Restricted legal status of women:
An inconvenience for Christian women or vulnerability for the church?

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The intersection of discrimination against women with religious persecution creates an effective, and sometimes legally sanctioned, means of indirectly attacking minority religions, even where religious freedom exists under law. International bodies such as the UN have cautioned that “laws and public policies developed to protect culture and religion that threaten the universally established standards on the rights of women” increase the vulnerability of women who do not conform to the mainstream to “discrimination, violence and criminalization” (Human Rights Council, 2015, 7).

Scarce concrete evidence exists of the intentional use of gender-restrictive laws to target Christians for persecution: most verifiable records of discrimination or violence against women do not disaggregate along religious lines. Where there is no recourse to justice, establishing intersectionality is usually impossible. Given the lack of statistical information and verifiable reports, plus the understandable silence of women themselves, this paper will focus on how restrictive legal frameworks can doubly discriminate against Christians, intentionally or not, and the impact this has on the persecuted Church.

Ways in which laws fail women

Laws discriminate in two primary ways: direct and indirect discrimination. Direct discrimination is a clear disadvantaging of one group in relation to another. Indirect discrimination appears to affect everyone equally, but has a disproportionate impact on one group: the 2016 ban on religiously-affiliated or full-body beachwear in parts of France appears to affect everyone, but only actually affects Muslim women. Likewise, Myanmar’s Health Care for Population Control Act (2015), allowing authorities to ‘organise’ birth spacing, applies to all groups, but is deemed likely to target marginalised Muslims and Christians.

Legal frameworks also fail vulnerable groups through inadequate or outright lack of legal provision or protection: having no law against domestic violence, for instance. Where protective laws do exist, state actors may fail to enforce them or show bias in the administration of justice, such as police discouraging women from reporting assault or refusing to take reports (there is anecdotal evidence of this in Pakistan, with Christian families told that complaints will incite inter-communal violence); the differential treatment of women or Christians by judges; or the failure to ensure universal access to the law, which often hits the poor and minorities hardest.

Public/ Private Dichotomy

Public sphere:

Many nations whose laws discriminate against women do so to different degrees in different areas of society. Mayer (1984) writes that women in Middle Eastern societies have sometimes had public rights pre-dating those of women in the West, such as the right to stand for office, but their private sphere rights are more restrictive (note public figures such as Benazir Bhutto and Sheikh Hasina Wajed). Despite this, limitations to public sphere rights clearly exist.

Consider the impact on the Church: where women cannot vote or participate in the drafting or interpretation of law, the Church loses 50 percent of its potential voice in civil society. UNICEF (2011) lists 14 Middle East and North African countries where a woman’s testimony in certain court cases is worth half that of a man. Blasphemy laws therefore create an easy way to attack the Church: Christian women have little defence against a male accuser. While most accusations of blasphemy in Pakistan, for instance, are levelled at Sunnis, there are a disproportionately high number aimed at minorities. The National Commission on Justice and Peace records instances of Christian women converting to Islam to escape punishment for ‘blasphemy’ (Ahlstrand and Gunner, 2015, 110-114).
In Iran, the age of criminal responsibility is 15 for boys but 9 for girls. Article 102 of the Penal Code states that, “For the purpose of stoning, the man shall be buried into a pit up to his waist and the woman up to her breast”, reducing any chance of escape.

Restrictions on women’s employment causes impoverished Christian families to lose vital income. Richards and Haglund (2015) correlate women’s increased economic empowerment with government enforcement of laws condemning violence against women. Other evidence (including UNICEF, 2004) shows that the rate of maternal and infant mortality rises when women are denied education.

Even when discrimination affects all women, the effect is greater on pressurised groups: Christian Solidarity Worldwide (n.d.) reports lower levels of education amongst Christian and Hindu Pakistani women than amongst the general population, for instance.

