

## **A Critical Examination of Legal Reforms on Women's Segregation in Pakistan: Achievements and Challenges (2000-2017)**

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### **ABSTRACT**

Women's role in economic development is vital and is translated into development process through labor market. In Pakistan, women are largely concentrated in agriculture sector as contributing family workers and in the informal economy with higher risk of vulnerability. Wages of women for the same job is significantly lower than men, they lack appropriate skills and education to compete in the labor market and ultimately end up employment in agriculture and informal sector with little or no social security. They also face higher degree of risk of being unemployed. With the inception of twenty first century, national and provincial governments in Pakistan induced to initiate legal measures to control this disparity and gender blindness in management and labor market. Highest degrees of laws were promulgated by parliament to tackle discrimination and to bring equality in labor force participation especially for women. These laws aimed to eradicate gender inequality, harassment, wages gap, to control domestic violence and honor killing and more important to persuade female labor force into market by providing safe and secure working environment. These efforts on behalf of government did not prove abortive attempts.

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### **INTRODUCTION**

It is believed that equality for women and men is in everyone's interests: individuals, employers and society as a whole because, it says, gender equality helps to make the economy strong, helps to reduce poverty, including poverty for children, reduces the damage that discrimination causes in individuals' lives, means everyone has a fair stake and share in society and in the decisions that affect them, and leads to better services. This debate explores the primary macro and micro level of economic issues in relation to women's employment in the twenty-first century. At the macroeconomic level, the persistence of occupational and professional segregation, the gender pay gap, and the prevalence of work timing among women are paid detailed attention. Bridging the gap in macro and micro levels of investigation is a discussion of women in the professions and management, more women are entering both spheres, but gender marginalization and a pay gap persist. At the micro level, we consider how organizations are currently responding to gender equality issues with a discussion of the shift from 'equal opportunities' to 'diversity management'. Furthermore, there is also an examination of the concept of 'work-life balance' as a government and organizational policy response to political, economic and social changes.

On the other hand, gender refers to socially built roles, duties and responsibilities of women and men. The difference in roles and duties among women and men drives from our families and societies. The notion of gender composed of our expectations regarding characteristics, attitudes and behaviors of women and men, and is pivotal in facilitating gender analysis. The different roles and rights that both the genders have in society are important determinants of the nature and scope of their inequity and adversity. Inequality in access to resources between feminine and masculine is common in third world and developing countries. Gender segregation refers to inequality in conditions among female and male for realizing their human rights<sup>1</sup>.

The approach in this report is to cast a critical eye on policy development regarding gender equality and discrimination by locating Pakistan in a wider context. Analysis of legal reforms introduced by national government to eradicate gender discrimination at work place, especially in induction policy and procedures and its impacts on equalizing woman participation and recruitment and terminating issues facing by women at workplace i.e. harassment. The aim is to discuss stigma of gender inequality, to critically investigate reforms introduced by governments to resolve these questions and to examine implications, impacts or achievements of these reforms.

### **Methodology:**

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<sup>1</sup> Chaudhry, Imran Sharif & Saeed Rehman, "The Impact of Gender Inequality in Education on Rural Poverty in Pakistan: An Empirical Analysis," *European Journal of Economics, Finance and Administrative Sciences*, ISSN 1450-2275 Issue 15 (2009):2

The research report is conducted through Historical, Descriptive and Analytical methods of research. Data has been collected through Secondary resources including books, articles, journals, magazines and newspapers etc. This paper will analyze two variables of research methodology: legal reforms and women segregation. Legal reforms as independent variable and women segregation as dependent variable in context of Pakistan; their correlation is paradigm of this report.

## WOMEN IN PAKISTAN: DISCRIMINATION AND LEGAL REFORMS

*“Why exclude them? Of the two sexes of which the species is composed, how comes all the natural right to political benefits to be confined to one? Jeremy Bentham 1789”<sup>2</sup>*

Woman’s social and political status can be understood in any society by expressing two most important theories about the transformation of society. These theories are discussed by political scientists, historians and sociologists in detail; first is Matriarchal Theory and second is Patriarchal Theory. Both refer that how society transformed from primitive age to modern developed society but figures and factors are opposite. Here I will not discuss about those factors and figures but determination of relations, roles, authority and status of individuals. After analyzing this we can understand the place of woman and her role in Pakistani Society.

