

Discrimination against women

EDITORIAL: Our backward politicians and Zina Ordinance

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On Tuesday, the National Assembly rejected a bill proposing amendments to the Offence of Zina (Enforcement of Hudood) Ordinance 1979, which requires a rape victim to present four male witnesses to substantiate her claim or be convicted of fornication or adultery and/or face punishment for lying. The bill - The Offence of Zina (Enforcement of Hudood) Bill, 2005 (Amendment to Section 8) - was presented by MNA Kunwar Khalid Yunus of the Muttahida Qaumi Movement (MQM). The treasury benches, which boast a strong pro-women lobby, joined the clerics and other conservative MNAs to reject the proposed amendment. It is tragic that an elected house has an all-parties majority that doesn't want to get rid of a bad law.

MNA Yunus of the MQM said that a clause in the offending Ordinance should be repealed because it discriminated against women: "The Hudood Ordinance was introduced by Gen Zia ul Haq to court Saudi Arabia's support for his rule. Of the 57 Muslim countries worldwide, the Hudood law was enforced only in Pakistan and Saudi Arabia. The ordinance had been enforced in 1979 without being incorporated in the Constitution by the then parliament". When the speaker put the bill to vote, it was easily defeated. Predictably, MMA member Dr Sahibzada Abu Alkhair Muhammad Zubair called the Hudood Ordinance "part of the divine law" that could not be amended. Now take a look at the most platitudinous lies in Muslim history, and it comes from the lips of the federal law minister, Mr Wasi Zafar: "Women in Pakistan enjoy complete liberty and respect, especially compared to those in Western countries".

This is nothing new, however. An earlier bill by the PPPP on honour-killing was watered down to include a mitigating clause. This meant that honour-killing could go on and the victims would be the women of Pakistan who otherwise enjoy "complete liberty and respect" compared to what women get in the Western countries. The fact that no other Islamic state except Saudi Arabia has the same kind of cruel legislation as ours should mean that the "divine law" is not universal even among the Islamic community. The argument here is not that zina is not mentioned in the Quran but that a misinterpretation has been allowed, and Pakistani women demeaned. Most of the women rotting in jails are being punished for pointing to men who had raped them. In the current practice of opposing "love marriages", the Zina Ordinance is used by vengeful parents, exposing the married couple to the punishment of stoning to death.

Had our National Assembly been endowed with any moral will or intellect it could have found ways and means to tinker with the law in force to alleviate the suffering of women. The first point to consider was that the Ordinance confused rape with fornication. No sensible person in the world can believe that a woman forcibly subjected to sex can be guilty or that she should be required to bring four pious witnesses to prove the crime. If a rape scene has four witnesses it would be recognised as some kind of theatrical performance rather than crime. More enlightened Islamic scholars have already opined on the difficulties introduced into the subject by the Arabic word zina which subsumes both rape and fornication. It is on the ground of this scholarly opinion that the Islamic world has not incorporated the clause that our law has.

Zina takes us to the next step in our purblindness when it comes to legislating Islamic laws. Those found guilty of adultery are to be sentenced to stoning to death (rajm) which is not mentioned in the Quran. (Rajm is a part of the hudood although hudood have to be proved to have been ordained clearly in the Quran.) The Quran prescribes only a hundred lashes for the offence and the exegetes are not in agreement on the force applied to lashing. The criterion in judging a bad law is in the possibility of its enforcement. The truth is that in Pakistan half the Islamic laws in force have not been enforced, like the cutting of hands and blood-money for manslaughter, to name just two. The ones that are enforced are used only as unfair means of punishing women and the unprotected minorities. It is sad that our legislators so easily set aside an effort to improve a bad law. *

P.S.

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