**Private sphere:**

Women in these societies face more severe restrictions in the private sphere. These spring from beliefs about gender roles, lack of agency, women’s honour affecting the entire family, the dangers of female sexuality and the perception of women as the property of male family members. Quraishi (1997, 298-299) writes, “This attitude lends itself easily to manipulation and the development of a tribal attitude where women’s bodies become tools for revenge by men against men”. Countries such as Afghanistan give women equal rights under their constitution, but devolve private sphere law to parallel justice systems including tribal and Sharia courts.

Saudi Arabia and Iran are amongst those which place restrictions on everyday life in the name of protecting women. These strictures are not overtly violent, but subjection to daily indignities severely impairs both ability to participate in society and quality of life. The requirement of a male chaperone, for instance, reduces the freedom to leave an abusive situation or be admitted to hospital without a husband’s permission. As a minority group, Christian women can thus become more isolated and less visible to the general population, entrenching their ‘otherness’.

Indirect discrimination is apparent when countries make no provision for differential healthcare for men and women, or under-prioritise services only women use, ignoring women’s reproductive health needs. Substantive equality does sometimes require the law to acknowledge difference.

The ways in which domestic life legally discriminates against women read like a catalogue of oppression across a range of countries:

- Lower age of marriage for girls than boys.
- Dowry entitlement.
- Right to manage property.
- Children’s citizenship can only be inherited from the father.
- The husband is the legal head of the household and his wife must obey him.
- Male polygamy and temporary marriage.
- Prescribed number of children, and/or the spacing between them.
- Gender-differential ability to divorce and grounds for divorce.
- Post-divorce child custody and property settlement.
- Succession and inheritance inequality.
- Barriers to employment, e.g. requirement for spousal consent and lack of maternity policy.
- Entitlement to state benefits.
- Inter-faith marriage discrimination.
- Status of widows.

In addition, the most obviously dangerous examples of laws or lack of protection include the non-criminalisation of domestic violence and marital rape, and reduced legal liability for honour-based violence, including homicide, especially if the victim’s family forgives the perpetrator(s). As most honour killings are committed by family members, this effectively guarantees impunity. For the female Christian convert in a family of non-believers, this can make practising her faith unbearable, even deadly. Around 45-50 countries globally have no laws against spousal abuse. Only 52 countries have laws against marital rape (UN Women, 2011).

Laws criminalising extra-marital sex often appear gender-neutral, but women’s subordinate position in most cultures means that they are far more vulnerable to violation, accusation and harsh sentencing for this crime, particularly where the legal line is blurred between consensual and coerced sex.
between consensual and coerced sex. A comparison of the numbers and sentencing of women and men imprisoned and/or executed for adultery, fornication and prostitution show vast disparity.

Violence against women can thus be perpetrated with impunity: if she cannot prove rape, such as by providing witnesses, she may be prosecuted for extra-marital sex. At least nine countries exonerate a rapist if he marries his victim. Marriage often confers less shame on the victim’s family, providing incentive to allow it. Christian families, whose daughter is now less likely to find a Christian husband, may come under additional community pressure to agree. These types of laws show the extent to which justice for women is attached to their community, rather than an unbiased legal system.

Even without prosecution, the stigma of accusation or of surviving rape often leads to lifelong ostracism, including from the Christian community, adding to existing trauma. Women are effectively ‘taken’ from the community. When the Church engages in a prevailing culture of gender disparity, violence and shame, it self-sabotages and does the work of its persecutors itself.

Conclusion

Discriminatory laws fundamentally undermine whole nations and the Church within them: a woman who is not free from violence, not free to move around, not free to be educated or to earn, is a woman who is less able to be a contributing member of her family or society. These laws, or lack thereof, speak of the value of women’s lives.

Legal systems which enshrine gender inequality generally enshrine other inequalities, such as religious freedom: treating men and women as equals is foundational to treating all groups justly. The intersection of gender and religious persecution creates a double discrimination, even before gender is used as indirect persecution. It is in the interest of the Church to fight discrimination against all women, not only for the benefit of Christian women and the strengthening of the Church, but also because restrictive and inadequate laws condone violence against women and damage whole societies. These laws are not merely an inconvenience: they are lethal.

References


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