Patriarchy means “the rule of father” or “father of race” in Greek methodology<sup>3</sup>. Patriarchal Theory elaborates male as sole holder and source of power. He enjoys social privilege, dominates political leadership and controls the property. He is the head of family, owes wives and children and decision maker. Patriarchal societies are also “*Patrilineal*” which portrays property and titles or surname are derived from male lineage<sup>4</sup>. Whereas, Matriarchal society is led by females; holds the role of political leader, enjoys social immunity and controls family. She is head of family, owes children and sole executive head. Opposing to Patriarchy, “*matrilineal or matrifocal*” is the key feature this type of society<sup>5</sup>. So as we examined that if male is the key point of society in Patriarchy, female is the focal to everything in Matriarchy.

In modern world, many societies are influenced by these social systems. Western Society is somehow influenced by this system and force of feminism is powerful so status of woman is very much ostensible. But societies of Africa, Middle East, South Asia and East Asia are mainly affected Patriarchy so forces of feminism are still weak and in preliminary stages. Still woman in these societies are facing problems of segregation, inequality and deprivation. Male is the core and whole system revolves around him. He is the domestic labor figure that leads to woman’s inferiority and oppression. Some sociologists touch this debate but do not plunge in depth; Walby<sup>6</sup> is the prominent one. He has done gender analysis of patriarchal society and implicitly discussed class relations in four stages those are confined to males<sup>7</sup> and women are considered as “hidden from history”<sup>8</sup>. So typically jobs are associated with men and women labor force is only use in case of gender vacuum. In economy, there is dual and segmented labor force means co-determination of primary (men) alongside with secondary one (women) true representation of utterance of Firestone, “sex class is so deep as to be invisible”<sup>9</sup>.

Patriarchy theory has been prominent in revealing male bias and has rendered a corrective in persisting upon the primacy of gender relations and Pakistani society is patriarchal society in its very nature where male has dominant position in every sphere of life. So this is the intent of patriarchy that underlines the notion of sexual oppression in theoretical as well as practical fronts. In short Connell proposed strong case historically and practically regarding gender relations particularly in patriarchal society, “the main reason why it has been difficult to grasp the historicity of gender relations is the persistent assumption that a trans-historical structure is built into gender by the sexual dichotomy of bodies. This is the assumption that sex role theory finally falls back on, and most kinds

<sup>2</sup> Cited by Arianne Chernock, *Men and the Making of Modern British Feminism* (Palo Alto: Stanford University Press, 2009), 139

<sup>3</sup> Fiona Joy Green. “Patriarchal Ideology of Motherhood”, O’Reilly Andrea *Encyclopedia of Motherhood* vol.1 (2010):969, ISBN 978-1-4129-6846-1

<sup>4</sup> Kathy E. Ferguson, “Patriarchy(Women’s Studies Encyclopedia)”, *Greenwood Publishing* Vol.2 (1999):1048, ISBN 978-0-313-31072-0

<sup>5</sup> See Peggy Reeves Sanday, *Women at the Center; Life in a Modern Matriarchy*(New York: Cornell University Press, 2002)

<sup>6</sup> See Sylvia Walby, *Patriarchy at Work: Patriarchal and Capitalist Relations in Employment* (London: Polity Press,1986)

<sup>7</sup> Sylvia Walby, “Gender politics and Social Theory”, *Sociology* vol 22, no 2(1988): 215

<sup>8</sup> J. Robinson & J. McIlwee, “Women in Engineering: a Promise Unfulfilled?”, *Social Problems* vol.36, no 5(1989): 455–73

<sup>9</sup> Shulamith Firestone, *The Dialectics of Sex* (New York: William Morrow and Company,1970),1

of categoricalism too”<sup>10</sup>. Men owned all modes of productions and formed super structure to control class relations according to Connell which is true as per Patriarchal Theory. Patriarchy society has capitalist economy or capitalist modes of production so has Pakistani society. Hartmann vividly captured the panorama of conflicts of relations and determination of women’s position in patriarchal capitalist society when he cited, “Patriarchy as a system of relations between men and women exists in capitalism and that in capitalist societies a healthy and strong partnership exists between patriarchy and capitalism. Yet if one begins with the concept of patriarchy and an understanding of the capitalist mode of production, one recognizes immediately that the partnership of patriarchy and capital was not inevitable; men and capitalists often have conflicting interests, particularly over the use of women’s labor power. Here is one way in which this conflict might manifest itself: the vast majority of men might want their women at home to personally service them. A smaller number of men, who are capitalists, might want most women (not their own) to work in the wage labor market. In examining the tensions of this conflict over women’s labor power historically, we will be able to identify the material base of patriarchal relations in capitalist societies, as well as the basis for the partnership between capital and patriarchy”<sup>11</sup>.

