
Women's Rights in Pakistan

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Two momentous events occurred in Pakistan in 1979 that continue to have implications for women's rights: the promulgation of Zia ul-Haq's Islamization program (including the Hudood Ordinance)¹ and the creation of the Women's Division (precursor to the Ministry for Women's Development) in response to international pressure during the United Nations Decade for Women (1975-85). These two actions provoked contradictory political enterprises, namely those which demand that the state incorporate more laws and institutions derived from or at least associated with Islam, and those which demand the rights of women along the lines of those advocated within the global community.

The Islamist coalition, the Muttahida Majlis-e Amal (MMA) came to head the opposition at the federal level and formed a government in the Northwest Frontier Province (NWFP) after the October 2003 elections and Pakistan witnessed the rise of extremist, militant Islamist groups in the areas bordering Afghanistan. Since that time, the debates over the roles and rights of women and the role Islam (and which interpretation of Islam) should play in society has intensified. Most, albeit not all, members of these Islamist groups embrace views about women that they understand to be derived from Islam, and which place women in a subservient, perhaps even subjugated role. The other side of the debate comprises myriad voices — the state, civil society groups, women, external donor agencies — all of whom profess to promote the empowerment of women, eliminate discrimination, and enhance women's access to opportunities. Within each constituency, there are deep divides as well.

Though 97% of its population is Muslim, Pakistan is still searching for an appropriate role for Islam in civic and political life. To many, being a Muslim is intrinsically tied to local cultural practices which they regard as inextricably intertwined with faith. There is a great deal of confusion over where the lines should be drawn between what is Islamic, what is codified tradition, and how (if at all) to delineate their separate jurisdictions. Consensus remains particularly elusive in identifying what constitutes women's rights. In spite of this scenario, there have been some noteworthy developments in the advancement of women's rights over the past decade, including the restoration of reserved parliamentary seats for women, reform of the Hudood Ordinance which resulted in the

1. The Hudood Ordinance, enacted in 1979 as part of General Zia ul-Haq's Islamization program, was aimed at imposing *Shari'a* law by implementing punishments mentioned in the Qur'an and *sunna* for *zina* (extramarital sex), *qazf* (false accusation of *zina*), the consumption of alcohol, and theft.



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Protection of Women Act 2006 and other legislation under consideration now by Parliament, and acceptance of Pakistan's CEDAW Report by the United Nations in May 2007.²

Nevertheless, achieving a Pakistani consensus on defining women's rights remains elusive, as exemplified by the struggle to ensure the right of female education. Those who promote female education argue that it is indispensable to advancing women's rights in their entirety. Yet, to accomplish this, there must be an adequate number of schools where girls are taught useful skills and all students are taught about women's rights. Indeed, there is no consensus that substantive female education in schools that teach more than *Islamiyat* is valuable for Pakistan's future as well as for the future of the individual girls. This consensus is lacking not only in Swat and elsewhere in northwestern Pakistan, where some militant Islamist extremists have decreed all girls schools should be shuttered, but also in many homes throughout the country, especially in rural areas. It is therefore not surprising that less than half of all women in Pakistan over age ten are literate; these numbers are appreciably lower in the western parts of the country. Fewer than 6% of all children who enroll in primary education make it to secondary school (ninth grade).³

The challenge of ensuring only one specific right — female education — displays the need for a consensus that women in Pakistan have a right, to paraphrase Fatima Mernissi, to design a future for themselves instead of just growing old.⁴ Sometimes this may mean that ensuring rights we presume Pakistani women are accorded because they are consistent with Islamic *Shari'a* — such as retaining inherited land or divorcing abusive husbands — are actually enjoyed, or that new rights need to be enshrined to rectify abuses which have existed in traditional society, such as outlawing *swara*, *karo-kari*⁵ and other practices which cause women to bear the consequences for wrongs committed by others.

Pakistan reached a crossroads in November 2006 when two of the most controversial parts of the Hudood Ordinance were reformed, which placed the crimes of rape and adultery back into the Penal Code. This was the culmination of women's rights activism that had begun shortly after Zia's promulgation of the Islamization program in 1979. The reform was finally set in motion when Pakistan became a States Party to the United Nations CEDAW Convention in 1996 and, as such, pledged to the global community that it would review existing laws and social institutions to eliminate discrimination against women. Little was done in this regard until Pervez Musharraf's government revived the issue of women's empowerment early in

2. CEDAW is the United Nations' Convention on the Elimination of Discrimination Against Women, to which Pakistan became a States Party in 1996.

