for her political insight often took *Hajjaj bin Yusuf* to task for his harsh rule and most famous among them the saintly *Rabia al-Basri*, among the earlier Sufis of Islam.<sup>47</sup>

Abbasid caliphate was the period of great culture, civilization, science and learning. The social condition of women on the dawn of Abbasid caliphate was though fairly high and dignified and had freedom and respect in family life but later on due to seclusion, *harems* filled with several wives and concubines, polygamy etc, they lost their position and dignity in family life. It is recorded in the history that free women were no better than slave concubines.<sup>48</sup> In the Western world at the same time period Church influence was increasing in every matter of life and in the later history of Roman law women's political role diminished, but women were active in one role only i.e. prostitutes. Therefore Western women's status until Renaissance was subject to digression.

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<sup>45</sup> Afsar Bano, *Status of Women in Islamic Society: Role in Politics*, vol. 2 (New Delhi: Anmol Publications Pvt. Ltd., 2003), 316.

<sup>46</sup> Mazhar-ul-Haq, *A Short History of Islam* (Lahore: Bookland Pvt. Ltd., 1977), 403.

<sup>47</sup> *Ibid.*, 542.

<sup>48</sup> Eugene A. Hecker, *E-Book, A Short History of Women's Right*, 2<sup>nd</sup> Edition (March 2004), 76.

Some women famous for their political role were *Khayzuran*, slave wife of *Mahdi* and the mother of *Harun*.<sup>49</sup> Some tribal women also ruled like Turken Khatun, wife of *Malik Shah* took part in politics, war and diplomacy. *Zubaidah*, a royal lady, wife of *Harun al-Rashid* and *Buran*, wife of *Al-Mamun*, also participated in political activities.<sup>50</sup> Who had never become queen-mother but enjoyed power under her husband reign over half a century. Another woman of notable role played by was *Sayyida Hurra* of the Sulayhid dynasty of Yemen (1047-1138 A.D./439-532 A.H.), who acted on behalf of the Fatimid caliph imams in Cairo. Sultan of Delhi, *Radiyya bint Iltutmish* (1236-40 A.D./634-37 A.H.)<sup>51</sup> succeeded her father and enjoyed full authority, administering justice and led her troops in the battlefield for four years. Women of middle class had never reached this glory like in other parts of the world.

c. **MUSLIM WOMEN UNDER SULTANATE PERIODS (1206-1555 A.D):**

The later period of Sultanate dynasty was the Renaissance period in East. Famous traveler *Ibn-e-Battūtah* had depicted condition and role of women either of royal family or common class.<sup>52</sup> Turkish people gave more respect and dignity to their women unlike else where.<sup>53</sup>

No sultan raised any woman in his harem to the status of queen between 1403 and 1541. But some famous women rulers of this time were *Tandu Khātūn bint Jalal al-Din Husayn*, the daughter of the third ruler of Mongol Jalayirid dynasty (1336-1432 A.D. / 736-835 A.H.). She ruled Baghdad through her son, where her name was read in *Khutba* (Friday Sermon) and impressed on the coinage. She had also ruled on Southern Iraq till her death in 1416/819 or 1419/822.<sup>54</sup> The most prosperous and notable among the other women of this period was *Gauhar Shād*,

<sup>49</sup> Charis Waddy, *Women in Muslim History*, 42.

<sup>50</sup> Mazhar-ul-Haq, *A Short History of Islam* (Lahore: Bookland Pvt. Ltd., 1977), 603.

<sup>51</sup> M. Kabir, *Book two: Muslim Rule Under the Sultans*, ed. I.H. Qureshi (Karachi: University of Karachi, 1984), 266-267.

<sup>52</sup> Charis Waddy, *Women in Muslim History*, 110.

<sup>53</sup> *Ibid*, 112.

<sup>54</sup> Gavin R.G. Hambley, ed., *The New Middle Ages: Women in the Medieval Islamic World, Becoming Visible: Medieval Islamic Women in Historiography and History*, vol. 6 (London and Hampshire: MacMillan Press Ltd), 12-13.



wife of *Shah Rukh* who ruled for forty years and daughter-in-law of Tamerlane (1404/807-1147-850).<sup>55</sup>

**d. WOMEN UNDER MUGHAL EMPIRE (1526-1837 A.D. / 932-1253 A.H.):**

When Western women were getting education, learning different arts and talents, and facing problems due to American colonial settlements, their sisters in Mughal Empire had versatile activities. The sixteenth century Mongol invasions were hard on the succeeding Ottoman Empire (1299-1918) and contributed to the seclusion practices which increasingly affected the status of Turkish women.<sup>56</sup> Women of ruling class were involved in power game. The most successful among them were the wife of *Suleyman*, the Magnificent, *Roxelana*, the Russian lady, who ruled for 150 years. Other women took active part in political matters of state whereas some of the mothers of the Sultans were also engaged in correspondence with foreign rulers. Those women had great interest in construction and architecture. Mughals had shown great love and affection to their women by means of construction of fabulous piece of architecture. The most famous among them are the mosque of *Bibī Khanum* in *Samarkand*, favorite wife of *Timūr* and the *Tāj Mahall* in *Agra*.<sup>57</sup> Other famous ruler women were Empress *Noor Jehan*, *Maharani Jija Bai*, *Chand Bibi* and *Rani Padmini*. General condition of men and women was miserable at the end of this Empire.

**e. FEMINIST MOVEMENTS IN SUB-CONTINENT:**

While the western women were gaining their legal rights and were active politically, women in sub-continent were squeezed out of political scenario. The status of women can be seen two periods i.e. the British Rule and the post-Independence era.

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<sup>55</sup>Charis Waddy, *Women in Muslim History*, 116-119.

<sup>56</sup>Ibid., 719-720.

<sup>57</sup>Charis Waddy, *Women in Muslim History*, 120.

**i) THE BRITISH RULE:**

The Mughal Empire was terminated by the British and after the battle of *Plessey* (1757); the condition of men and women of the Sub-continent were getting worst. Muslim women were restricted to their houses under seclusion while Hindu women were victims of female infanticide, polygamy, *purdah* and *sati*. The British Rule in the 18<sup>th</sup> Century brought in some degree of political orderliness, but the social structure, customs and practices remained unchanged. The disastrous rebellion of 1857 was followed by the creation of Indian National Congress in 1885 which brought more women into public life. It was mainly in 19<sup>th</sup> Century that enlightened thinkers and leaders of sub-continent like Sir *Syed Ahmad Khan*, *Rabindranath Tagore*, *Swami Vivekananda*, *Bankim Chandra Chatterjee* and *Dadabhai Naoroji*<sup>58</sup> understood the importance of women participation in political and social structures of society. Other people who strongly supported this view were *Syed Amir Ali*, *Allama Muhammad Iqbal*, *Muhammad 'Abduh* and *Qaim Amīn* in Egypt,<sup>59</sup> and *Sheikh Abdullah* of Aligarh.

**ii) WOMEN'S REFORM MOVEMENT:**

Thinkers of that time spread the passion for social and political freedom. They advocated that women's participation in political arena is subject to their education. The question of women's education was first raised by men at all-male Mohammedan Educational Congress in 1886. Women movement in other parts of the world had already started e.g. in US (1840) and in Iceland (1880). While in Sub-Continent, Ramabai is considered, the first Indian Feminist to address other women directly about emancipation through education. Different schools were setup for girls throughout Indian sub-continent, on the pattern of Christian mission schools for girls.<sup>60</sup> In 1885, the *Anjuman-e-Himayat-e-Islam* opened five elementary schools in Lahore. In 1903, *Sultan Jahān Begum*, from the state of Bhopal, established 1<sup>st</sup> school for girls where not only religious but modern

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<sup>58</sup>Wikipedia Encyclopedia, s.v. Indian Independence Movement.

Available at: [http://en.wikipedia.org/wiki/Indian\\_independence\\_movement](http://en.wikipedia.org/wiki/Indian_independence_movement) (accessed 8/2/2006)

<sup>59</sup> Charis Waddy, *Women in Muslim History*, 160.

<sup>60</sup> Elise Boulding, *The Underside of History*, 721-722.

education was delivered. *Begum Habibullah* of Lucknow followed her path. By 1904, the women's Reform Movement gained momentum and lots of educational reforms were made in it as it was leading to the political awareness among the women masses. Beside Muslim ladies, some Indian women like Mrs. Annie Besant, Dr. Sarojini Naidu, Kamladevi Chattopadhyay, Mrs. Nellie Sengupta, and many others gave a direction to Indian womanhood towards change and betterment.<sup>61</sup>

### iii) WOMEN RECOGNIZING THEIR RIGHTS:

Women were becoming aware of their due rights in political and social arenas. Therefore first women organization formed in 1908 namely, *Anjuman-e-Khawateen-e-Islam* at Lahore was aimed at spreading education, social reforms etc. In 1915, Begum of Bhopal with other ladies founded All India Muslim Ladies Conference. In 1917 the congress demanded that women been able to vote on the same basis as men. Consequently, in 1928, Indian women got right to vote equal to men i.e. propertied person both male and female were allowed to vote. While in the west, women got this right for the first time in 1920. In 1935, under the Govt. of India Act, six million women were enfranchised with reserved seats for them in both the Council of State and the Federal Assembly.<sup>62</sup> On the other hand Indian non-muslim women were also active in political arena. They were led by the Indian National Congress and *Mahatma Gandhi's* non-violent movement towards political emancipation and took active part in other political activities of that time.<sup>63</sup> Male counter parts of women also played a role for recognition of women rights in devising two enactments i.e. Shariat Act, 1937 and the Muslim Marriage Dissolution Act, 1939. The later Act of 1939 was of great importance for women where a woman was allowed, under Hanafi School of thought, to obtain judicial divorce on the standard grounds of cruelty, desertion, failure to maintain etc. the

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<sup>61</sup> Department of Women & Child Development, Government of India, *Women in History*, available at: <http://nrcw.nic.in/index2.asp?sublinkid=450> (8/2/2006)

<sup>62</sup> Khawar Mumtaz and Farida Shaheed, *Women of Pakistan: Two Steps Forward, One Step Back?* (Lahore: Vanguard Books Pvt. Ltd., 1987), 42.

<sup>63</sup> Department of Women & Child Development, Government of India, *Women in History*, available at: <http://nrcw.nic.in/index2.asp?sublinkid=450> (8/2/2006)

Act was brought into force with the efforts of Government, Ulemas, and representatives of both community-based political groups along with women organizations.<sup>64</sup>

iv) **WOMEN IN POLITICS:**

Both Muslim and Hindu women took active part in politics of freedom movement side by side under the leadership of Muslim League and Indian National Congress. *Khilafat* Movement is considered to be the first step taken to mobilize the women in general politics. Led by *Bī Amma*, large numbers of women were encouraged to participate in political arena. 1915's Conference motivated leading families' women to take part in national affairs. In 1930, *Begum Shah Nawaz* and *Fatimah Jinnah* and had attended the Round Table Conference in London. In 1931, *Sarojini Naidu* was invited along with Gandhi to the Second Round Table Conference in London. She was politically active lady and became president of Congress in 1925 and governor of Uttar Pradesh. Her daughter, *Padmaja Naidu* was also a prominent political figure of that time. In 1936, A Progressive Movement was started targeted to achieve fundamental right of women to education, property and voting. Large number of Indian women enrolled in Muslim league and Indian National Congress. In 1946 elections, two Muslim women who remarkably elected on general seats were *Salama Tassaduq Hussain* and *Jehan Ara Shahnawaz*. Hindu women were not far behind in playing their active roles in politics e.g. *Vijay Laxmi Pandit*, elected to Uttar Pradesh Assembly in 1936 and in 1946, she was the first woman to become president of the United Nations General Assembly. *Sucheta Kripalani* elected as a member of Constituent Assembly in 1946. There is a long list of women who took active part in freedom movement. Women from other provinces also took part in the political arena until the Independence on 14<sup>th</sup> August 1947.<sup>65</sup>

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<sup>64</sup> Sabiha Hussain, "Muslim Women's Rights Discourse in the Pre-Independence Period", available at: <http://cwds.ac.in/OCPaper/sabihaOccasionalPaper.pdf> (accessed on 25-05-2009)

<sup>65</sup> Khawar Mumtaz and Farida Shaheed, *Women of Pakistan: Two Steps Forward, One Step Back?* (Lahore: Vanguard Books Pvt. Ltd., 1987), 43.

v) **IMPACT OF INTERNATIONAL TREATIES ON WOMEN IN PAKISTAN:**

After independence women political participation in national and international affairs remain nominal. Though women were granted fundamental human rights under various international treaties but they were deprived of their equal rights on national arena. In Pakistan, *Begum Shaista Ikramullah*, was among the first members of the constituent assembly. In Sept. 1954, on the first constituent assembly's meeting, women's rights charter was presented for discussion and adoption. It advocated for the 3% reserved seats for women in central and provincial assemblies, equality of status, opportunity, equal pay for equal work, and female rights for muslim women granted under Islamic Personal law of sharia'. It was passed unanimously. *Begum Shah Nawaz* and *Begum Shaista Ikramullah* had made their every effort to get recognized women's rights as women representatives in male dominated Fundamental Rights committee, the Franchise committee and the Nationality committee. In 1955, the Commission on Marriage and Family laws (1955-56) was established. Some of its recommendations were incorporated in to the Muslim family law ordinance 1961 and family courts Act 1964.<sup>66</sup>

This flaccid attitude of patriarchal society led women to initiate political movements. There were many other organizations working on social and political rights of women e.g. Democratic Women Association 1899 (political), United Front for women's rights 1955 (women's right), All Pakistan Women Association 1949 (social and educational) etc.<sup>67</sup> They were demanding equal political rights for women e.g. by 1956, when first constitution of Pakistan was under process, women were demanding adequate representation in the government and the constituent assembly i.e. at least 10%. Later on their right to representation was acknowledged and they were given double vote in the 1956 constitution. The

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<sup>66</sup> Ministry of Women Development, Government of Pakistan, Islamabad, *A Synthesis of Reports of Committees/Commissions on the Status of Women* (Islamabad: Ministry of Women Development, December 2003), 1-2.