Furthermore, Ben Fen had a view that marriage of convenience between patriarchy and capitalism has excluded women from jobs and segregated them into lower salary paid<sup>12</sup>. Although it is not true completely because it might be possible in 18<sup>th</sup> and 19<sup>th</sup> centuries and now in third world countries but in post Second World War era as discussed scenario has been changed in developed countries. This debate about patriarchal society and position of women in this type of society will be helpful in understanding the case of women employment, nature of oppression or discrimination and also the nature of legal reforms and their impacts in managing gender marginalization in Pakistan.

### **Women’s Segregation in Pakistan**

Discrimination is a significant social and economic problem in Pakistan as well as globally. Pakistan’s consistency in ranking as second last in Global Gender Gap Index owes undeniable factor that it is world’s second worst women’s participation and opportunities. Pakistani Society is male dominated and patriarchal as mentioned earlier. So, male child often is considered a valuable asset. We have lowest women’s participation rate in South Asia in 2015 that was just 22 percent in labor force. Yet, among vast majority of women in the workforce about 75percent have not formal education. Among them only 32 percent women have degrees of intermediate or higher than this. Thus, despite other hazards that stymie participation in the labor force, we must see to the increasing contribution by educated women.

Women face more discrimination in the labor force. The latest report on women in Pakistan expresses that women are under-represented in work. Furthermore, women earn 38.6 per cent less than men on average; pay gap is persistent even if both have the same level of education and working capacity. Gendered blindness is due to employers’ biasness rather than productivity differences. Along with occupying low-paying jobs, women are less mobilized in their respective professions. Harassment works as disincentive at the workplace and socially, so women are considered as secondary workers even if their nature of their profession and earning capacity is equal to male<sup>13</sup>. Legally, there is no specified industry for women. But practically, there can be investigated flux of females in academia and medicine. Because both offer women’s care giving roles so it is considered more appropriate for them socially.

Women, according to census of 2017, formed 48 per cent of Pakistan’s population but in management they are deprived. Most of the population lives in rural areas where women have double responsibilities; the whole day they use to work in the fields with male family members and when they get back at homes, they have to work on domestic affairs like cooking, washing clothes, child caring and etc. Majority of rural women are illiterate because of poverty, social and cultural hazards. Some writers also include religion as a cause behind illiteracy of women but I do not agree with them. No religion of the world preaches about inequality, depravation and gender blindness theoretically. Practice depends upon the followers which is not the fault of religious teachings. So rural women of Pakistan get up first but go to bed last<sup>14</sup>.

<sup>10</sup> R.W. Connell, *Gender and Power: Society, the Person and Sexual Politics*(London: Stanford University Press. 1987), 64

<sup>11</sup> Heidi Hartmann, “Capitalism, patriarchy, and job segregation by sex”, *Chicago Journal* vol. 1(1976),137-169

<sup>12</sup> Ben Fen, *Women’s Employment and Capitalist Family*(London: Routledge, 1992),45

<sup>13</sup> See Mahboob ul Haq Development Report 2016 Empowering Women in South Asia, Published by LUMS, Lahore

<sup>14</sup> Khawar Mumtaz & Shaheed, *Women of Pakistan: Two Steps Forward, One Step Back?*(London: Zed Books, 1987),78

They are qualified, professional, and vigilant peasant along with their men. Mumtaz and Shaheed mentioned Pardah (veil) as cultural or religious constraint for women to work<sup>15</sup> but I somehow defy this argument although wearing veil is the key element but it does not restrict the women to work and to go outside. There are thousands of women who wear veil but they are regularly working in government sector and private as well like in banking and telecommunications. As Papanek argued that veil does not prohibit to work but it observes some rules of morality.<sup>16</sup> But there are still areas in North and South West (KPK, FATA and Baluchistan) where cultural hazards prevent women to work outside their home but still women work in farms with their family members. Mostly the men of these areas prefer to work in metropolis cities like Lahore, Karachi, Rawalpindi, Peshawar and Islamabad and women take care of houses, flocks and farms<sup>17</sup>. But still in this male dominated society women are not strong or independent. They are controlled by men. They do not make choices and decisions on their own<sup>18</sup>. So there is latent gender inequality in Pakistan. Women's participation in labor force is far less than males that indicate some unseen social barriers and prevalent gender marginalization in labor market. Even more and more female are getting higher education but there is no guarantee of their entrance in management sector. There is huge difference between literacy rate of women and men; 47 percent women and 70.7 per cent male<sup>19</sup>.

