



women's action forum **نہایتیں محاذ عمل**

WOMEN'S RIGHTS AS HUMAN RIGHTS

Women's Action Forum Pakistan

Position on

The Universal Declaration of Human Rights

For

The World Human Rights Conference

Vienna, June 1993

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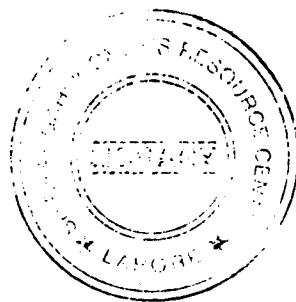
Introduction to Women's Action Forum, Pakistan

Women's Action Forum (WAF) or Khawateen Mahaz-e-Amal is a consciousness-raising organization aimed at enabling women to fight for their rights. Women's Action Forum is committed to a just and peaceful society based on democracy and to the separation of religion from the state and from politics. It is also a lobby-cum-pressure group committed to protecting and promoting the rights of women by countering all forms of oppression. It is non-hierarchical, non-governmental and not affiliated to any political party. Women's Action Forum does not accept funding from government, non-government or any international agency. It seeks to bring together individuals and organizations on a common platform for women's rights.

Women's Action Forum was formed in 1981 when the retrogressive Islamisation policies of the then military dictator General Zia-ul-Haq were beginning to have an impact on Pakistani women. Initially Women's Action Forum functioned as an umbrella organization encompassing a range of women's organizations, groups and individuals. Subsequently it developed into an autonomous organization which works closely with women's rights and human rights activists.

Women's Action Forum has had considerable success in placing women on the national agenda in Pakistan, affecting government development policies and plans as well as the pronouncements and manifestos of political parties and leaders. The issues picked up by Women's Action Forum have included challenging discriminatory legislation against women, the invisibility of women in government plans and policies, the exclusion of women from media, sports and cultural activities, dress codes for women, violence against women and the seclusion of women.

Women's Action Forum activism has led to the birth of many women's rights groups and resource centres thereby increasing its outreach. Women's Action Forum considers all issues as 'women's issues' and has taken positions on national and global developments. It allies itself with democratic and progressive forces in the country as well as linking its struggle with that of minorities and other oppressed peoples.



WOMEN'S ACTION FORUM's Position on Women's Rights as Human Rights

Conceptualised against the background of post-war Europe the Universal Declaration of Human Rights 1948 defined a universal standard of human rights. However, written within the conceptual parameters of a patriarchal world view, human rights are defined in terms of a false dichotomy between the public and the private spheres. The relationship of the state with the individual's civil and political rights defines the public sphere. The male dominated family defines the private sphere. Not surprisingly, the result is serious gaps and omissions in the Universal Declaration of Human Rights.

Through the use of language in which the male is presented as the norm and the feminine is subsumed within its categories, women's rights have been allowed to subsist only in the margins of human rights discourse. Further, the definition of human rights as lying within the narrow parameters of the state versus the civil and political liberties of the individual, have placed the private sphere, and subsequently the violation of women's rights, outside the arena of human rights.

Given this context, all human rights documents particularly the Universal Declaration of Human Rights (UDHR) and the International Convention on Civil and Political Rights, (ICCPR) need to be interpreted in the light of the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW). Further the language must be changed to reflect the realities of women and the violations of their human rights.

Global and national economic structures and systems cannot be seen in isolation from human rights, especially in the South where women provide the cheapest labour for markets in the North. The advent of the New World Order, with its monolithic world view, threatens to further subjugate the South, both economically and culturally, by strengthening its control over the intellectual and technological resources of the world.

As women we claim the rights that are denied us under patriarchy. Our rights are inseparable and indistinguishable from the rights of men. We have the same rights to education, health and decision-making within society. Patriarchy and its structures - social, economic and discursive - are the root cause of the marginalisation and subordination of women. Therefore it should be prohibited and radical changes be initiated within its attendant philosophies and structures. This is especially true of discriminatory language use, which is in itself a violation of women's rights.

We refuse to accept the dichotomy between the public and the private spheres of life, where only the public is accepted as the area where 'legitimate' human rights violations occur, and where the only violations acknowledged are those committed by the state against the individual. For where the right to privacy is a basic human right of all individuals, which neither the state nor any group or individual may violate, the individual's right to life and security is a prior right to privacy, and the state must take responsibility for individual acts that violate human rights, whether in the public or in the private sphere. The refusal to recognise domestic violence, incest, rape, prostitution and trafficking in women as human rights violations is a direct outcome of this false dichotomy.

All individuals, indigenous peoples and minorities have a right to their cultures. However, the rights to life, security of person, health and education are prior to that of culture, religion and ethnic identity, and in instances of conflict between the two, the universality of human rights will take precedence over cultural and other forms of diversity. Further, in instances of conflict between the customary laws of a group or people versus the state, the position which most closely reflects the spirit of the Universal Declaration of Human Rights should prevail.

Areas of Concern

Questions were raised regarding the violation of women's human rights by or with the connivance of the state. While it was agreed that the rights to safety and life precedes the right of states to monopolise what is deemed as legitimate violence, the problem remains of whether and under what circumstances would the authority or intervention of a supra-state entity be acceptable. This led to further debate on the question of state sovereignty itself. Given today's context where the thrust is towards regional groupings (e.g. South Asian Association of Regional Cooperation, European Community), the traditional concept of the nation state itself is undergoing significant changes. Furthermore since women's human rights violations take place across national borders, this was not an easy issue to resolve.