<sup>67</sup> Khawar Mumtaz and Farida Shaheed, *Women of Pakistan: Two Steps Forward, One Step Back?* (Lahore: Vanguard Books Pvt. Ltd., 1987), 52-55.

Constitution of 1956 had a 3% quota under Article 44(2), which was calculated as 10 seats for women for 10 years.

*Begum Rana Liaqat Ali Khan* (D.D 1990), remained ambassador in Holland, Italy and Tunisia. She attended the committees and commission of the United Nations and International Labor Organization. She also acted as governor of the province of Sind and Vice Chancellor of the University of Karachi. In 1979, she was awarded the Human Rights Award of the United Nations for her achievements.

**vi) AYUB KHAN'S MARTIAL LAW REGIME (1958-69):**

In 1958, under General *Ayub's* Martial Law regime as all political activities were banned across the country, still few women had played their decisive role in upholding their political rights. Women were squeezed from nearly all decision-making process. "Number of reserved seats for women in indirectly-elected assembly remained limited. The principle of female suffrage on the basis of women's territorial constituencies, adopted in 1956 constitution, was abolished in 1962 constitution by *Ayub Khan*".<sup>68</sup> In 1964, *Fatimah Jinnah* contested the election against *Ayub Khan* and came second in the poll.<sup>69</sup> Women's political representation on local level also remained nil as there was no Local Govt. system. Different political movements led by women started in this regime e.g. *Bahhood* Association and the *Soroptomist* Club activated in agitation against *Ayub's* Govt. Democratic Women's Organization, set up in 1948 at Lahore, having Marxist ideological basis, had too many political issues e.g. equal wages for equal work, transport and basic facilities for the workers etc, to raise at their agenda.<sup>70</sup>

**vii) ZULFIQAR ALI BHUTTO'S ERA (1970-77):**

Women political participation remained nominal in this regime until the making of new constitution in 1973. Only two women-*Nasim Jehan* and *Ashraf Abbasi*-

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<sup>68</sup> Ibid., 60.

<sup>69</sup> Ibid., 11.

<sup>70</sup> Anis Haroon, *The Women's Movement in Pakistan in Unveiling the Issues: Pakistani Women's Perspectives on Social, Political and Ideological Issues*, ed. Nighat Said Khan and Afiya Sheherbano Zia (Lahore: ASR Publications, 1995), 180.

were included in the constitution-making committee and remained on the decision-making levels. Under the constitution of 1973, women rights were recognized on equal footing with men and were provided equal opportunities without any discrimination on basis of sex, class and creed, guaranteed reservation of seats for women in the Local Bodies under Article 25, 27 and Article 34 lays down that steps shall be taken to ensure the participation of women in all spheres of life etc. Only one woman was included in the Council of Islamic Ideology. Their demand for female suffrage for reserved seats for women was rejected and in 1973 constitution they continued to be indirectly elected by the members of the Assemblies. 1973 Constitution provided for 10 seats for 10 years or 3 elections whichever occurred later. Women were given no special representation in Local Government system. Few women enjoyed political participation e.g. *Begum Rana Liaquat Ali* as governor of Sind and *Begum Kaneez Yousaf* as Vice-Chancellor of the Quadi-e-Azam University<sup>71</sup>. For the first time International Women's Day was observed. In 1976 Women's Rights Committee was formed with 9 female members out of 13 chaired by *Yahya Bakhtiar*, Attorney General of Pakistan.

**viii) ZIA-UL-HAQ'S MARTIAL LAW REGIME (1977-1988):**

As all political activities were banned in this regime until the 1985 election therefore, women political participation once again became nominal. On December 1985, Martial Law was lifted officially. Elections for national and provincial assemblies were held in February. The senate was elected indirectly having no female members and no reserved seats for them. The seats for women in national legislature were increased to 20 under 1973 constitution. This reservation elapsed later on in 1988. 13 women, for the first time, contested election on general seats among which only one was successful for national assembly seat (i.e. *Abida Hussain* from Jhang) and two got Punjab Provincial assembly seats. Women participation in Local Government was also nominal having 2 seats at Union Council & 10% at other tiers except North West Frontier

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<sup>71</sup> Established in 1967.

Province (NWFP). This position remained unchanged in next Local Government elections of 1985.

ix) **BENAZIR BHUTTO'S ERAS (1988-1990 AND 1993- 1996):**

*Benazir Bhutto*, daughter of deposed *Zulfiqar Ali Bhutto*, became the first female Prime Minister of any Muslim country in the world. After the long period of Military Government her succession was a ray of hope not only for dilapidated democracy but also for women of Pakistan. But the govt. failed to implement its gender policies. "During election campaigns, the Bhutto government voiced concerns over social issues of women, health and discrimination against women. Bhutto also announced plans to set up women's police stations, courts and women's development banks. Despite these promises, Bhutto did not propose any legislation to improve welfare services for women. During her election campaigns, Bhutto promised to repeal controversial laws (such as *Hudood* and *Zina* Ordinances) that curtail rights of women in Pakistan. However, during her two terms in power, her party did not fulfill these promises due to immense pressure from the opposition. However, her party did initiate legislation during General Musharraf's regime to repeal the *Zina* Ordinance. These efforts were defeated by the right-wing religious parties that dominated the legislatures at the time"<sup>72</sup> Women representation in national legislature became nominal due to lapse of reservation of 20 seats, it further reduced to a negligible level i.e. 3.2% in National Assembly, 2.4% in Senate and 0.4% in all 4 Provincial Assemblies. *Benazir* regained power in 1993's election and became Prime Minister of Pakistan. But she neither revived nor increased constitutional reservation. No Local Government elections were held in her both tenures. Important things done for women under her second tenure were to establish women police stations, establishment of first women bank on the recommendation of Pakistan Commission on the Status of Women (1983-1985), headed by *Begum Zari Sarfaraz*. Later in 1994, the Commission of Inquiry for Women was made and after its reconstruction it was headed by Justice *Nasir Aslam Zahid*, having 7

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<sup>72</sup> Wikipedia, free Encyclopedia, s.v. *Benazir Bhutto*, available at: [http://en.wikipedia.org/wiki/Benazir\\_Bhutto#Policies\\_for\\_women](http://en.wikipedia.org/wiki/Benazir_Bhutto#Policies_for_women) (7/18/2006)



women members of total 11. Pakistan ratified the important U.N. treaty related to women CEDAW with general observation and reservation on Article 29 in March 1996 under her govt.<sup>73</sup>

**x) NAWAZ SHARIF'S TENURE (1990 - 1993 AND 1997- 1999):**

*Nawaz Sharif* ruled Pakistan as Prime Minister for two non-consecutive terms. During 1997-99, the overall proportion of women's representation in the national and provincial legislature was 11 out of a total of 787 i.e. 1.4 %.<sup>74</sup> His government never revived nor increased the constitutional reservation of 20 seats for women. While presentation of women in Local Government under his first tenure increased to 10.4% and in his second tenure it became 12.7% in Punjab, 25.8% in Balochistan. 2.9% seats had been reserved in NWFP and 23% in Sind. In 1998 these elections were held in Punjab and Balochistan only where their representation rose to 12% - 25% respectively.<sup>75</sup> "The enhancement of women's status was stated as one of the 16 goals listed in the *Pakistan 2010 Program* (1997), a critical policy document. However, the document omits women while listing 21 major areas of interests. Similarly, another major policy document, the "Human Development and Poverty Reduction Strategy" (1999), mentioned women as a target group for poverty reduction but lacks gender framework."<sup>76</sup>

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<sup>73</sup> Ministry of Women Development, Government of Pakistan, Islamabad, *A Synthesis of Reports of Committees/Commissions on the Status of Women* (Islamabad: Ministry of Women Development, December 2003), 20.

<sup>74</sup> UNDP Gender Unit, Islamabad Pakistan, *Political and Legislative Participation of Women in Pakistan: Issues and Perspective* (Islamabad: UNDP Gender Unit, 2005), 44.

<sup>75</sup> Fauzia Yazdani, *Women and Decentralization Reforms: A case of Pakistan*, A paper presented at a conference at Norwegian Institute of Urban & Regional Government (NIBR), Oslo- October, 2003, available at: <http://www.policy.hu/yazdani/womeninpoliticsinpakistan.html> (accessed 7/20/2006)

<sup>76</sup> Wikipedia, free Encyclopedia, s.v. *Women in Pakistan*, available at : [http://en.wikipedia.org/wiki/Women\\_in\\_Pakistan#Nawaz\\_Sharif\\_Government](http://en.wikipedia.org/wiki/Women_in_Pakistan#Nawaz_Sharif_Government)

## CHAPTER 2

### POLITICAL PARTICIPATION: CONCEPTUAL AND NORMATIVE FRAMEWORK, ISSUES AND CHALLENGES IN PAKISTAN

Historical deprivation of women to take part in politics has brought us different concepts to understand. The right to participate in the political decision making, as mentioned in numerous human right instruments especially in the Convention on Elimination of All Forms of Discrimination Against Women 1969 (CEDAW), has its conceptual basis in the notion of equality for all, non-discrimination and state obligation. The theoretical basis and normative account of this right has to be found in international, regional and domestic echelons. The rationale, therefore, is to show that women have *de jure* right of participation in the parliament but *defacto* participation is main obligation of Pakistani Government and that state is required to fulfill its obligation under CEDAW.

#### A CONCEPTUAL CONTEXT:

The concept of participation of women in parliament has to be inquired both in legal and political perspectives. It can only be possible if the concept of equality, non-discrimination, gender and state obligation under treaty law with respect to women's parliamentary participation is taken in to account.

##### 1. EQUALITY:

The concept of equality is not only integral to CEDAW but traditionally describes as formal equality. Aristotle defines 'Equality' as "Justice seems to be equality, and it is, but not for every one, only for equals. Justice seems to be equality, since indeed it is, but not for everyone, only for unequals."<sup>77</sup> Two important approaches that are widely used for gender equality are 'formal' and 'protectionist' model of equality. The Aristotelian definition refers to the formal equality where there is no difference between men and women; they are treated alike. The main aim of this model is to seek 'equal treatment' rather than equality of outcomes. So any legislation made specifically for women is considered as inequality. Drawback of

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<sup>77</sup> Aristotle, *Politics*, translation C D C Reeve, (United States: Hackett Publishing Co Inc, 1998), 79.

this model is to not to consider biological and gender differences between men and women. While 'Protectionist' model of equality is bit different from formal model. It recognizes biological difference between both sexes thus entitled them with different treatment. The out come of different treatment for women in this model make it detrimental as they are considered as subordinate to their male counter parts.<sup>78</sup> Due to prevalence of this form of equality, women in Pakistani Parliament were/are treated differently or unequally with men, and remained underrepresented as depicted in previous chapter.

In order to abolish gendered marginalization of women in Pakistani Parliament, third approach known as '**substantive or corrective**' approach can be adopted. CEDAW has also adopted this model of gender equality that "is not simply concerned with equal treatment in law, but rather, with equality in terms of the actual impact of the law."<sup>79</sup> This type of equality deals not with differences but with disadvantages. "Its principle concern is to ensure that the law corrects the imbalance and impacts on the outcome by assuring equal opportunities, access and benefits for women. In doing so it seeks a paradigm shift from "equal treatment" to "**equality of outcomes.**"<sup>80</sup> So the main aim behind taking-up of this model by CEDAW is to provide equal access and equal benefits instead of equal treatment as "guarantees of formal equality were no longer sufficient, since they left the real-world disparities intact."<sup>81</sup> CEDAW refers this equality as '**defacto equality**', and how far this equality has been attained in Pakistani Parliament is the scope of this study.

## 2. NON-DISCRIMINATION:

Linked to the concept of equality is the right not to be discriminated on the basis of sex. Discrimination not only prohibited in other human rights instruments but also articulated in Article 1 of CEDAW.

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<sup>78</sup> United Nations Development Fund for Women, *CEDAW: Restoring Rights to Women* (India: PLD, 2004), 24-25.

<sup>79</sup> Ibid., 25-26

<sup>80</sup> Ibid.,

<sup>81</sup> Ibid., 506

### Article 1:

“For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

Differential allocation of rights on any of grounds mentioned under these instruments is termed as discrimination while different treatment to facilitate equal recognition, enjoyment and exercise of the same rights for all is not discriminatory.<sup>82</sup> A related norm is that of non-discrimination that requires the elimination of direct and indirect discrimination. The latter means the elimination of laws and practices that have a discriminatory effect though no discrimination was intended. The current situation of participation of women in Pakistani Parliament suggests that though they have *de jure* right to participate in the Parliament but this is not the case. Despite having 17% representation in Parliament they are facing problems in exercising their right to participate and still not accepted by society just because of the fact that they are women.<sup>83</sup> While the concept of non-discrimination advocates that women have the right to participate in parliamentary politics without any discrimination.

### 3. THE CONCEPT OF GENDER:

With reference to parliamentary politics, the concept of gender is utmost necessary to understand beside the term ‘sex’ that is used in various international human rights instruments. **Gender** is defined as:

“Socially constructed and culturally variable roles that women and men play in their daily lives. It refers to a structural relationship of inequality between men and women as manifested in labour markets and in political structures, as well as in the household. It is reinforced by custom, law and specific development policies. Whereas *sex* is biological, *gender* is acquired and constructed by society.”<sup>84</sup>

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<sup>82</sup> A.H. Dani, *Book one; Pre-Muslim Period: A Short History of Pakistan*, ed. I.H. Qureshi (Karachi: University of Karachi, 1984), 27.