## LEGAL REFORMS TO MANAGE WOMEN SEGREGATION; ABOLISHING GENDER BLINDNESS

One might expect that the situation of women's participation has been very low in management sector but with the passage of time trend is being changed with arrival of 21th century. Forces of feminism, rule of law and modern technological advancement compelled to transform from stereotype to modern era which demands equal participation of women in every sphere of life. National as well as provincial governments are trying very hard to tackle this social problem and providing cordial, peaceful and secure environment to women at home and workplaces. There has been passed very strict laws regarding harassment and wages gap. Optimistically, it will take time because no one could bring change overnight. Here I will discuss some legal reforms initiated by parliament and their impacts; because last 15 years have seen incredible advancements in Pakistan for women that enable them to demonstrate their potential, competence and talent<sup>20</sup>.

This shift is occurring by initiation of reforms and of course endorsement by people which means they also want women to work freely and respectively. That is why now there is influx of women labor force in banking, education, hospitals, construction, garments, media, judiciary, politics and many other fields of public and private sectors; welcoming female and providing them opportunity to explore their capability in production sector too. This transformation is becoming reality because of relentless efforts of heroes like Benazir Bhutto (First Woman Prime Minister of Pakistan) Samina Baiq (First Pakistani woman who climbed Mount Everest in 2013), Arfa Karim, (World's youngest Microsoft Certified Professional) Sharmeen Ubaid, (Oscar Award Winner 2015&2016) Malala Yusufzai (Nobel laureate 2014 ) and Mukhtara Mai (First Women Activist). Pakistani women left no field to demonstrate their miracles.

Amelioration since the inception of this century is characterized by progress in women labor force employment and involvement ratios. Female entrepreneurs are setting waves in global markets diversifying fashion industry, energy and information technology. Their presence in assemblies, judiciary and politics paved the way to the protection of women's right in professional life and contributed awareness in rural areas. So, women's active participation in government machinery helped to introduce number of policies and laws to safeguard their rights and dealing with variety of issues comprising of inheritance and property rights, divorce issues, harassment in work and employment, domestic violence, honor killing, women trafficking, rape and adultery. But as mentioned earlier despite of achievements, many speed breakers and hindrances persist that resist women's employment and empowerment in a holistic manner dictated by patriarchal culture<sup>21</sup>.

<sup>15</sup> Ibid,78

<sup>16</sup> Hanna Papnek, *Separate Worlds: Studies of Purdah in South Asia* (New York: Humanities Press, 1982), 517-8

<sup>17</sup> Fariha Razak Haroon, *Women Trafficking and Prostitution in Pakistan & Afghanistan* (Lahore: DUA Publishers, 2002), 5

<sup>18</sup> [www.socialistalternative.org/news/article16](http://www.socialistalternative.org/news/article16)

<sup>19</sup> See Social Policy, "Development Centre (SPDC) Social Development in Pakistan: Annual Review", 2007-2008.

<sup>20</sup> See Mahboob ul Haq Development Report 2016 Empowering Women in South Asia, Published by LUMS, Lahore

<sup>21</sup> Muhammad Khan & Saima Akhtar, "Understanding Employment Situation of Women: A District Level Analysis", *International Journal of Gender and Women's Studies*, vol.2(2014),168-9

Legislation for women's rights is outdated and mainly influenced by colonial legacy as portrayed, "In Pakistan, legislation for women's economic, social and political empowerment has been influenced by its colonial past, civil society movements and international human rights standard".<sup>22</sup> That is why old laws were unable to give satisfactory results so government was forced by women activists to launch new rules and regulation that would be commensurable with modern social requirements. In resultant over past 15 years highest numbers of laws are witnessed by Pakistan being passed or amended for feminine. Below there are examples of important laws and conventions:

