

Love marriages, women and rule of law in Pakistan

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The issue of love marriages is highly contentious in Pakistan, a traditionally patriarchal and feudal-based society. According to prevalent social and cultural norms, women are objects under the control and protection of male family members. Their rights and freedoms are severely restricted. Such a society sees marriage as a trade or business deal between different families. The idea of women choosing their own marriage partners is considered outrageous and unacceptable behavior.

In fact, in the feudal, fiercely patriarchal north of the country, there are even cases of forced marriages, where girls and women are literally sold into marriages for various ulterior purposes, including settling business or family disputes. Victims of such marriages can face much abuse and vulnerability. The situation of women throughout the country gives lie to Pakistan's various international obligations and domestic laws meant to protect women. In reality, these laws offer little concrete protection of women's fundamental rights. A key reason for this is the complicity of law enforcement and other public officials with those violating their rights.

These realities are clearly evident in the case of Miss Sajida Bibi who married Mr Mohammad Arshad of her own free will on 13 June 2008, in a Shekhupura civil court, Punjab province. Sajida's parents were fiercely opposed to the marriage, causing Sajida to leave home after being seriously threatened by them. She even filed a restraining order against her family under sections 22A and 22B of the criminal procedure code in the court of the Shekhupura Sessions Judge, about 150km from her hometown.

On June 18, two days before the decision of the court regarding the restraining order was due, Sajida's father Mr Saad Ullah, her uncle Mr Ahmed Khan and others apparently tried to kidnap her, but failed. Two days later, her husband's father and brother were reportedly abducted by her father, uncle, cousin and a police inspector dealing with the case. They remain missing as of today, as does Sajida.

It is common for legal authorities, particularly the police to mishandle cases involving love marriages or other 'family issues'. For this reason, violence against women in Pakistan (including violence against women in love marriages) remains very high. Furthermore, the country's social infrastructure and institutions are largely operated and staffed by men, most of whom carry various cultural and gender biases. Cases involving women—whether at police stations or in the court system—are inevitably prejudiced, prone to violence, and illegal. A pregnant woman in Punjab province for instance, was severely beaten by the police in August 2007 for secretly marrying and living with a man despite her parents having already chosen her bridegroom. Her husband was falsely charged with her abduction, while she was 'punished' by being raped by her intended bridegroom.

In another case illuminating police abuse of power, the bride's family influenced the police to abduct and imprison her in-laws. In April of this year, Miss Firdous Shaheen, who belongs to a wealthy and influential Shiite Muslim family in Muzaffarabad, capital of Pakistan controlled Kashmir, married Mr Zamir Lone, a Sunni Muslim, without her parents' knowledge. Their anger when they found out led Firdous to leave home, requesting them not to look for her.

After this, her father Mr Bukhari lodged a First Information Report against the groom and his family on 14 June 2009, claiming that they had abducted his daughter. He also went to see Mr Sabir Naqvi, superintendent of the Muzaffarabad commissioner's office, and Mr Murtaza Gilliani, the provincial minister of Pakistan controlled Kashmir, about this case. On the same day, June 14, Mr Naqvi reportedly threatened Zamir's father, that if Firdous didn't appear in 24 hours, his whole family would be arrested.

Later that day, the police did in fact raid Zamir's house, and arrested his father and two brothers. On June 29, his mother and sister, who had been in hiding, were detained. They were granted bail before arrest, but the court denied bail to his father and brothers.

In their continued bid to find the couple, superintendent Naqvi and provincial minister Gilliani have reportedly threatened Zamir's sister Ruheena, who lives in London. They have told her that should Firdous not be produced before her father, her mother and sister will be killed. They have reportedly promised the release of all family members should Firdous be given up.

Pakistan's judiciary plays its own role in aiding perpetrators of violence and illegal behavior, as seen in the case of Miss Kulsoom Baloch, who enraged her family with her decision to marry Mr Fazal Abbas, from a less wealthy family than her own.

On April 25, a complaint charging Fazal with Kulsoom's abduction and rape was filed by Kulsoom's brother. The next morning, Kulsoom's brother-in-law and several police officers raided the house where Kulsoom was staying and beat her severely.

Subsequently, a group of police officers visited Fazal and his sisters at their house, from where they were taken forcefully to the police station and subjected to serious torture, including violent physical abuse as well as sexually exploitative verbal threats. After a few days, Fazal's sisters were produced before Mr Azmat Ullah, a civil judge in Rawalpindi, for remand and were charged with aiding the abduction of Kulsoom when she married their brother. The judge ignored the sisters' claims of torture and granted remand.

In the meantime, on April 28, officers from the Bana Police Station, Jhang, Punjab, arrested Mr Shafiq Dogar, married to Fazal's sister, on charges of theft. On May 3, Shafiq was taken to the Airport Police Station, where he was beaten so badly he lost the use of his legs. He was produced before Mr Azmat Ullah in a wheelchair on May 12, where the judge showed the same indifference to his assault and injuries. He was granted bail for the charges of theft, but remanded on a new charge of aiding in Kulsoom's abduction.

After Shafiq's arrest on April 28, his wife was released from custody. Subsequently, Fazal's mother Mrs Nasrin Akhtar was arrested and beaten at the Airport Police Station; her back and hands still bear torture marks. She is currently in Adiala jail, on the orders of the judge.

Although Fazal's family filed a case regarding their illegal arrest and torture, they continue to be harassed and threatened. They are in hiding at present, unable to pursue their case or live a normal life.

The judge's dismissal of genuine torture claims, even after seeing the injuries for himself, is very disturbing. It indicates a complete abdication from his responsibilities to the law and to justice. Instead, he seems to be merely rubber stamping the actions of the police. This kind of collusion makes the judiciary implicit in the numerous fundamental rights violations occurring in the

country. Furthermore, not only does it encourage impunity for the perpetrators, but it denies justice to victims.

Even without directly assisting perpetrators of violence and crime, judges can be responsible for hindering victims in their fight for justice. Additional District and Sessions Judge Nizar Ali Khawaja for instance, required a teenage gang rape victim to describe and even demonstrate her rape, in detail, in front of the accused and a full Karachi courtroom earlier this year. Such behavior merely serves as a reminder that Pakistani women should not expect justice or fair treatment in court.

One positive development recently has been a landmark decision by the Chief Justice of the Lahore High Court in Kulsoom and Fazal's case. The court ordered the arrests of the police officers involved in the torture of Fazal's family members, as well as the release of all detainees including Fazal's mother. This notable decision will surely serve as a benchmark in future cases involving love marriages.

The overall situation regarding both women and the rule of law remains grim however. Pakistan's obligations under the UN Convention on the Elimination of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Covenant on Civil and Political Rights require the government to promote and protect the rights to life, to freedom and dignity of all its citizens, as well as their rights to be free from arbitrary arrest, detention and torture. The lives and welfare of those involved in love marriages are no exception to these obligations.

Pakistan's Women's Rights bill and Women's Protection Act of 2006 have also done little to change the conditions faced by Pakistani women, including deterring violence against women. It is thus clear that merely signing up to international laws or enacting domestic laws do not provide practical remedies for rights violations. It is also clear that violence against women and citizens cannot be overcome without reforming the entire law enforcement system as well as other public institutions. Laws protecting citizens' rights must be strictly enforced, and the country's justice system must be made to function in accordance with these laws. Members of the police, judiciary and other institutions must be trained in these laws and in international principles regarding non-discrimination and gender sensitivity. Only then can Pakistani women and men live in freedom and dignity.