<sup>83</sup> Dr. Andrea Fleschenberg, “Do Women Matters”, *The Nation* 11 January 2006, available at <http://www.nation.com.pk/daily/jan-2006/11/columns5.php> (accessed 18 October, 2007).

<sup>84</sup> Shingirayi Mushamba, *Gender – Building Strength Through Inclusive Governance*, 2001, 5-6. available at <http://info.worldbank.org/etools/docs/library/6362/GenderFramework.doc> (accessed 19 February 2008)

While Gender relations in Pakistan can be observed in two ways i.e. “women are subordinate to men and that a man’s honor resides in the actions of the women of his family. To ensure that they do not dis-honor their families, society limits women’ mobility, places restrictions on their behavior and activities and permits them only limited contact with the opposite sex.”<sup>85</sup> This stigmatization of women for gender specific roles has also excluded them from parliamentary politics that is also adversative to the concept of equality.<sup>86</sup> Different studies emphasized only on factors impeding their quantitative representation in Parliament by ignoring impact of those obstacles on their substantive participation. That resultantly generates a gap between de jure and de facto equality between men and women.<sup>87</sup> While the gender based model calls for analyzing all those obstacles that impede women’s qualitative participation in Pakistani politics.

#### **4. THE NOTION OF TREATY OBLIGATION, STATE’S INTERNATIONAL RESPONSIBILITY AND WOMEN’S RIGHT TO PARLIAMENTARY PARTICIPATION: THE LIAISON**

Under international law states are required to fulfill their international obligations.<sup>88</sup> These obligations aroused as result of becoming member of any bilateral or multilateral treaties/agreements. Therefore, concept of treaty obligation flows from the state’s obligations as member of international community and specially a party to any bilateral or multilateral agreement with other states. Legal basis for the treaty obligation is given in Article 26 of the Vienna Convention on Law of Treaties 1969.<sup>89</sup> Treaty is considered to be a mechanism to make binding legitimate obligations<sup>90</sup> as it is mentioned repeatedly by International Law Commission in its Draft Articles on Responsibility of States

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<sup>85</sup> Muqaddisa Mehreen Hassan, *Gender Aspect and Issues in Pakistan in Social Sciences: Endangered and Engendered* (Lahore: Pakistan: Fatima Jinnah Women University, 2004), 116

<sup>86</sup> Elise Boulding, *The Underside of History*, 161-170.

<sup>87</sup> Dr. Digumarti Bhaskara Rao, Veeramachaneni Vijaya Lakshmi, Veeramachaneni Venkateswara Rao, Veeramachaneni Vamsi Krishna, *Status and Advancement of Women*, (India: APH Publishing Corporation, 2000) 83.

<sup>88</sup> Sir Robert Jennings, Sir Arthur Watts, ed., *Oppenheim's International Law*, ninth edition, Vol. 1, 82

<sup>89</sup> “Every treaty in force is binding upon the parties to it and must be performed by them in good faith.”

<sup>90</sup> Malgosia Fitzmaurice, *The Practical Working of the Law of Treaties in International Law* by Malcolm D Evans, 1<sup>st</sup> Edition, (Oxford University Press: United States), 2003. 174

for Internationally Wrongful Acts e.g. “refusal to fulfill a treaty obligation involves international responsibility.”<sup>91</sup> “Every State, by virtue of its membership in the international community, has a legal interest in the protection of certain basic rights and the fulfillment of certain essential obligations. Among these the Court instanced “... the principles and rules concerning the basic rights of the human person...”<sup>92</sup> and “any violation by a state of any obligation, of whatever origin, give rise to state responsibility”.<sup>93</sup> State obligation is integral to the paradigm of human rights of women as it is emphasized in most of the international human rights treaties and conventions.<sup>94</sup> It ultimately leads to the concept of treaty compliance.<sup>95</sup>

CEDAW’s Articles 1 - 4 prescribed the certain commitments as state obligations w.r.t. women’s parliamentary participation. The text of these articles is given as under:

**Article 1:**

“For the purposes of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

**Article 2:**

“States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

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<sup>91</sup> “Draft Articles on Responsibility of States for Internationally Wrongful Acts with commentaries 2001” Also available at: [http://untreaty.un.org/ilc/texts/9\\_6.htm](http://untreaty.un.org/ilc/texts/9_6.htm) For example ILC has cited Rainbow Warrior Case, Claims of Italian Subjects Resident in Peru cases, the Dickson Car Wheel Company case, the International Fisheries Company case and the British Claims in the Spanish Zone of Morocco case etc. to stress the importance of State obligation violation of which resulted in the state responsibility. 64-65

<sup>92</sup> “Draft Articles on Responsibility of States for Internationally Wrongful Acts with commentaries 2001”, Text adopted by the International Law Commission at its fifty-third session, in 2001, and submitted to the General Assembly as a part of the Commission’s report covering the work of that session (at para. 77). The report, which also contains commentaries on the draft articles, appeared in *Yearbook of the International Law Commission, 2001*, vol. II, Part Two (reflecting the final edited text of the commentaries). 66. Also see at : [http://untreaty.un.org/ilc/texts/9\\_6.htm](http://untreaty.un.org/ilc/texts/9_6.htm)

<sup>93</sup> *Ibid.*, 65.

<sup>94</sup> Norwegian Agency for Development Cooperation, *Hand Book in Human Rights Assessments: State Obligations Awareness & Empowerment*, (Norway: NORAD, 2001), 9. available at <http://www.norad.no/files/Handbook.pdf> (Accessed 19 February, 2008)

<sup>95</sup> Gary Beckman, Richard Jasnow, Baruch Levine, Martha Roth and Raymond Westbrook, ed., *A History of Ancient Near Eastern Law*, vol. 2 (Leiden, Netherlands, 2003), 286-289.

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.”

**Article 3:**

“States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.”

**Article 4:**

“1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.”

Following commitments are prescribed in these Articles:

a) **RESPECT, FULFILLMENT AND PROTECTION:**

These three obligations are imperative for complete realization of “recognition, enjoyment and exercise”<sup>96</sup> of women’s rights and freedoms and are connected to each other e.g. “Respect requires affirmation through enactment of normative standards recognizing women’s human rights. This is the starting point for facilitating enjoyment of rights and freedoms, by creating environments, including institutional frameworks that enable fulfillment of the normative standards. Finally, enforceable mechanisms that can effectively protect those standards from threats of violation or redress violation.”<sup>97</sup>

State obligation also includes range of other responsibilities like programs, policies and initiatives addressing public and private action in every field, institutional framework and mechanism to protect these rights and freedoms.

In Pakistan, in order to fulfill this obligation, “**A National Plan of Action 1998** was adopted to implement Beijing commitments and annual women development plans for social, economic and political empowerment were formulated but abandoned later in 2002. Government announced **National Policy of Development & Empowerment for Women, 2002** for equal participation in national development but failed to formulate any mechanism to achieve the stated objectives. In 2004, **Ministry of Women’s Development (MoWD)** was created with the mandate to formulate policy to address the special needs of women and protection and promotion of women’s rights. However Ministry’s work was more focused on projects than policies. It focused more on training of women councilors while new entrants in parliament were ignored completely. Women were given reserved seats in the political institutions however there is no mechanism to establish link between elected women representatives, government departments and civil society organizations. **National Commission on the Status of Women (NCSW)** was established in 2000 but the Commission is given only

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<sup>96</sup> See Article 1 of CEDAW.

<sup>97</sup> A.H. Dani, *Book one; Pre-Muslim Period: A Short History of Pakistan*, ed. I.H. Qureshi (Karachi: University of Karachi, 1984), 33.



recommendatory powers and it lacks in terms of qualified staff and financial resources.<sup>98</sup> It is found that “the institutional structures established for the advancement of women are marginalized within the existing institutional framework and do not have necessary say in changing policy.”<sup>99</sup>

**b) AFFIRMATIVE ACTIONS:**

The main tool to cut the disadvantage against women is the affirmative action. Legally speaking Affirmative actions means “Employment programs required by federal statutes and regulations designed to remedy discriminatory practices in hiring minority group members; i.e. positive steps designed to eliminate existing and continuing discrimination, to remedy lingering effects of past discrimination, and to create systems and procedures to prevent future discrimination; commonly based on population percentages of minority groups in a particular area. Factors considered are race, color, sex, creed, and age.”<sup>100</sup> Article 4 of CEDAW gives comprehensive definition of temporary special measures as under:

**Article 4:**

“1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.”

Special measures are means to recompense discrimination not weakness of women. They are continuing in nature, not specifically time framed, until discrimination persists. In Pakistan quota system was re-introduced by the

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<sup>98</sup> Democratic Commission for Human Development and National Commission for Justice and Peace Pakistan, *CEDAW Shadow Report Pakistan 2007*, p. 16

<sup>99</sup> Ministry of Women Development Pakistan, *Pakistan National Report: Beijing + 10, 2005*, (Islamabad: Pakistan, 2005), p.62

<sup>100</sup> *Law Encyclopedia*, s.v. Affirmative Action. available at <http://www.answers.com/topic/affirmative-action> (accessed 8/19/2006)

previous government, on national and local levels, but could not help in political development of women with its present setup.<sup>101</sup>

**c) DUE DILIGENCE:**

State parties are held responsible for infringement committed not only in public but private sphere by any person, organization or enterprise. Therefore state parties should not only be vigilant to meet formal/dejure obligations but show their due diligence in assuming the 'means' that facilitate, regulate and protect them. State parties are responsible for private act, under general international and human rights law, "if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation."<sup>102</sup> Scope of due diligence by state parties in obviating violations can be measured by the legislation, policies and agendas, reparatory mechanisms and their access and effectiveness. Duty to be vigilant is not only advocated by provisions of the Convention but by international law generally.

**d) INCORPORATION IN DOMESTIC LEGAL SYSTEM:**

Another important obligation of state party is to implement CEDAW provisions in its municipal system in good faith after ratification. Ratification entails following two fold obligations on state parties:

- **International obligation**, where state is obliged to submit periodic reports every four years to the committee for reviewing its obligations under Article 18,
- **Domestic implementation of the treaty**, where treaty terms are incorporated in domestic law by means of legislation, policy, harmonious interpretation etc. Article 18 of the Convention states as under:

**Article 18:**

"1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they

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<sup>101</sup>"Quota is middle name of gender bias", Daily Times, November 09, 2006, available at [http://www.dailytimes.com.pk/default.asp?page=2006%5C11%5C09%5Cstory\\_9-11-2006\\_pg7\\_26](http://www.dailytimes.com.pk/default.asp?page=2006%5C11%5C09%5Cstory_9-11-2006_pg7_26) (accessed 18/10/2007)

<sup>102</sup> See General Recommendation 19(9) of CEDAW's Committee.

have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

- (a) Within one year after the entry into force for the State concerned;
  - (b) Thereafter at least every four years and further whenever the Committee so requests.
2. Reports may indicate factors and difficulties affecting the degree of fulfillment of obligations under the present Convention.”

Every state is autonomous in considering different measures, steps and time frame required to perform its obligations. State parties can also modify or qualify their obligations with respect to provisions of the convention by means of reservation and declaration.

As state party to CEDAW, **Pakistan** has submitted its combined initial, second and third Period Report on 3 August, 2005 which was discussed in 38<sup>th</sup> Session of UN CEDAW Committee. The committee highlighted principle areas of concern and gave recommendations.<sup>103</sup>

Treaty application on domestic level in Pakistan follows the British approach where treaty-making is an Executive act while performance of its obligation is an act of legislature. So ‘Dualism’ is an accepted norm and treaty needs domestic legislation for implementation.<sup>104</sup> The Constitution of 1973 lacks treaty obligation’s provision but judgments of superior courts in cases of *Ms. Sheila Zia*<sup>105</sup> and *others v. W.A.P.D.A* and *SGS Societe Generale v. Pakistan*<sup>106</sup> are of great importance in this regard. But in Pakistan, women’s right to participate in parliament as provided to them by CEDAW is not specifically spell-out in any legislation yet.

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<sup>103</sup> “Concluding Comments of the Committee on the Elimination of Discrimination against Women: Pakistan” available at: <http://daccessdds.un.org/doc/UNDOC/GEN/N07/376/08/PDF/N0737608.pdf?OpenElement> (accessed on 18/10/2007)

<sup>104</sup> Ministry of Women Development, Government of Pakistan, *Pakistan's Combined Initial, Second and Third Periodic Report to CEDAW Committee*, para 28, 12.

<sup>105</sup> PLD 1994, SC 693.

<sup>106</sup> ICSID Case No. ARB/01/13.

It follows that Pakistan can only be said to fulfill her commitments under CEDAW in good faith when its purpose is realized and not eluded plainly by literal application of its provisions.<sup>107</sup>

## **B. THE NORMATIVE FRAME WORK:**

The concept of gender equality, non-discrimination, women's right to take part in participate in political decision making and state's responsibility in this regard is enshrined in several international, regional and domestic human rights instruments.

### **1. RIGHT OF SUBSTANTIVE POLITICAL PARTICIPATION IN BINDING INTERNATIONAL MECHANISM:**

Human rights characterized as universal, inalienable and indivisible are protected under various legal documents like UN Charter<sup>108</sup> and Universal Declaration of Human Rights (UDHR).<sup>109</sup> These rights are categorized into five classes i.e. civil, political, economic, social and cultural. These principles of UDHR not only formed part of two covenants i.e. International Covenant on Civil and Political Rights 1966 (ICCPR)<sup>110</sup> and International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>111</sup> but also enacted into constitutions of various countries. UN effort to make women at par with men is reflected from the adoption of the Convention on the Political Rights of Women 1952 that for the first time translated women's right of political participation and representation in legal language.<sup>112</sup> These instruments assert that men and women are equals in every walk of life but unfortunately, Pakistan has not yet ratified ICCPR and ICESCR thus equality of men and women is still not translated fully.