- 1) Maternity Protection Convention 2000
- 2) National Policy for Development and Empowerment of Women 2002
- 3) Gender Reform Action Plan (GRAP)
- 4) Protection of Women Act 2006
- 5) Criminal Law (Amendment) Act, 2010
- 6) Punjab Industrial Relation Act 2010
- 7) KKP Industrial Relation Act 2010
- 8) Protection against Sexual Harassment of Women at Workplace Act 2010
- 9) Baluchistan Industrial Relation Act 2010
- 10) Criminal Law (Amendment) Act, 2011
- 11) Prevention of Anti-Women Practices Act, 2011
- 12) The Industrial Relation Act 2012
- 13) Sind Industrial Relation Act 2013
- 14) The Factories Act 2012-13
- 15) Punjab Fair Representation of Women Act 2014

#### **Conventions**

- 16) The Convention on the Elimination of Discrimination against Women (CEDAW)
- 17) Convention on Political Rights to Women (CPRW)
- 18) Forward Looking Strategies for the Advancement of Women (FLSAW)
- 19) Convention of All Forms of Discrimination against Women (CEDAW)

The most important thing that determines the margin of success of implementation of laws is strict accountability mechanism, punishment over violation and legislation enforcement otherwise police and judicial system will fail to address the concerns. Same kind of situation is in Pakistan, despite of presence of these laws patriarchal and feudalistic paraphernalia is working as a parallel force to suppress women especially in rural areas where inefficient judiciary and delayed justice is manipulated by these notorious forces to exploit women. As an example we can imagine where problem lies, "Between 2009 and 2014, out of the 14,580 registered cases of rape, only 6.5 per cent led to convictions"<sup>23</sup>.

#### **Impacts and Achievements**

To get better understanding of impacts of these conventions and policies practically we have to take the results of surveys of 2000-1 on women employments and compare them with the surveys conducted recently. The intention behind selection of surveys of 2000 or 2001 is that those surveys were, you can say, conducted before the commencement of aforementioned laws and pluck of recent will show the improvement or retrogression. Whatever results would be, it will clear the picture. The unemployment rate in 2001 was 6.2 percent for male but for women figure was around 16.4 percent but in 2012-13 decline was experienced in unemployment rate that was 7 percent so it means women' unemployment rate was just 9.1 percent after 11 years; that is positive point<sup>24</sup>. In opposition employment rate is increasing persistently from 2000 to 2017; in 2000 labor force participation rate was round about 16.053 per cent which faced tremendous increase in seventeen years and touched 25 percent in 2017<sup>25</sup>.

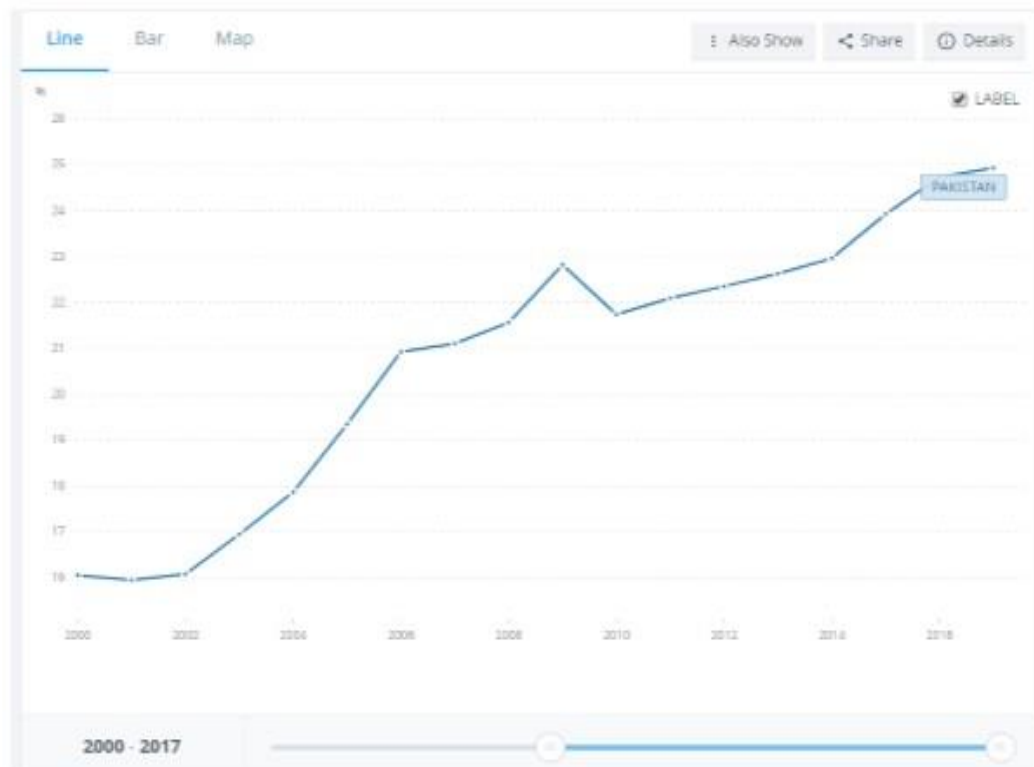
<sup>22</sup> Nancy Cook, *Gender, Identity, and Imperialism :Women Development Workers in Pakistan* (New York: Palgrave Macmillan, 2007), 42