While it was agreed that we should not glorify the state, the arbitrary interference of another state or group of states in the internal matters of a given country is also open to question. Therefore it was decided that these issues needed further discussion and that we should work with other Asian NGOs in the field. It was also agreed that the enforcement and investigative mechanisms should be strengthened for the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW). However, the exact terms and conditions for such institutions need to be worked out.

The issue of what constitutes good governance was discussed. The concept of democracy needs to be expanded to include not merely 'political' democracy (elections, voting, representation) but also economic, cultural and social democracy which would entail participation in decision making at the community, national and international levels. In this context the right of all women to participate fully in decision-making at the level of basic social units and at the national level, along with their right to full and direct control over their reproductivity was discussed. The essential question is one of the extent of the decision making powers vested in the people, and not one of decentralisation. It is a basic human right of people to govern themselves. Alternatives to existing structures need to be explored.

It is in the light of this perspective that the Women's Action Forum is recommending changes in the Universal Declaration of Human Rights, at the World Human Rights Conference to be held in Vienna, June 1993.

Changes Proposed by Women's Action Forum in the Universal Declaration of Human Rights

NOTE: Proposed changes are in bold print in the text below.
Explanations of the proposed changes have been italicised.

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of humankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.

Whereas it is essential, if a person is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.

Whereas it is essential to promote the development of friendly relations between nations.

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of women and men and have determined to promote social progress and better standards of life in larger freedom.

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms.

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge.

Now, therefore, the General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of humanity.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and the security of person, and protection by society and the state.

Article 4

1. No one shall be held in slavery or servitude; slavery, **patriarchy and the slave trade** shall be prohibited in all their forms.
2. No one shall be subjected to trafficking or to exploitation through prostitution.

Article 5

1. No one shall be subjected to **any form of torture, either physical or mental.**
2. No one shall be subjected to any form of violence either in the private or public sphere by the state, groups or individuals.
3. No one shall be subjected to any form of sexual violence, especially rape, in the private or public sphere.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

To be understood and interpreted in the light of CEDAW Article 15.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to the individual person by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

All persons are entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of their rights and obligations and of any criminal charge against them.

Article 11

1. All persons charged with a penal offence have the right to be presumed innocent until proved guilty according to law in a public trial at which they have had all the guarantees necessary for their defence.
2. No person shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national law formulated in the spirit of the Declaration or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

Everyone has the right to the protection of the law against arbitrary interference or attacks against their individual privacy.

Honour and privacy are two concepts that are largely responsible for violations of women's human rights in both the private and public sphere. The original clause also clashed with Article 3 of the UDHR.

Article 13

1. All persons have the right to freedom of movement and residence within the borders of each state.
2. All persons have the right to leave any country, including their own, and to return to their country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution and gender violence.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of **her/his** nationality nor denied the right to change **her/his** nationality.

To be understood and interpreted in the light of CEDAW article 9.

Article 16

1. All persons of full age, without any limitation due to race, nationality, **sexual difference/orientation** or religion, have the right to found a family.
2. Marriage shall be entered into only with the free and full consent of the intending spouses. They **shall be** entitled to equal rights as to marriage, during marriage and at its dissolution.
3. The family is one of the fundamental group units of society and **all forms of the family are** entitled to protection by society and the state.

The replacement of the terms men and women with "individuals" is in recognition of those who are in neither category and are doubly discriminated against.

The reason for removing sentence 2 from 16.1 is to not make marriage a necessity for recognition of a family, since the notion of what constitutes a family differs from people to people.

Article 17

1. Everyone has the right to own **personal** property alone as well as in association with others.
2. No one shall be arbitrarily deprived of **her/his personal** property.

The term 'personal' has been added to clarify that reference is to personal property and that a people can decide to hold property in communal trust and further decide that property can be held by the state.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change **one's** religion or belief, and freedom, either alone or in community with others and in public or private, to manifest **one's** religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. All persons have the right to take part in the government of their country, directly or through freely chosen representatives.
2. All persons have the right of equal access to public service in their country.
3. The will of the people shall be the basis of the authority of government; this will be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedure.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for her/his dignity and the free development of her/his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment and sexual harassment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. All persons who work have the right to just and favourable remuneration ensuring for themselves and their family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. All persons have the right to form and to join trade unions for the protection of their interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. All individuals have the right to a standard of living adequate for the health and well-being of themselves and of their families, including food, clothing, housing, medical care and parental leave and benefits and necessary social services, and the right to security in the event of unemployment, sickness, disability, death

- of spouse, old age or other lack of livelihood in circumstances beyond the individual's control.
2. **Mothers and children** are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

The terms "Mothers and children" have replaced the original terms "motherhood and childhood" because it is the individuals rather than the institutions that should be protected.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental states. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, **gender sensitivity** and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. **Parents and guardians** shall be free to choose the kind of education that shall be given to their children.
4. Education shall not be used to serve the interests of any particular religion or ideology.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. All individuals will have free and equal access to all forms of intellectual knowledge.
3. All human and other species have the right to freedom from exploitation in the interest of scientific research.

The reason for completely changing 27.2 is because of moves by the North to further appropriate all forms of knowledge, ideas (scientific and technical) through copyright laws and patents.

27.3 is a new clause with reference to the Helsinki Declaration: Protection of Human Subjects Against Biochemical Research 1964, - extended in scope in 1991.

Article 28

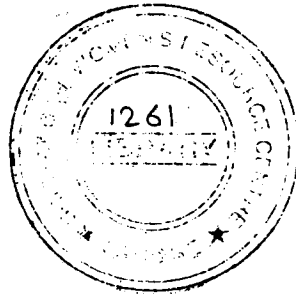
Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of an individual's personality is possible.
2. In the exercise of an individual's rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of ethics, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any state, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.



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