Severance of civil political rights from socio-economic and cultural rights due to cold-war politics had abridged essential characteristics of human rights i.e.

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<sup>107</sup> Malgosia Fitzmaurice, *The Practical Working of the Law of Treaties in International Law* by Malcolm D Evans, 1<sup>st</sup> Edition, (Oxford University Press: United States, 2003), 183, YBILC (1966), vol II (Part two), 211.

<sup>108</sup> Articles 1(3), 8 and 55.

<sup>109</sup> Articles 1,2,16, 21, 25.

<sup>110</sup> Articles 2, 3, 14, 16, 18, 23, 24, 25 and 26

<sup>111</sup> Articles 2,3,10 and 12

<sup>112</sup> Convention of the Political Rights of Women adopted by the General Assembly of the UN in 1952. see Preamble and articles 1 & 2.

universality, inalienability and indivisibility.<sup>113</sup> Governing frame work of human rights was male dominated considering only male rights violations thus failed to take into accounts discrimination against women. This discourse further deteriorated due to certain barricades<sup>114</sup> that weakened the framework instead of developing it. Therefore, followed by the establishment of the Commission on the Status of Women (CSW)<sup>115</sup> that defined and elaborated the general guarantees of non-discrimination in these instruments from a gender perspective, United Nation's 1967 Declaration on the Elimination of Discrimination Against Women led the world community to adopt more comprehensive treaty on women i.e. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1979.

CEDAW, known as 'International Bill of Rights' for women, composed of a preamble and 30 articles, outlines the defining actions of discrimination against women and establishes a plan for national action to stop such discrimination.<sup>116</sup> Basic frame work of the treaty revolves around three important principles of Equality, Non-discrimination and State Obligation. Although three principles are distinctive and nuanced in itself but correlate each other with regard to the public and political life of women like the right to be eligible for election to all publicly elected bodies; the right to participate in the formulation of government policy and its implementation; and the right to hold public office and perform all public functions at all levels of government as ensured in Articles 7&8 which state as under:

**Article 7:**

“States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

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<sup>113</sup> A.H. Dani, *Book one; Pre-Muslim Period: A Short History of Pakistan*, ed. I.H. Qureshi (Karachi: University of Karachi, 1984), 13.

<sup>114</sup> *Ibid.*, 13-15

<sup>115</sup> United Nations Division for the Advancement of Women Department of Economic and Social Affairs, *History of CEDAW*, published by, (New York, NY USA: United Nations Department of Public Information). Available at <http://www.un.org/womenwatch/daw/cedaw/history.htm> (accessed 7/28/2006)

<sup>116</sup> *Ibid.*

(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

(c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.”

**Article 8**

“States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.”

It obliges state parties to end direct and indirect discrimination and implement defacto and dejure equality in their national laws. This is assured by different articles of CEDAW like Article 7&8 along with Articles 1-5 and 24. Article 5 and 24 state as under:

**Article 5:**

“States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

**Article 24:**

“States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.”

The implementing tools of the Convention are General Recommendations (GR)<sup>117</sup> and Concluding Comments<sup>118</sup>. There are 25 GRs of CEDAW Committee, among them GRs No. 5, 8, 23 and 25 are of great importance with regard to the political participation of women. GRs No. 5 and 8 talks about the Temporary Special

<sup>117</sup> Centre for Women’s Research (CENWOR), *CEDAW: A Manual* (Colombo, Sri Lanka, 2006), 13

<sup>118</sup> *Ibid.*, 14

Measures whereas GR No 23 specifically deals with participation of women in political and public life. GR No. 25 defines the defacto equality as stated in **Article 4 (1)** of the Convention that states as follow:

*“Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.”*

## **2. THE RIGHT OF SUBSTANTIVE PARTICIPATION IN PAKISTAN’S HUMAN RIGHTS SYSTEM:**

The supreme law of Pakistan is the Constitution of 1973. Substantive/defacto right to parliamentary participation is not mentioned specifically in any law of the country. While few articles in the Constitution of Pakistan has banned certain forms of discrimination on the basis of sex along with other distinctions e.g. Articles 25, 26 and 27 of the Constitution as follow:

### **Article 25:**

- (1) All citizens are **equal** before law and are entitled to equal protection of law;
- (2) There shall be no **discrimination** on the basis of sex alone;

### **Article 26:**

- (1) In respect of access to places of public entertainment or resort, not intended for religious purposes only, there shall be no **discrimination** against any citizen on the ground only if race, religion, caste, sex, residence or place of birth.

### **Article 27:**

- (1) No citizen otherwise qualified for appointment in the service of Pakistan shall be **discriminated** against in respect of any such appointment on the ground only of race, religion, caste, sex, residence or place of birth.

In the above mentioned articles the word discrimination is used generally and scanty reference is made to women only in Article 34.<sup>119</sup> It gives women rights to participate fully in all spheres of national life thus recognize formal equality but fails to identify and overcome the impediments regarding their substantive equality in parliamentary politics and effect of past discrimination.

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<sup>119</sup> “Steps shall be taken to ensure full participation of women in all spheres of national life.”

Though Pakistan has ratified CEDAW without any reservation to the Article 1 but, neither the Constitution nor statutory laws forbid the discrimination against women categorically. This leaves the room for interpreting the substantive equality of women and any measures to this effect, according to convenience.<sup>120</sup>

UN CEDAW Committee expressed its great concern regarding Pakistan's failure to incorporate the particular definition of 'discrimination' in its domestic legislation.<sup>121</sup> The Government stance was that the ratification of the Convention "augmented the objective of the Constitution. The latter document touched on several aspects of discrimination against women, and "not just by accident". The Convention's spirit and that of the Constitution were complementary and helped to achieve equality."<sup>122</sup>

### **3. NON-BINDING NORMATIVE INSTRUMENTS AND RIGHT OF SUBSTANTIVE PARTICIPATION:**

Numbers of international conferences, under the auspices of United Nations, have been held in order to accentuate that how women's participation into political decision making can be promoted and came up with number of declarations. The most significant among them were held in Mexico in 1975, Copenhagen in 1980, Nairobi in 1985, Beijing in 1995 and Beijing +5 in 2000. At the end of these conferences, declarations and platforms for action were issued, stressed on the substantive equality of women in political decision making with other issues of their full participation. Women's full participation was candidly stressed by the Beijing Platform for Action (BPFA) with its two strategic goals. Whereas gender equality and women empowerment is one of the goal of UN's Millennium Development Goals (MDGs) and it is targeted to achieve till 2015.<sup>123</sup>

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<sup>120</sup> Democratic Commission for Human Development and National Commission for Justice and Peace Pakistan, *CEDAW Shadow Report Pakistan 2007*, p.11

<sup>121</sup> Ministry of Women Development Islamabad, *UN CEDAW Committee's Concluding Comments on Pakistan's combined 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> Periodic Report (2007)*, 22.

<sup>122</sup> *Ibid.*, 24 -25

<sup>123</sup> United Nations, *The Millennium Development Goals Report, 2005* (New York: 2005), 14



#### 4. REGIONAL COMMITMENTS FOR WOMEN'S RIGHT OF POLITICAL PARTICIPATION:

On regional level efforts are made to ensure gender equality and women empowerment. The foremost role is played by the United Nations Development Fund for Women (UNIFEM) in South Asia. Six ministerial meetings have been held since 1996 to promote gender equality. Political empowerment of women was one of the areas of priority in all these conferences. It was affirmed that incorporation of commitments under CEDAW, BPFA and the MDG's are necessary to achieve gender equality in South Asian Countries.<sup>124</sup> It is reaffirmed in Sixth Ministerial Conference to "strengthen women's participation and leadership capacity in decision making at all levels".<sup>125</sup> Women's full participation in political decision making was acknowledged in 14<sup>th</sup> South Asian Association for Regional Cooperation (SAARC) Summit as well.<sup>126</sup> Therefore, the constitutions of almost all SAARC countries guarantee equality before law generally and the right to not be discriminated on the basis of sex particularly as fundamental human rights.

#### 5. INCORPORATING CEDAW'S NORMS BY CONSTITUTIONAL PROVISIONS:<sup>127</sup>

SAARC Countries have incorporated provisions of CEDAW in their constitutions for examples; clauses on "Equality" in Sri Lanka (article 12), Nepal (11) and Pakistan (25), "Affirmative Action" in Sri Lanka [article 12 (4)], in Nepal [article 11 (3) proviso], in Bangladesh [article 28 (4)], in Pakistan [article 25 (3)], India [article 15 (3), (4)] and the right to life in India (article 21), in Pakistan (article 9), in Bangladesh (article 32).

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<sup>124</sup> United Nations Development Fund For Women, *The Concept of Substantive Equality and Gender Justice in South Asia* by Savitri W. E. Goonesekere, (UNIFEM: South Asia Office, 2007), 5.

<sup>125</sup> United Nations Development Fund For Women, Sixth South Asian Regional Ministerial Conference, *Commemorating Beijing*, 17-19 January 2008, New Delhi, India.

<sup>126</sup> See 14<sup>th</sup> SAARC Summit Declaration, New Delhi, 3-4 April 2007, para 21. Available on <http://www.saarc-sec.org/data/summit14/ss14declaration.htm> (accessed on 06/03/2008)

<sup>127</sup> Centre for Women's Research (CENWOR), *CEDAW: A Manual* (Colombo, Sri Lanka, 2006), 25

## C. SITUATION OF WOMEN'S POLITICAL PARTICIPATION IN PAKISTAN: AN OVERVIEW

### 1. QUANTITATIVE PARTICIPATION:

In Pakistan, since independence, no specific legislation has been done for right of women to participate in politics except some constitutional provisions. Emphasize was given merely to the issue of quantitative participation like in Sept. 1954, **Charter of Women's Rights** was presented for discussion and adoption. It advocated for the 3% reserved seats for women in central and provincial assemblies, equality of status, opportunity, equal pay for equal work, and female rights for Muslim women granted under Islamic Personal law of Sharia'.<sup>128</sup>

The **Constitution of 1956** had 3% quota under **Article 44(2)**, which translated, into 10 seats for women for 10 years. They were given the right of double vote. From 1962-1988, participation of women in all legislatures was only on reserved seats subject to availability of constitutional quota.

The situation became worse when "the principle of female suffrage on the basis of women's territorial constituencies, adopted in 1956 constitution, was abolished in **1962 Constitution** by Ayub Khan".<sup>129</sup> Women's political representation on local level also remained nil as there was no Local Govt. system.

It was the **Constitution of 1973** that placed women on equal footing with men and provided equal opportunities without any discrimination on basis of sex, class and creed, guaranteed reservation of seats for women in the Local Bodies under **Articles 25 and 27**. While **Article 34** lays down that steps shall be taken to ensure the participation of women in all spheres of life etc. Women were provided with 10 seats for 10 years or 3 elections whichever occurred later. Later on in 1985 by **Provisional Order No. 14 of 1985** 10 seats were substituted by 20. This reservation was elapsed later on in 1988. Constitution of 1973 lacked any provision regarding women's participation in Local Governments.

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<sup>128</sup>Ministry of Women Development, Government of Pakistan, Islamabad, *A Synthesis of Reports of Committees/Commissions on the Status of Women* (Islamabad: Ministry of Women Development, December 2003), 1-2.

<sup>129</sup>Khawar Mumtaz and Farida Shaheed, *Women of Pakistan: Two Steps Forward, One Step Back?* (Lahore: Vanguard Books Pvt. Ltd., 1987), 60.

In 2002, important legislation was made in form of **Legal Framework Order 2002**, through amendments in Constitution. Political rights of women were enhanced by amendment of **Articles 51 and 106**. 60 reserved seats were given to women in National and Provincial legislatures. **Article 59** conferred 17 reserved seats to women out of 100 in Senate. The **Local Government Ordinance 2001** provided 1/3<sup>rd</sup> representation (33%) of women at all tiers of local government. Besides that Pakistan is state party to almost all international human rights treaties except two so committed to attain critical mass of women at parliamentary and all other levels. In other words Pakistani women have de jure rights for political participation.

## **2. QUALITATIVE PARTICIPATION OF WOMEN AND ITS IMPACT:**

Despite the fact that women entered in politics in large number, though do not attain critical mass yet, impact of their presence is not satisfactory as it ought to be and as it was assumed in the beginning. The ratification of CEDAW and other human rights treaties strengthened their de jure right to participate in parliament but *de facto* participation yet not achieved. Different studies show that presence of women in Pakistani Parliament has trivial impact on legislation.<sup>130</sup> The exact position of their substantive participation in the parliament can be seen by their impact on parliamentary culture, political agenda and policy outcome. They made positive change in their political agendas while their impact on parliamentary culture and policy out come was nominal.

### **a) PARLIAMENTARY CULTURE:**

Despite the fact that a large number of women entered in parliament for the first time but their presence have made trivial impact on its mores and culture. The prevailing patriarchal culture of the house does not let women MPs to participate freely in the proceedings. Discrimination between women came in on reserved seats and those on party lists made the situation worst. They faced remarks like

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<sup>130</sup>Consumer Rights Commission of Pakistan, "*Women in Parliament have 'Marginal Impact' on Legislation*", available at: [www.crcp.org.pk/news%20letter/women\\_parliament%20have\\_%20marginal\\_impact\\_on\\_legis.htm](http://www.crcp.org.pk/news%20letter/women_parliament%20have_%20marginal_impact_on_legis.htm).