<sup>23</sup> Madhiha Salik & Zhu Zhiyan, "Gender Discrimination and Inequalities in Higher Education: A Case Study of Rural Areas of Pakistan", *Academic Research International*, Vol.5(2014), 270

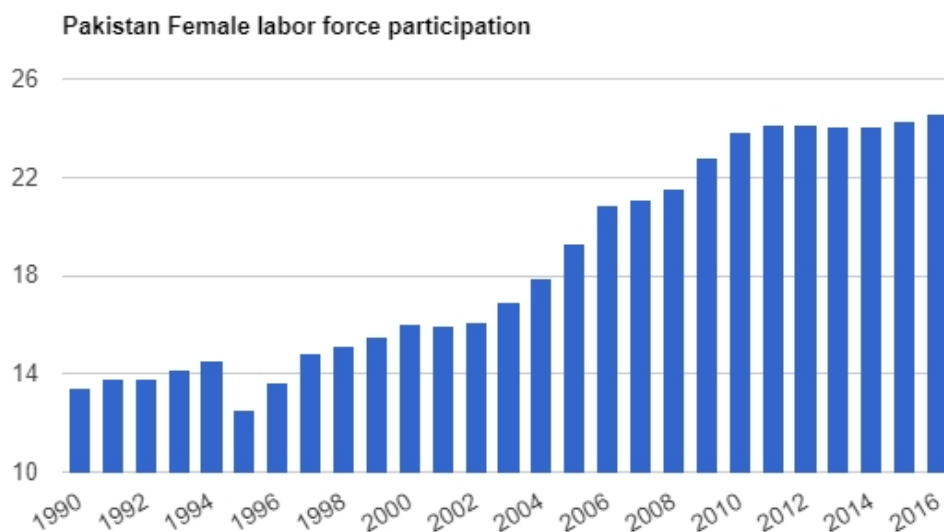
<sup>24</sup> Shazia Mirza, "Women' Employment", *Web Desk in Economic Empowerment*, August 18, 2014.

<sup>25</sup> <https://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS?end=2017&locations=PK&start=2000&view=chart>





**Figure 1: Female Labor Force Participation, Source: ILOSTAT database. Data retrieved in March 2017.**

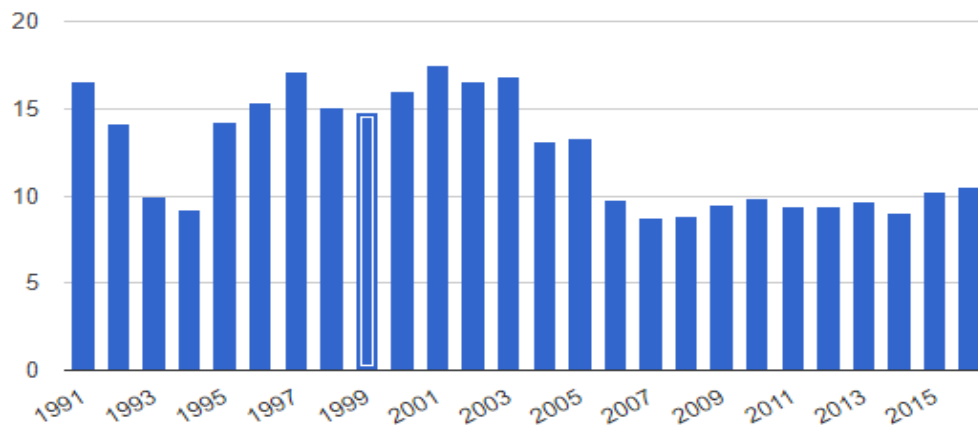


**Figure 1: Source, World Bank and theglobeconomy.com**

In agriculture sector, unexpected growth appeared in these years. In 2001, women were 44.1 percent of total 34.7 percent employed labor force but it tremendously increased and reached to 63.1 percent of total 37.6 percent<sup>26</sup>. The reason behind is that Pakistan's economy is not industrial based economy but agricultural one. So agricultural sector provides employment to more than 45 per cent of total population and rural population is 65 per cent of total. So this agrarian society generates opportunities for labor force. Agriculture is the backbone of national economy and exports as well. So women provide pivotal support for this backbone and take part with men in related activities like seeding, irrigation, weeding plants, cleaning, drying and binding of crops. That is why this is preferred by 93 per cent of rural women, although it is informal sector which neglect medication, education and maternity bonuses.