3. Government of Pakistan, Ministry of Education, Table 5, "Pakistan Education Statistics 2005-06."

4. Fatima Mernissi, *The Veil and the Male Elite: a Feminist Interpretation of Women's Rights in Islam*, trans., Mary Jo Lakeland (Reading, MA: Addison-Wesley Publishing Co., 1991).

5. *Swara* is a custom in tribal areas of Afghanistan and Pakistan whereby a young girl is forcibly married to a member of a different clan to resolve a feud. *Karo-kari* is a custom whereby an individual can kill another, claiming that he/she has brought dishonor to the family.

this decade as a key component of its policies to promote Pakistan's progress. It established distinct quotas to promote women's greater participation in public arenas of society: 5% for women in government service (now 10%), 17% for women in the national and provincial parliaments, and 33% for women in most tiers of local government. It formalized the National Commission on the Status of Women, sought national consensus on a National Policy on Women, and set in motion a series of reforms to promote women's rights consistent with globalized norms articulated in the CEDAW Convention. Parliament is now considering a national domestic violence act that will afford protection against physical, emotional, sexual, verbal, and economic abuse not only to women but also to children and other vulnerable persons. A second bill under consideration, concerning sexual harassment, proposes amendments to expand the ambit of the Pakistan Penal Code to cover manifestations of harassment at the workplace.

However, these legal reforms are clearly counter to what the majority of Islamist political groups argue is necessary to secure women's rights. Many would argue that studying the Qur'an and the *sunna* and following the dictates of Islam more closely is valuable for women, and that anything more may expose

them to ideas that are *shirk* (unacceptable beliefs) and be disruptive for households and the wider community. In interviews I conducted in 2008 in Islamabad at the al-Huda Centre, which provides female education to women consistent with ideas that political Islamist groups would support, its staff were quite clear about their views on protecting women's rights, which include the right to love as a daughter and a wife, the right of inheritance, and the right to learn (to gain knowledge), which, as laid out in the *hadith*, is the obligation of every Muslim. Hence, these various groups emphasize the reinforcing of traditional norms of propriety and female subservience over debating women's other rights.

These debates draw the Pakistan state further into the discourse of defining women's rights through the institutional structures it promotes. An example is seen in its consideration of the role of the *wali*, or guardian. The Criminal Law Amendment Act (1997) lays out the method for distribution of *qisas* and *diyat* (blood money) in the event of a murder. While the *wali* is defined in gender-neutral terms, in both language and practice the *wali* is always a male. For the state to contend that the *wali* need not be a man would be to invalidate longstanding local patriarchal interpretations of men's responsibilities and would likely result in further opposition to the writ of the state.

What is happening in Swat and other Taliban-controlled areas not only threatens to undermine state policies concerned with eliminating discrimination against women as well as the small gains made thus far in empowering women, but is serving to polarize the country. The Tehrik-e Taliban Pakistan⁶ are exerting pressure on the Government of Pakistan to compromise on women's rights in return for political accommodations. In these circumstances, there are few people who are able to champion the cause of women's rights and pressure the federal government not to capitulate to Taliban demands; even the position of head of the Ministry for Women's Development is currently vacant.

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6. I am using this term to include the whole gamut of Islamist political groups which have taken up arms against the Government of Pakistan in FATA and NWFP in recent years.

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To the Government of Pakistan's credit, it has finally decided to act against those who seek to impose an extremist view of Islam's vision of women's rights in the country. Hopefully, the military action will create an environment in which the advocates of the two contradictory political enterprises — those prioritizing global rights for women and those advocating a closer adherence to Islamic precepts — can reach an accommodation. As Pakistan's Planning Commission concludes in a recent report, "without the empowerment and emancipation of women, the country will not achieve its Vision for 2030." The realization of that vision — of a healthy, prosperous, and viable future for the country as a whole — rests in no small part on forging a national consensus on what constitutes the rights of women.