“sweet dish of democracy”, “quota women”<sup>131</sup> or “beautiful face”.<sup>132</sup> Most of the female MPs were complaining of lack of technical support in meetings, “lack of support in all walks of parliamentary life; in the assembly sessions; in the interaction with the speaker over allocation of speaking time and presentation of bills; in their own parties, where male colleagues are rarely supportive of women MPs and their agendas”.<sup>133</sup> One of the female parliamentarians is of the view that their presence is taken for granted and male MPs make them feel that to grant them seats in the parliament was just a favor.<sup>134</sup>

**b) POLITICAL AGENDA:**

Though no separate data is available that differentiate between the work done by both sexes, however, women parliamentarians also took part in proceedings and mostly concentrate on issues related to women. Their efforts can be seen under the following heads:

**i) BILLS (GOVERNMENTAL/ PRIVATE MEMBER)<sup>135</sup>:**

For example, bills related to overall situation of women and measures to address their core issues (The Protection and Empowerment of Women Bill, 2004); and one related to the issue of ‘honour’ killing, suggesting several amendments in the existing law (The Criminal Law (Amendment) Bill, 2004) that became an Act later on, Criminal Law Amendment Bill, 2006 that became Act as “The Protection of Women (Criminal Law Amendment) Act, 2006”. Thus in four parliamentary years total 42 bills were passed among which only two proper bills were presented by women. Thus ratio of their participation was 4.7%.

**ii) RESOLUTIONS:<sup>136</sup>**

Women legislators moved 15 resolutions in NA on different issues like, 5% budget allocation to end unemployment and poverty in the country, women’s share in inheritance, abolition of exploitative practices and customs such as

<sup>131</sup> Pakistan Governance Forum, “*The Politics of Gender*”, Gulmina Bilal, e-news letter, Issue, April 2006.

<sup>132</sup> Zainab Khar, “Are Women taken seriously in the National Assembly”, *Daily Times*, April 05, 2004.

<sup>133</sup> Dr. Andrea Fleschenberg, “Do Women Matter?” *The Nation*; columns, January 11, 2006.

<sup>134</sup> Norwegian Agency for Development Cooperation, *Hand Book in Human Rights Assessments: State Obligations Awareness & Empowerment*, (Norway: NORAD, 2001), 9.

<sup>135</sup> The United Nations Development Programme in Pakistan, *Political and Legislative Participation of Women in Pakistan: Issues and Perspectives*, (Islamabad: Pakistan, 2005), 61-62

<sup>136</sup> *Ibid*, 62

women's 'marriage with Quran' 'honour killing' and '*wata sata*', legislation for economic, social, political and legal rights of women, death sentence for those who injure/mutilate any person by throwing acid, construction and expansion of jails from funds of Access to Justice Program to solve the problem of congestion in jails, controlling price hike, banning the use of plastic shopping bags and bringing in use biodegradable shopping bags, promotion of cottage industry and establishment of Parliamentary Group on Women's Development and Gender Issues etc. Only one resolution, on proper legislation for women's economic, social, political and legal rights, was adopted by the NA. In total 53 resolutions only one was adopted by the NA. Thus overall ratio of their participation in this regard was 28%.

iii) **CALLING ATTENTION NOTICES:**<sup>137</sup>

Many vocal and candid women parliamentarians dared to call attention notices on issues of urgent nature in NA like killing of a woman and man on the pretext of 'honour' in *Mirpur Mathelo, Sindh*; threats to the lives of a *Solangi* couple from *Sindh* who married out of their free will; non-registration of FIR by Islamabad Police against a civil servant who misbehaved with a lady journalist; changing the uniform of PIA airhostesses in disregard to the eastern values and traditions; killing of 7 farmers and arrest of others at military farms in *Okara*; attack on the office of daily *Kawish* and TV channel KTN in *Ghotki, Sindh*; purchase of aircraft by Pakistan International Airlines (PIA) at exorbitant prices; and non-establishment of a driving training school of the National Highway Authority (NHA), resulting in road accidents.

iv) **QUESTIONS:**<sup>138</sup>

About 73 questions were asked by 18 women legislators during Question Hours in the NA, which dealt with both general issues of public interest and specific issues concerning women. The legislators, who most frequently asked questions, included: *Ayla Malik, Gule-Farkhanda, Fauzia Wahab, Sherry Rehman, Inayat Begum, Shahzadi Umerzadi Tiwana, Bilqees Saif, Mahreen Anwar Raja* and

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<sup>137</sup> Ibid.

<sup>138</sup> Ibid.

*Shagufta Jumani*, in total 40091 questions asked during four parliamentary years, women legislators had only put 73 questions with no record whether answered or not in the house. Ratio of their participation can be measured as 0.18% that is negligible.

The low out put of most of women legislators indicates that they worked under difficult circumstances and faced indiscriminate attitude of their male counterparts in the Assembly. They were successful only in introducing two legislations directly related to women. They faced political, socio-cultural, economic and certain other hurdles in their way of participation.

These issues were raised during the parliamentary business which includes question hour, privilege motion, and adjournment motion, call attention notices etc. Women legislators out put is though difficult to calculate but not impossible. It can not be measured on individual basis (due to lack of segregated data on basis of sex) but collectively how much they have participated in parliamentary business. Total number of bills, resolutions, government bills, private members bills, questions, calling attention notices, and adjournment motions passed during four parliamentary years of National Assembly are given in the table.

**Table: 2.1 Overview of Performance of the National Assembly**

S. No.		1 <sup>st</sup> Year		2 <sup>nd</sup> Year		3 <sup>rd</sup> Year		4 <sup>th</sup> Year	
		Received	Passed	Received	Passed	Received	Passed	Received	Passed
1	Bills/Ordinances	-	02	-	17	-	18	-	05
2	Resolutions	570	11	1476	19	1534	15	1458	07
3	Government Bills	20	02	25	17	41	18	53	05
4	Private Member Bills	13	Nil	58	Nil	75	Nil	54	01
5	Questions	7,289	1,928	12,008	2,462	10,476	2,101	10,318	2,325
6	Calling Attention Notices								
7	Adjournment Motions	297	01	447	47	668	09	998	43

Thus the over all performance of the National Assembly was not much exemplary at the end of its fourth year that shows lack of interest of Members of National Assembly in their ordinary business of the House.

Public especially womenfolk of the country was looking towards their nominated members to bring change in their lives by changing discriminatory laws and practices but nothing happened except two or three legislations in their favor like amendment in Pakistan Citizenship Act in 2000, Human Trafficking Ordinance of 2002, Criminal Law (Amendment) Act in 2004 facilitating prosecution of 'Honor killing', the Protection of Women (Criminal Law Amendments) Act of 2006. Rest of the discriminatory laws still persist i.e. Citizenship Act 1951, which does not allow Pakistani women to pass their nationality to a foreign spouse; the Law of Evidence 1984, on the value of women's testimony; and the *Haddood* Ordinances 1979, especially those related to "Offences of *Zina*" and *Qasas* and *Diyat* Laws in *Haddood* Ordinances of 1979.<sup>139</sup>

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<sup>139</sup> Ibid.

### CHAPTER 3

## OBSTACLES IN TRANSLATION OF DEJURE RIGHT OF PARLIAMENTARY PARTICIPATION IN DEFACTO RIGHT

The brief analysis of women's parliamentary participation in Pakistan as promised in various international, regional and domestic human rights mechanisms is evident of the fact that women are provided with their right to participate. But the factual position reveals manifest exclusion of women in parliament. Thus, in order to understand this disparity, quest for imperative factors or obstacles in way of de jure and *de facto* participation is necessary. It is significant for the purpose of this study to prove that de jure steps are insufficiently rendered into *de facto* participation of women due to hurdles that impede women's way to participate in parliament. Resultantly the gap is generated between de jure and *de facto* enjoyment of right to participate. The factors that created this parity can be categorized under the following heads:

#### A. POLITICAL IMPEDIMENTS:

It is observed in different studies that women parliamentary participation is generally hampered due to lack of democracy and freedom of expression and speech. In Pakistan, lack of democratic regime has resulted in certain barriers to women's participation like male dominated political structure, controversy of reserve seats, party politics, electoral system and political will.

#### 1. MALE'S CHAUVINIST ATTITUDE:

Despite having de jure commitments, women are still facing gender discrimination in Pakistani Parliament. In the male dominated society the foremost hurdle they encountered with is the mind-set of their male colleagues in the House. They are excluded from debates on national and international issues, they are only given two to three minutes at the end to speak, and bills or motions raised by them are not entertained usually in any proceedings of the House.<sup>140</sup> Their presence in the

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<sup>140</sup> Pakistan Governance Forum, "The Politics of Gender" by Gulmina Bilal, Issue, April 2006.



parliament is also not recognized yet and they are not given chance to work. They are not given developmental funds, and are not given time to speak.<sup>141</sup> While they have to face deprecating comments by male Member Parliaments (MPs) like “sweet dish of democracy” or “beautiful face” etc.<sup>142</sup> One of the former MNA *Fahmida Ahmad* complained of discriminatory attitude of male MPs by saying that “women MPs were ignored in legislation and were not even provided with the minutes of meetings despite repeated requests. She said that a woman member should be given the floor after every four members in both houses during debate on national issues.”<sup>143</sup> One of the MP *Zeb Gohar* said very heatedly that ““Yes we admit that we are children of a lesser God. But once we are there we should be given a chance and not put under the carpet only because we are elected on reserved seats. We are being paid from the national exchequer therefore we should be allowed to contribute to legislation.”<sup>144</sup> Ms. *Kashmala Tariq*, former MNA of ruling party on reserved seats put it in these words: “it’s been worthwhile but they (male dominated government) make you feel that they have done you a favour by giving you a reserved seat and bringing you to the parliament.”<sup>145</sup> So they are lacking freedom of speech and are victims of indirect discrimination.<sup>146</sup>

## 2. ELECTORAL LAW AND QUOTA CONTROVERSY:

Studies have shown that women parliamentary participation is directly effected by the electoral laws.<sup>147</sup> Where it undergoes internal weakness, women ultimately suffered exclusion.<sup>148</sup> Quotas are affirmative action for increasing the number of

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<sup>141</sup>“Quota is Middle Name of Gender Bias”, Daily Times, November 09, 2006, available at [http://www.dailytimes.com.pk/default.asp?page=2006%5C11%5C09%5Cstory\\_9-11-2006\\_pg7\\_26](http://www.dailytimes.com.pk/default.asp?page=2006%5C11%5C09%5Cstory_9-11-2006_pg7_26) (accessed 18/10/2007)

<sup>142</sup> Zainab Khar, “Are Women Taken Seriously in the National Assembly”, *Daily Times*, April 05, 2004.

<sup>143</sup> “Women MPs Complain of Discrimination”, Daily Times, April 18, 2006.

<sup>144</sup> Ibid.

<sup>145</sup>“Quota is Middle Name of Gender Bias”, Daily Times, November 09, 2006, available at [http://www.dailytimes.com.pk/default.asp?page=2006%5C11%5C09%5Cstory\\_9-11-2006\\_pg7\\_26](http://www.dailytimes.com.pk/default.asp?page=2006%5C11%5C09%5Cstory_9-11-2006_pg7_26) (accessed 18/10/2007)

<sup>146</sup> Khawar Mumtaz, “Women’s Representation, Effectiveness and Leadership in South Asia”, Fifth South Asia Regional Ministerial Conference, Celebrating Beijing + 10, (Islamabad: Pakistan, 3-5 May 2005), 27.

<sup>147</sup> Dr. Andrea Fleschenberg, “Do Women Matters”, *The Nation* 11 January 2006, available at <http://www.nation.com.pk/daily/jan-2006/11/columns5.php> (accessed 18 October, 2007).

<sup>148</sup> Ibid., 26

women in parliament but are not guarantee for their effective participation<sup>149</sup> as it gave rise to a number of other problems.<sup>150</sup> Indirect elections on reserved seats hampered women in number of ways. They have to face derogatory attitude of male MPs, society and even female MPs sitting on general seats.<sup>151</sup> Words like “what have you done for women” is common among male colleagues. With no vote bank, lack of a constituency and proxy representation they are accountable only to the male party leaders<sup>152</sup>. Absence of feed back from electorates deprived these parliamentarians from active participation as compared to one sitting on general seats having vote banks. It is also appeared after 2002 general elections that most of the women came in on reserve seats were from upper class while fewer women entered from lower class.<sup>153</sup> This controversy has impeded women legislators’ overall parliamentary participation.

### 3. ABSENCE OF POLITICAL WILL:

Political will and its absence determines the effective participation of women in political parties and on governmental level. Political parties are considered to be a gateway for entering in main political stream. Nomination of women at bottom of party lists thus denied them to participate in decision making process. Nomination is solely in domain of party hierarchy and thus opening the door for discrimination.<sup>154</sup> Women parliamentarians on reserved seats faced discrimination and hurdles in participation due to nomination system. Indirect system of election resulted in number of problems as mentioned earlier. Women political activists and those on reserved seats have repeatedly demanded to modify the electoral system but new elections have been held again on reserved seats in old fashion.

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<sup>149</sup> Dr. Andrea Fleschenberg, “Do Women Matters”, *The Nation* 11 January 2006, available at <http://www.nation.com.pk/daily/jan-2006/11/columns5.php> (accessed 18 October, 2007).

<sup>150</sup> Ibid.

<sup>151</sup> Ibid.

<sup>152</sup> Anis Haroon, *The Women's Movement in Pakistan in Unveiling the Issues: Pakistani Women's Perspectives on Social, Political and Ideological Issues*, ed. Nighat Said Khan and Afiya Sheherbano Zia (Lahore: ASR Publications, 1995), 77

<sup>153</sup> Irene Graff, “Quota Systems in Pakistan under Musharraf Regime”, *Women and Politics in Asia in NIASnytt Asia Insights*, (March 2004): 22

<sup>154</sup> Anis Haroon, *The Women's Movement in Pakistan in Unveiling the Issues: Pakistani Women's Perspectives on Social, Political and Ideological Issues*, ed. Nighat Said Khan and Afiya Sheherbano Zia (Lahore: ASR Publications, 1995), 37

Government's due diligence is important in enhancing participation of women in parliament and it can be measured by the legislation, policies and agendas, reparatory mechanisms and their access and effectiveness.<sup>155</sup> Lack of political will in fulfilling its international obligations as stipulated in CEDAW and other human rights instrument also impede women effective participation in parliament.