<sup>26</sup> <http://www.pakistangendernews.org/womens-employment/>

This also emphasizes that women labor force betrothed in agriculture which has low wages but in response demands hard work as compare to industrial activity. Previously in 2001-2, female labor force participation was about 16.2 per cent that crossed 24 percent after 2013 but male labor force participation experienced eclipse ironically. Share hours of women labor force increased from 26 percent to 38.2 percent in employment<sup>27</sup>. Overall unemployment rate has decreased from 6.24 per cent (2013) to 6 per cent in 2015<sup>28</sup>(below chart). The positive sign is that women unemployment rate has further decreased from 9.1 per cent to 8 per cent from 2013 to 2015. So this is very encouraging aspect of women participation in economic development<sup>29</sup>. Government has prophesized that till end of this year women unemployment rate will decrease to 5.7 percent.



*Figure 2 Female Unemployment rate, Source: theglobaleconomy.com*

This shows that economic activities for women have increased gradually while male labor force participation decreased respectively according to latest surveys and data collection by World Bank and International Labor Organization.

## CONCLUSION

It will take still long way to reduce gender discrimination completely and to achieve parity for both sexes in Pakistan, without it, Pakistan cannot be the developed, if half of its population is evicted of gender blindness and economic disparity. Although, recent legal efforts accelerate economic growth, endow cooperative conditions for women employment and empowerment but not comprehensively. There is dire need the implementation of these reforms in more practical manners especially in rural areas where still feudal and religious demagogues hold power and misuse government' paraphernalia to suppress voices those rise against gender segregation and block opportunities of education, employment and civil rights. It is clear that results of surveys stress that status of women in Pakistan is going to change although gradually. Situation is far better than it was in 21<sup>th</sup> century.

Now women are being socialized regarding their rights. Women are joining hands to resist this onslaught. They have continued to reclaim their rights, their knowledge and skills. There is a growing movement of rural women involved in asserting their rights as farmers and agricultural workers work to spread and mainstream ecological agriculture and to mobilize against violence, against globalization and corporate agriculture. Unemployment rate of women is constantly decreasing due to initiation of these reforms. Fruitful consequences will help to terminate discrimination and disparity for female. Serious efforts have been made to empower women inside and outside the home. More women are inducting in education system and are opting profession according to their own choices. If efforts continue in these manners, the importance of women will be realized into mainstream workforce. The main hurdles are patriarchal social norms which prevent women to get education, to go outside the home, to work independently, to make free decisions and more important to stand women equal to the man. Without giving counter narrative to these stereotyped and conservative patriarchal thoughts, transition is improbable.

Success of Promotion of greater empowerment for women in the future lies in ability to garner political determination and commitment to resolve women related issues. Policy makers need to bring advancement to take advantage of existing institutions to support empowerment of women. Greater accountability mechanism and

<sup>27</sup> [http://www.pbs.gov.pk/Pakistan\\_Employment\\_Trends\\_2013](http://www.pbs.gov.pk/Pakistan_Employment_Trends_2013)

<sup>28</sup> [http://www.finance.gov.pk/survey/chapters\\_15/12\\_Population.pdf](http://www.finance.gov.pk/survey/chapters_15/12_Population.pdf).

<sup>29</sup> <http://www.pbs.gov.pk/content/labour-force-survey-2014-15-annual-report>

provisions those protect women' right should be exercised effectively and indiscriminately. If Pakistan decides to take effective measures for removal of the discrimination against women in the field of employment and most other fields of life, there is certainly a way forward. The government needs to review its policies pertaining to these issues. At the same time, it should introduce more effective laws. Implementation of these laws will be a key to success. Without the creation of opportunities for women in mainstream occupations, Pakistan's dream of joining the club of developed countries will remain only a dream because it is very difficult to raise the norms of society without the contribution of women.