While the Government has been directed under UN CEDAW Committee's concluding comments regarding Pakistan's failure to incorporate the particular definition of 'discrimination' in its domestic legislation.<sup>156</sup> The Government position in this regard was that the Constitution covers the definition of Discrimination and that the Convention's spirit and that of the Constitution were complementary and helped to achieve equality."<sup>157</sup>

Direct implementation of CEDAW's provisions in domestic legal system is another problematic area because Pakistan has dual system of treaty implementation.<sup>158</sup> No comprehensive Act has made to cover all rights concerning women that make them more vulnerable to discrimination. Implementation of quota has improved their participation but unfortunately obstructed by indirect system of election. It has increased the gap between *dejure* and *defacto* equality and women rights to participate in parliament.

#### **B. SOCIO-CULTURAL HURDLES:**

Another obstacle that directly impedes the progress and effective participation of women in parliament is social and cultural ideologies. It is common to ancient and modern states.<sup>159</sup> According to Dr. *Donia Aziz*, misinterpretation of culture as religious values has made women secluded to their private life only in Pakistan.<sup>160</sup>

This public-private dichotomy is result of the historical subordination of women

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<sup>155</sup> CEDAW's Committee's General Recommendation 19, clause 9

<sup>156</sup> Ministry of Women Development Islamabad, *UN CEDAW Committee's Concluding Comments on Pakistan's combined 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> Periodic Report* (2007), 22.

<sup>157</sup> *Ibid.*, 24-25

<sup>158</sup> Democratic Commission for Human Development and National Commission for Justice and Peace Pakistan, *CEDAW Shadow Report Pakistan 2007*, p. 57

<sup>159</sup> United Nations Division for Advancement of Women, "Women's Political Participation, Issues and Challenges", paper presented by Farzana Bari at Expert Group Meeting (Thailand: Bangkok, 2005), 3.

<sup>160</sup> An interview with Dr. Donia Aziz, MNA, Former Parliamentary Secretary for Population Welfare, available at: <http://www.irandokht.com/editorial/index4.php?area=pro&sectionID=12&editorialID=2311> (accessed March 21, 2008)

vis-à-vis men. Women are subjected to gender-specific responsibilities like house hold work, child rearing, marriage and religion.<sup>161</sup> In this difficult setting women are striving hard for becoming independent politicians. Former MNA, *Fauzia Habib* is of opinion that “the stage is always occupied by men as ‘ego’ and ‘status’ is a big problem for them....Patriarchal values and attitudes are firmly entrenched in the mindset of male politicians.”<sup>162</sup> Due to patriarchal social and cultural set up women are usually not expected to speak and deal with men and consequently their male counter part in assembly do not take them seriously for example, one female MNA while speaking on point of order in NA about women’s issue had to listen remarks from her male MNA like “beautiful face”.<sup>163</sup> This attitude is solely result of the socio-cultural mindset of Pakistani society where women are considered inferior to men.

#### C. ECONOMIC HURDLES:

The most significant problem faced by women legislators in their participation is financial constraints. Women on general seats are often come in on from influential families and already have some relatives like father or husband in this field with large constituency at their back. Therefore, they do not face problem of lack of resources. But women on reserved seats in NA are victim of this hurdle. Different reports and studies have shown that women on reserved seats have not only faced derogatory remarks like “quota women”<sup>164</sup> but faced party control over development funds. In these circumstances they are expected to solve problems of their womenfolk when they themselves lack economic autonomy. They have to face questions like “You have no constituency, why do you need development funds?”, “Are you going to contest elections, why are you so vocal? etc.”<sup>165</sup>

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<sup>161</sup> Dr. Andrea Fleschenberg, “Do Women Matters”, *The Nation* 11 January 2006, available at <http://www.nation.com.pk/daily/jan-2006/11/columns5.php> (accessed 18 October, 2007).

<sup>162</sup> [http://www.jlhs.nhusd.k12.ca.us/Classes/Social\\_Science/Anderson%27sWomen.HTML/Political.html](http://www.jlhs.nhusd.k12.ca.us/Classes/Social_Science/Anderson%27sWomen.HTML/Political.html) (8/6/2006) 64

<sup>163</sup> Zainab Khar, “Are Women Taken Seriously in the National Assembly”, *Daily Times*, April 05, 2004.

<sup>164</sup> Ministry of Women Development, Government of Pakistan, Islamabad, *A Synthesis of Reports of Committees/Commissions on the Status of Women* (Islamabad: Ministry of Women Development, December 2003), 1-2.

<sup>165</sup> [http://www.jlhs.nhusd.k12.ca.us/Classes/Social\\_Science/Anderson%27sWomen.HTML/Political.html](http://www.jlhs.nhusd.k12.ca.us/Classes/Social_Science/Anderson%27sWomen.HTML/Political.html) (8/6/2006) 77.

Province (NWFP). This position remained unchanged in next Local Government elections of 1985.

ix) **BENAZIR BHUTTO'S ERAS (1988-1990 AND 1993- 1996):**

*Benazir Bhutto*, daughter of deposed *Zulfiqar Ali Bhutto*, became the first female Prime Minister of any Muslim country in the world. After the long period of Military Government her succession was a ray of hope not only for dilapidated democracy but also for women of Pakistan. But the govt. failed to implement its gender policies. "During election campaigns, the Bhutto government voiced concerns over social issues of women, health and discrimination against women. Bhutto also announced plans to set up women's police stations, courts and women's development banks. Despite these promises, Bhutto did not propose any legislation to improve welfare services for women. During her election campaigns, Bhutto promised to repeal controversial laws (such as *Hudood* and *Zina* Ordinances) that curtail rights of women in Pakistan. However, during her two terms in power, her party did not fulfill these promises due to immense pressure from the opposition. However, her party did initiate legislation during General Musharraf's regime to repeal the *Zina* Ordinance. These efforts were defeated by the right-wing religious parties that dominated the legislatures at the time"<sup>72</sup> Women representation in national legislature became nominal due to lapse of reservation of 20 seats, it further reduced to a negligible level i.e. 3.2% in National Assembly, 2.4% in Senate and 0.4% in all 4 Provincial Assemblies. *Benazir* regained power in 1993's election and became Prime Minister of Pakistan. But she neither revived nor increased constitutional reservation. No Local Government elections were held in her both tenures. Important things done for women under her second tenure were to establish women police stations, establishment of first women bank on the recommendation of Pakistan Commission on the Status of Women (1983-1985), headed by *Begum Zari Sarfaraz*. Later in 1994, the Commission of Inquiry for Women was made and after its reconstruction it was headed by Justice *Nasir Aslam Zahid*, having 7

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<sup>72</sup> Wikipedia, free Encyclopedia, s.v. *Benazir Bhutto*, available at: [http://en.wikipedia.org/wiki/Benazir\\_Bhutto#Policies\\_for\\_women](http://en.wikipedia.org/wiki/Benazir_Bhutto#Policies_for_women) (7/18/2006)

report, as well as in the missing coordination among parliamentarians themselves. But even on a general seat, male family members are needed as mediators and vehicles to interact with members of a woman's constituency, in particular in remote, inaccessible or vast and tradition-bound rural areas such as in NWFP or Balochistan."<sup>169</sup> Enactment of Honor Killing Bill was such an example of women's legislators where they faced lack of encouragement and support inside their parties and the house. Former MNA *Mehnaz Rafi* said that there was more resistance to it within the party than outside. She wanted to introduce the bill in Assembly but was stopped by her party. Then she moved resolution against 'honor' killing and after so many difficulties brought it on the agenda for discussion but she didn't know who was obstructing it.<sup>170</sup> Another MNA *Sherry Rehman* was of the view that little enthusiasm and support was forthcoming from the ruling party in both bills directly related to women issues i.e. 'honor' killing and *Zina* Ordinance. That shows the real status of women's interest in Parliament.<sup>171</sup>

### 3. ROLE OF MEDIA:

Media becomes a powerful tool for public opinion as never before. Though women legislators are given due coverage by media on every level but lack respect. Attention is given on their appearances rather than their performance.<sup>172</sup> Many women legislators complaining about media's role that they were not allocated due coverage while discussing issues in NA. Media's response towards women can also be seen by different books titled as 'Parliamentary Babes' and '*Parliament kai khoobsarat chehre*' (beautiful faces of the Parliament).<sup>173</sup> Women

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<sup>169</sup> Dr. Andrea Fleschenberg, "Do Women Matters", *The Nation* 11 January 2006, available at <http://www.nation.com.pk/daily/jan-2006/11/columns5.php> (accessed 18 October, 2007).

<sup>170</sup> Ministry of Women Development, Government of Pakistan, Islamabad, *A Synthesis of Reports of Committees/Commissions on the Status of Women* (Islamabad: Ministry of Women Development, December 2003), 63.

<sup>171</sup> "Women in the House", *News line*, March 2004.

also available at: <http://www.newsline.com.pk/NewsMar2004/guestmar2004.htm> (accessed October 18, 2007)

<sup>172</sup> United Nations Development Fund for Women, *CEDAW: Restoring Rights to Women* (India: PLD, 2004), 24-25.

<sup>173</sup> *Ibid.*

legislators' effort are not properly documented and disseminated to the public.  
This attitude impedes women's way to substantive participation in NA.

**CHAPTER 4**  
**DEFACTO/SUBSTANTIVE PARLIAMENTARY**  
**PARTICIPATION:**  
**CASE-STUDY OF RWANDA AND SOUTH AFRICA**

*De jure* right to participate or equality is proved by the international, regional and domestic legal instruments but women parliamentarians in Pakistan still lagged far behind in their substantive/*de facto* participation on higher level of decision making due to the factors as mentioned in previous section. In this chapter, brief study of two countries i.e. Rwanda and South Africa is conducted in order to analyze the compliance of CEDAW's provisions w.r.t state obligations and adoption of substantive/corrective equality model. The *raison-d'être* to choose both countries lies in the fact that both countries are signatory to CEDAW and both have given almost 50% of presentation to their womenfolk in parliament. Experiences in these countries show that fulfillment of the Convention's obligations bring about substantive equality to women in Parliament. The concluding analysis hopefully provides that execution of CEDAW's stipulated obligations and substantive equality model can help to abridge the gap between *de jure* and *de facto* participation for women in parliament.

**A. RWANDA:**

**1. WOMEN AND POLITICAL REPRESENTATION:**

Rwanda has experienced the atrocities of genocide in 1994 and most of the victims were women. For decades, women being victims of human rights abuses, customary practices and patriarchal stereotypes undermined their political, social and economic lives.<sup>174</sup> During genocide women were subjected to sexual assault,

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<sup>174</sup>Goretti Fukamusengek, "*Engendering Women's Constitutional Equality Rights: The Case of Rwanda*", available at : <http://d6202140.u111.worldispnetwork.com/Rwanda%20Case%20Study.html> (accessed 08/04/2008)



torture, rape and forced incest. Even the first female prime minister was targeted due to her gender. While those managed to escape and survive the hostilities of genocide confronted problems like lost husbands and children, relatives and communities; suffered systematic rape, torture and cruelty and lost properties. The after math of genocide brought heap of difficulties for women in face of forced displacement, family separation, food insecurity and post-conflict psychological trauma. Thus in order to stabilize the ruined social, economic and political institutions women had to think in different way so to achieve *dejure* and *defacto* equality in every sphere of their lives. The forum was provided to them by giving 30% of reserved seats in lower house of Parliament under 2003 constitution while their percentage reached to 49% in election on the same year. According to some studies pre-genocide ratio of women parliamentary participation was 18% while 25.7% in post-genocide era whereas, the repercussion of the genocide made up the female population to 70% and most of them are breadwinner of their families.<sup>175</sup>

## **2. SUBSTANTIVE EQUALITY APPROACH UNDER RWANDAN LEGAL SYSTEM:**

Earlier being civil law legal system country now Rwanda is under process of transformation of pure civil law system into the amalgamation of civil and common law.<sup>176</sup> Treaties have direct effect on Rwanda's domestic legal system. Consequently many laws have been revised in post genocide era after 1994 and more is expected. Substantive equality approach of CEDAW is adopted by Government through various international, regional and domestic laws.

### **a) INTERNATIONAL AND REGIONAL UNDERTAKINGS:**

Rwandan Government headed by Rwanda Patriotic Front (RPF) through Ministry of Gender in association with women groups has taken steps to bring substantive equality in women parliamentary lives. The most important among these steps was to revive the already ratified CEDAW (ratified in 1981) provisions related to

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<sup>175</sup>Elizabeth Powley, "*Rwanda: Women Hold up half the Parliament*", available at: <http://www.idea.int/publications/wip2/upload/Rwanda.pdf> (accessed March 31, 2008)

<sup>176</sup>Eunice Musiime, "*Rwanda's Legal System and Legal Materials*", available at: <http://www.nyulawglobal.org/globalex/rwanda.htm> (accessed April 9, 2008)

political participation under Articles 4, 7 & 8. On regional level Protocol to African Charter on Human and People's Right on the Right of Women (Women's Protocol) was adopted to eliminate any kind of discrimination from women's life.<sup>177</sup> Whereas on the domestic level gender quotas and innovatory electoral system has been introduced for establishing substantive equality in women parliamentary participation. Being a civil law country, provisions of CEDAW needs no domestic legislation for implementation thus having direct effect in domestic legal system.

**b) CONSTITUTIONAL FRAMEWORK:**

The Constitution of Rwanda is supreme law of the country that was adopted on 26<sup>th</sup> May 2003. The *defacto* equality was first time witnessed when three women out of 12-member constitution commission were included in the commission for the drafting of new constitution of 2003. While *dejure* equality can be seen by fulfilling its obligation to include **equality** and **non-discrimination** provisions in domestic laws as prescribed by CEDAW through its various provisions. Gender equality is set out in preamble and other articles under 'fundamental principles'. The commitment is made to "ensure **equal rights** between Rwandans and between women and men without prejudice to the principles of **gender equality** and complementarity in national development".<sup>178</sup> This commitment is substantiated by granting women at least 30% of posts in decision-making organs.<sup>179</sup> Other provisions with regard to equality are enshrined in fundamental principles by ensuring equality of rights and duties of all Rwandans (Article 11), equality before law and equal protection of law (Article 16).

It is reaffirmed in the preamble to adhere the principles of international instruments including CEDAW and same is provided by prohibiting the "**discrimination** of whatever kind based on, *inter alia*, ethnic origin, tribe, clan, colour, sex, region, social origin, religion or faith, opinion, economic status,

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<sup>177</sup> See Preamble to Women's Protocol.

<sup>178</sup> See Preamble of Rwandan Constitution 2003.

<sup>179</sup> See Article 9.

culture, language, social status, physical or mental disability or any other form of discrimination is prohibited and punishable by law.”<sup>180</sup>

This effort has greatly improved the grim picture of women parliamentary participation.

### 3. AFFIRMATIVE ACTIONS AND ELECTORAL SYSTEM:

Different studies show that affirmative actions like gender quota are good for the sake of quantitative participation but as far as qualitative/substantive participation is concerned they are not effective until and unless electoral process is reformed.<sup>181</sup> Despite this fact, over all out put of Rwandan female legislators have depicted some positive trend in this regard. In pre-genocide era of 1990 to 1994 women’s presence in parliament was 18% that rose to 25.7% during 1994 to 2003, but the highest trend in increased parliamentary presentation was witnessed in first post-genocidal elections of 2003 in which women got 50% of the share in parliament.<sup>182</sup> The reason for the increase was the adoption of affirmative actions and revolutionary electoral system as stipulated under CEDAW.

The lower house of Rwandan Parliament, the Chamber of Deputies, has total 80 seats out of which 53 are contested directly on Proportional Representation system, 24 are reserved for women by women, 2 seats are contested from National Youth Council and one is for Federation of the Associations for Disabled.<sup>183</sup> In 2003 election, women not only came in on 24 reserved seats but got 15 more seats in openly contested seats thus constituted 48.8% of the Parliament.

Whereas elections on reserved seats of women are women-only elections where only women can stand for election and only women can vote. By feminization of electoral process in 2003 elections these 24 deputies were elected by national

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<sup>180</sup> See Article 11.

<sup>181</sup> Shireen Hassim, “Paradoxes of Representation: The Impact of Quota for Women Democratization”, available at: <http://www.yale.edu/polisci/info/conferences/Representation/papers/Hassim.pdf> (accessed April 02, 2008)

<sup>182</sup> United Nations Children’s Fund (UNICEF), *Rwanda: The Impact of Women Legislators on Policy Outcomes Affecting Children and Families* by Elizabeth Powley (December 2006), 4, available at: <http://www.unicef.org/sowc07/docs/powley.pdf> (accessed 26/03/2008)

<sup>183</sup> See Article 76 of the Rwandan Constitution 2003.

system of Women Councils i.e. grass root level institution comprised of ten women members. Thus more women get more chance to enter in this field from grass root level to higher echelons of government.

According to different studies most common factors that boost women presentation in parliament are women's movement and civil society mobilization, change in gender roles in post-genocide era and the last but not least the commitment of the ruling party towards gender equality.<sup>184</sup>

#### **4. INSTITUTIONAL AND ADMINISTRATIVE ACTIONS:**

Different studies have shown that besides other factors, adoption of CEDAW's substantive equality approach by Rwandan Government under its constitution and domestic laws have made a positive impact on the *defacto* participation of women in parliament. The reason to adopt this approach linked to the 1994 genocidal atrocities inflicted on people especially women not only due to their ethnicity but gender. In order to ensure substantive participation following steps were result oriented:

##### **a) WORKING OF THE FORUM OF WOMEN PARLIAMENTARIANS (FFRP):**

Major role is played in women friendly legislations and policies by the cross-party caucus known as the Forum of Women Parliamentarians (French acronym FFRP) established in 1996. Women parliamentarians irrespective of their party affiliation are members of this caucus and always unite on issues of women interest. The forum starts working with the aim to change the mentality of the society about stereotype image of women. In recent years focus has been shifted to the legislative responsibilities; constituent service; review of existing laws; introduce amendments to change discriminatory statutes; examines proposed laws by keeping check on gender sensitivity and conducts meetings and trainings with women groups in order to sensitize and educate the people about legal issues. In its five year strategic plan, attention is given to four priority areas i.e. building the

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<sup>184</sup> United Nations Children's Fund (UNICEF), *Rwanda: The Impact of Women Legislators on Policy Outcomes Affecting Children and Families* by Elizabeth Powley (December 2006), 4-5, available at: <http://www.unicef.org/sowc07/docs/powley.pdf> (accessed 26/03/2008)

institutional and organizational capacity of the FFRP itself; enhancing gender equality within the institution of Parliament; initiating gender-sensitive laws; and improving gender-based governmental oversight.<sup>185</sup>

**b) MINISTRY OF GENDER AND FAMILY PROMOTION (MIGEPROFE):**

Ministry of Women Affairs was established to deal with women issues. Later on in 1997, by shifting the focus from 'women' to 'gender' approach, it was renamed as Ministry of Gender and Social Affairs and currently it is Ministry for Gender and Family Promotion in the Office of the Prime Minister.<sup>186</sup> The ministry, since its inception, has formulated policies for women like programs to alleviate rural poverty among women and starting revolving credit funds for women etc. it has introduced many legislations concerning women like law on inheritance 1999, defilement law, employment law, Law of Matrimonial Regimes, Liberalities, and Successions 1999, Law on Rights and Protection of the Child Against Violence 2001 and the laws on the Environment. While a list of all discriminated laws was prepared in order to repeal them but after 2003 elections only one law (i.e. **Draft Law on the Prevention, Protection, and Punishment of Any Gender-Based Violence**) was tabled in the parliament for enactment.<sup>187</sup>

**5. BEARING OF SUBSTANTIVE EQUALITY APPROACH ON DEFACTO PARTICIPATION OF WOMEN IN PARLIAMENT:**

The acquiescence of Rwandan Government, Ministry of Gender and contribution of FFRP to gender issues resulted in major pro-women and children legislations. As post genocide Rwanda left behind number of children and families with female heads therefore it was necessary to protect these war trodden women and children. Reports have shown that less is done for those war trodden children and families.<sup>188</sup> One study suggested that increased number of women

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<sup>185</sup> Ibid., 6.

<sup>186</sup> Elizabeth Powely and Elizabeth Pearson, "Gender is Society: Inclusive Lawmaking in Rwanda's Parliament", *Critical Half*, vol. 5, No. 1 (United States: Winter 2007): 15

<sup>187</sup> John Mutamba, "*Strategies for Increasing Women's Participation in Government: Case Study of Rwanda*", a Paper presented at Expert Group Meeting on Democratic Governance in Africa held at Nairobi Kenya, 6-8 December, 2005, 10-11

<sup>188</sup> Ibid., 10

parliamentarian, after 2003 elections, are not as much successful in introducing women friendly legislations and policies as women in earlier governments were. The reason given might be the priority shift of women parliamentarians from 'constituency workers' to 'more parliamentarian'. Increased number of women in parliament has made positive impact on parliamentary culture and political agenda but show less improvement in public policy out come.

**a) EFFECT ON PARLIAMENTARY CULTURE:**

Female deputies in house, either elected on quota or directly, feel more 'solidarity' and 'have a very good relationship' with male deputies. Therefore, female deputies have reported no problems like discriminatory behavior of male deputies, lack of communication, freedom of expression etc. However, women are in need to bring change in areas of functioning of parliament e.g. the house worked, the calendar, the way meetings were arranged and conducted and formal decision making process.

**b) POLITICAL AGENDA:**

The conducive environment of the parliament helps female deputies to bring gender sensitive agenda in lime-light of the house. From constitution 2003 and legislation of Gender Based Violence bill to budget making process, inclusive language like 'gender' is used instead of 'women'. However, women's economic advancement, HIV/AIDS, female solidarity in parliament and international female solidarity are among the top priority agenda of female deputies.

**c) POLICY OUTCOME:**

In area of policy out come the role of female deputies is however still expected to become more positive. Most of the important legislations for women and children rights have done before the 2003 government when numbers of women were much less than today. However one of the major legislation is on the credit of female deputies i.e. gender based violence that hampered women and children in every sphere of life is now going to be criminalized under the Law on the Prevention, Protection, and Punishment of Any Gender-Based Violence. The draft bill was initiated in the parliament and is the proof of their vigorous efforts in the house. The experiences have shown that though women friendly legislation was

consequence of the political will of the RPF but the change in parliamentary culture was not possible if number of women would not increased.<sup>189</sup> Despite the prior 2003 legislation for children, female deputies are also working for the well being of several war trodden children and following steps are on their policy agenda:

- discriminatory elements in the law on nationality that affect children born of Rwandan mothers and foreign fathers;
- a decree that says when a child below eighteen years of age is the victim of an accident, he or she is not compensated by the insurance companies as an adult victim of the same kind of accident would be;
- The inability of the law to recognize “illegitimate” children born of non-formal unions;
- The need for enforcement of laws against men who frequent prostitutes, not just the women who are prostitutes;
- the problem of polygamy, because the children of “second wives” struggle psychologically and economically, are often neglected, and are unable to inherit property, which precludes productive employment and economic security; and
- an ongoing problem with hospitals that hold new mothers and their babies “hostage,” refusing to release them if they are unable to pay for the treatment.”<sup>190</sup>

Their policy formulation and advocacy has improved health sector, the budget that was 3% in 1998 has been increased up to 12% in 2006. While female deputies are committed to raise it up to 15 % to meet the target of Millennium Development Goals.<sup>191</sup>

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<sup>189</sup> Claire Devlin and Robert Elgie, “The Effect of Increased Women’s Representation in Parliament: The Case of Rwanda,” *Parliamentary Affairs*, (2008), 8-16.

<sup>190</sup> United Nations Children’s Fund (UNICEF), *Rwanda: The Impact of Women Legislators on Policy Outcomes Affecting Children and Families* by Elizabeth Powley (December 2006), 12, available at: <http://www.unicef.org/sowc07/docs/powley.pdf> (accessed 26/03/2008)

<sup>191</sup> Eleneus Akanga, Rwanda: Impact of Women on Policy Formulation, *The New Times (Kigali)*, February 04, 2007, available on: <http://www.whrnet.org/docs/issue-rwanda-0702.html> (accessed 26/03/2008)

## B. SOUTH AFRICA:

In South Africa, for decades women faced discrimination on basis of gender in every sphere of their lives and especially in politics in form of apartheid.<sup>192</sup> Till 1994, they constituted only 2.8% of the Parliament. The elections of 1994 and 1999 witnessed rapid increase from 27% to 30% in South African Parliament respectively. While after 2004 elections it reached to 33%.<sup>193</sup> This increase in presentation is achieved by the African National Congress (ANC), the majority party, by introducing one-third quota system for its candidate lists. Now the country stands on top 10 in the list of countries with highest proportion of women in parliaments while having second place in South African Development Community (SADC). Women are posted on highest positions in National Assembly. Different factors are attributed to this gender equality approach including the formation of the African National Congress (ANC) i.e. working for the national liberation, policies and adoption of affirmative actions by ANC and most important is the women's effort under Women's National Coalition (WNC) in respect of gender equality and adoption of Temporary Special Measures (stipulated by CEDAW) in the new Constitution.<sup>194</sup>

### 1. INTERNATIONAL AND REGIONAL UNDERTAKINGS:

The commitments of South African women parliamentarians towards gender equality were more strength by ratification of CEDAW in 1995 and it's Optional Protocol in December, 2004, Southern African Development Community 1997

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<sup>192</sup> See Judgment of Justice Mahomed in *AZAPO v President of the Republic of South Africa* 1996 (4) SA 671 (CC) para 1.

<sup>193</sup> Gwen Mahlangu-Nkabinde, "*Legislative and Policy Outputs: Achievements of the South African Joint Monitoring Committee on the Improvement of the Quality of Life and Status of Women*," Presentation at Seminar on The Role of Parliamentary Committees in Mainstreaming Gender and Promoting the Status of Women held in Geneva, 4-6 December, 2006, 44, available at: [http://www.ipu.org/PDF/publications/wmn\\_seminar06\\_en.pdf](http://www.ipu.org/PDF/publications/wmn_seminar06_en.pdf) (accessed on 13-05-08)

<sup>194</sup> "*Women Empowered - Women in parliament in South Africa*" available at: <http://archive.idea.int/women/parl/studies5a.htm>. (accessed on 13-05-08)



Declaration on Gender and Development, and African Charter on Human and Peoples' Rights and its Protocol on the Rights of Women in Africa.<sup>195</sup>

## **2. CONSTITUTIONAL/DOMESTIC LEGAL FRAMEWORK:**

Provisions of gender equality approach, as enshrined in various international instruments generally and in CEDAW specifically, incorporated in South Africa's domestic and constitutional legal framework. The 1996 Constitution is based on the principles of human dignity, equality, non-racialism and non-sexism (Article 1 & 2 of the Constitution). Article 9 embodies the provisions for the foundation of gender equality, prohibiting discrimination on various grounds including race, gender, sex, pregnancy, marital status, sexual orientation and ethnic or social origin.

Domestic laws of the country having special provisions of Temporary Special Measures (TMS) are Electoral Act (Act 73 of 1993), the Employment Equity Act (Act 55 of 1998) and the Promotion of Equality and Prevention of Unfair Discrimination Act (Act 4 of 2000) where unfair discrimination is prohibited generally.

## **3. INSTITUTIONAL AND ADMINISTRATIVE MEASURES:**

The existing constitution and ratification of CEDAW have brought positive changes in form of number of gender institutions by following obligations under Articles 4, 7 & 8 of CEDAW like:

### **a) THE WOMEN'S PARLIAMENTARY CAUCUS:**

The main function of this caucus is to create forums for women parliamentarians to discuss women's issues, capacity building initiatives and provides a liaison between women parliamentarians and civil society organizations.<sup>196</sup>

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<sup>195</sup> Gwen Mahlangu-Nkabinde, "Legislative and Policy Outputs: Achievements of the South African Joint Monitoring Committee on the Improvement of the Quality of Life and Status of Women," Presentation at Seminar on The Role of Parliamentary Committees in Mainstreaming Gender and Promoting the Status of Women held in Geneva, 4-6 December, 2006, 44.

<sup>196</sup> Ibid., 45

**b) PARLIAMENTARY JOINT MONITORING COMMITTEE (JMC)  
ON THE IMPROVEMENT OF QUALITY OF LIFE AND STATUS  
OF WOMEN:**

JMC having members of National Assembly and National Council of Provinces formulates and supervises legislation and policy to ensure that it is gender-sensitive. It also oversees the function of government departments in meeting the objectives of gender equality and equity. The committee has so far been successful in bringing number of legislations like the Employment Equity Act 55 of 1998, ensuring that a sexual harassment code was incorporated into the Labour Relations Act 66 of 1995 and that the Jobs Summit targeted employment creation for women etc.<sup>197</sup>

**c) THE COMMISSION FOR GENDER EQUALITY (CGE):**

An independent statutory body, CGE's job is to work for the transformation of society by exposing gender discrimination in laws, policies and practices, advocating changes in sexist attitudes and gender stereotypes and instilling respect for women's rights as human rights. It has numerous powers including monitoring, investigating, researching, educating, lobbying, advising and reporting on issues concerning gender equality.<sup>198</sup>

**d) OFFICE ON THE STATUS OF WOMEN (OSW):**

The main function of OSW is to support and monitor gender mainstreaming in government departments. It has also formulated a National Policy Framework for Women's Empowerment and Gender Equality with integrated framework for gender mainstreaming.<sup>199</sup>

**4. BEARING OF SUBSTANTIVE EQUALITY APPROACH ON  
DEFACTO PARTICIPATION OF WOMEN IN PARLIAMENT:**

Women's presence in parliament and its various committees and forums has made positive impact on improvement of quality of life and status of women in South Africa. As mentioned earlier JMC has played multiple roles in this regard. JMC's

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<sup>197</sup> Ibid.

<sup>198</sup> Ibid.

<sup>199</sup> Ibid.

effort in developing policy and legislation to promote gender equality and support mainstreaming is worth mentioning. A brief outlook of women's impact on the parliamentary life and on the lives of other South African women is given below:

a) **IMPACT ON PARLIAMENTARY ENVIRONMENT:**

Studies have shown mixed experiences of the presence of women in parliament. Since 1994 democratic government their presence was not much embraced by male members. They were treated like some "temporary aberrations". Experiences of some female parliamentarians revealed that they were not having proper seating arrangements; they were allocated lavatories at farthest distance in the parliament house. Women had to face problems not only inside the parliament but in their personal lives. Similarly debate on women's issues is not much encouraged by male MPs while they faced remarks like: "oh, here they go, those Beijeingers" and "what do you want now? You've already got the Gender Commission, what more do you want?" Besides the hardships, some of women are of view that their presence made positive impact on the political culture. According to some female MPs smoking was stopped unanimously as women were not used to smoke in the committee rooms. The most important change brought in the house was change in sitting times to enable women to give reasonable time to their families; though it faced intimidation at first by male MPs but later on agreed. One female MP said that their presence there "is more in touch with life".<sup>200</sup> Different studies provide a positive impact of women's presence in the parliament for example the changes made are "changes in parliamentary procedures, which have been a direct effect on women, for example alignment of parliamentary recess periods with school holidays; the use of gender-sensitive language in legislation; and parliamentary sessions commencing and ending earlier than previously so as to allow parliamentarians to spend more time with their families."<sup>201</sup>

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<sup>200</sup> Karen Ross, "Women's Place in 'Male' Space: Gender and Effect in Parliamentary Contexts", *Parliamentary Affairs* (2002), 193-199.

<sup>201</sup> See Judgment of Justice Mahomed in *AZAPO v President of the Republic of South Africa* 1996 (4) SA 671 (CC) para 1. 45; Inter-Parliamentary Union, *Equality in Politics: A Survey of Women and Men in Parliaments*, by Jullie Ballington, (Geneva: Switzerland, 2008), 72-73

**b) POLITICAL AGENDA:**

Most of South African women parliamentarians, before entering the politics, were community development workers, teachers and doctors etc. thus their presence in the parliament have brought women friendly policy agendas. Therefore, in 1998, JMC with the help of parliamentarians and women organizations decided that more priority should be given to the change in the laws of the country regarding women equal rights in the work place, homes and country. Thus a list of priorities was prepared including issues like domestic violence, maintenance, inheritance, succession, sexual harassment at working place, HIV/AIDS, women's empowerment in State-owned enterprises, gender-based violence, human trafficking and termination of pregnancy.<sup>202</sup>

**c) POLICY OUT COME:**

Women parliamentarians' political agenda came out in important legislations. Since 1998, female parliamentarians in JMC have been successful in enactment of legislations for women's equal rights in every sphere of their lives. For example, Choice on Termination of Pregnancy Act 92 of 1996, Domestic violence Act 116 of 1998, Maintenance Act 99 of 1998, and the Customary Law on Marriages Act 120 of 1998 (aimed at changing the minority status of many African women affected by customary marriages), incorporation of sexual harassment code in the Labour Relations Act 66 of 1995, enactment of equality legislation, ensuring that the job summit targeted employment creation for women. With in one year, 80% of the priority legislations by JMC were enacted. From 1998-2006, JMC hold different briefings and workshops with women organizations and rural women on several issues, for example to obtain their input on issues of the Domestic Violence Act, Promotion of the Equality and Prevention of Unfair Discrimination Act (Equality Act), Act 4 of 2000. One of the important initiatives of the JMC was formation of Women Parliament in 2004. Its aim was to review the impact of ten years of a democratic parliament on the lives of South African women. JMC is

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<sup>202</sup> See Judgment of Justice Mahomed in AZAPO v President of the Republic of South Africa 1996 (4) SA 671 (CC) para 1. 46

also busy in revival of the project namely “Women’s Budget Initiative (WBI)” and called for briefings on the budget to find out its impact on women.<sup>203</sup>

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<sup>203</sup> Ibid., 46-47

## CHAPTER 5

### CONCLUSION AND RECOMMENDATIONS

#### A. OVERALL CONCLUSION:

Appraisal of women's historical political activism reveals that either women were debarred from public and political participation or if they were active then it was limited upto the women of higher class. Middle or lower class women were only confined to the domestic affairs. It was only when women movement started in the west that they tend to recognize their right to participate in political arena. Pakistani women though got their right to take part in political life in early days of country's infancy but debarred to take active part in this field later on.

Women's struggle bring some important concepts like their right to participate in parliament the principles of substantive equality, non-discrimination including both direct and indirect, state's obligation to fulfill treaty provisions in good faith enforced by the international, regional and domestic human rights treaties and declarations. While this right is also recognized in constitutions of SAARC countries with its various constituents. Strangely enough, in Pakistan, the disparity between *dejure* and *defacto* participation still persists despite the precedent of normative and conceptual basis. Introduction of Affirmative action like quota on national level does not bear its fruitful results. Women legislators' performance remained negligibly low during four parliamentary years of National Assembly.

Pakistan has ratified CEDAW and other human right treaties precluding ICCPR and ICESCR but still presentation of women in parliament is far flung from the critical mass of 30% which is stipulated by the provisions of CEDAW, BPFA and MDGs. it is found that though Pakistani women have *dejure* right to take part in parliamentary politics but lacking substantive/*defacto* right. The law in statute books is still awaited to be implemented in true sense.

Reasons for their scanty performance pertain to the some critical hurdles in their way to political activism. The most imperative are like male dominated political

structure, controversy of reserve seats, party politics, electoral system and political will. All these causes along with lack of knowledge of politics, support in the House and negative role of media make it arduous for them to take substantive part in parliamentary business.

Ratification to CEDAW advocates for the realization of substantive/*de facto* equality approach to foster women's parliamentary participation. Provisions of CEDAW are not an option but obligatory upon Pakistan.

Experiences of Rwanda and South Africa have shown that adoption of substantive equality approach has brought substantial change in one way or another. Women's critical mass made positive impact on parliamentary culture, political agendas and policy outcomes with variations in these countries. It is proved that substantive/*de facto* equality approach does foster women's parliamentary participation.

## **B. RECOMMENDATIONS**

Following the good practices of both countries and keeping in view the obstacles faced by Pakistani women parliamentarians some recommendations are made below:

### **1. POLITICAL CULTURE:**

To foster substantive participation of women along with their male counter parts at par in parliament it is not only necessary to mould male chauvinist behavior but women parliamentarians should also change their mindset towards other parliamentarians and party workers. Though this is difficult but it is not impossible. Recognition of women's presence in the House can be attained by sensitization of male MPs. Sitting times of the House should be compatible for women. It should be such that women can give reasonable time to their families. Women should also be facilitated inside the House as well. Reasonable time to speak during the session should be allocated to female member after every male member. Role of Speaker of the house matters a lot in this regard.

### **2. ELECTORAL SYSTEM:**

It was revealed during the study that Proportional Representation system remained fruitful for increased number of women in the parliament. But the

controversy started when women came in on reserved seats with indirect elections. While candidates list of political party are not provided publicly therefore difficult to know that how many women contested elections on party list. It is suggested that election on reserved seats should be conducted on the same pattern as on general seats. While the example of South Africa should be followed by placing women on every third number in the list.

In order to foster women's participation and protect them from the agony of derogatory remarks due to contest on reserved seats, elections on reserved seats of women can also be women-only elections where only women can stand for election and only women can vote. By feminization of electoral process a system of Women Councils i.e. grass root level institution comprised of women members should be made. Thus more women get more chance to enter in this field from grass root level to higher echelons of government. Similarly in order to encourage lower class women to enter in politics, specific quota should be made for these women.

### **3. POLITICAL WILL:**

Government, in order to fulfill its international commitments stipulated by CEDAW Committee, must include comprehensive definition of discrimination in the Constitution. While in order to bring gender equality must repeal all discriminatory laws, cultural practices and interpret religious norms diligently. It is suggested that to foster women participation in the parliament a comprehensive Act covering political rights of women must be made on priority basis to criminalize every form of discrimination against women.

### **4. GENDER RESPONSIVE BUDGET INITIATIVES:**

Women parliamentarians are mostly faced with economic constraints while performing their parliamentary duties. It is suggested that Gender Responsive Budgeting initiatives should be taken in every financial year. Pre-budget sessions should include female parliamentarians to guide women's priority issues. Budget allocations should be made to top priority areas with mechanism to hold government accountable for its true realization.



**5. WOMEN PARLIAMENTARIANS CAUCUS:**

In order to encourage harmony among women parliamentarians either on general seats, reserved seats, of ruling party and in opposition, All Parties Women Caucus should be introduced to influence policies, achieve gender equality and foster substantive participation in the parliament.

**6. MENTORING AND TRAINING:**

Parliamentarians should train new entrants in parliament to bolster their skills and competence to engage in parliamentary system. It is suggested that women's parliamentarian who are old player of this field should commence refresher courses for new entrants. It can be based on the idea of Women Political School started for women councilors. It should be focused on the development of leadership skills, accustomed with the obligations of all international conventions especially CEDAW, tackling the national and international media, interacting with other parliamentarians at national and international levels etc.

**7. POLITICAL PARTIES:**

Political Parties Act, 2002 should be amended and provision of 30% seats for women in party list should be included. Networking of women of all parties should be commenced and a forum should be made in this regard to foster women's entry in this field.

**8. ROLE OF MEDIA:**

Media's laws should be amended to the extent that negative portrayal of female parliamentarians should be reckoned defamation. Good working relationship between media and parliament is vital and should be encouraged. Freedom of expression must be obliged by the State as well.

**9. GENDER DISAGGREGATED REPORT:**

In order to analyse the participation of female parliamentarians, separate record of their performance like participation during Assembly sessions, presentation of bills and resolutions, raising questions, call attention notices, motions etc should be maintained. It is suggested that a comprehensive report card should be issued at the end of each parliamentary years to assess performance of both male and female parliamentarians. It should be focused on the parliamentary processes like

presentation of bills and resolutions, government and private member bills, questions, call Attention notices, adjournment motions etc. each category should evaluate performance of male and female MPs separately. This would indeed help to analyse the substantive participation of women. The sample would be as given below:

**Table: 5.1 Report Card for 1<sup>st</sup> Parliamentary Year**

S.NO.		Received	FEMALE MP	MALE MP	Passed
1	<b>Bills/Ordinances</b>				
2	<b>Resolutions</b>				
3	<b>Government Bills</b>				
4	<b>Private Member Bills</b>				
5	<b>Questions</b>				
6	<b>Call Attention Notices</b>				
7	<b>Adjourned Motions</b>				

The report card should be published publicly at the end of each parliamentary year and comments of all stakeholders like women organizations, researchers, students and international observers.

**10. CEDAW's ENFORCEMENT MECHANISM:**

CEDAW's enforcement should be strengthened and monitored by an independent observer that can be representative of UN while Government should be kept under surveillance by UN for not properly carrying out the implementation of the Convention. It is suggested that CEDAW project headed by MoWD should be restored in order to further the process of treaty obligation.

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**Judgment:**

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