

# Status of Women's Rights in Pakistan: A Historical Perspective and Legal Framework

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## **Abstract**

*Though Pakistan was founded on the promise of providing human rights to all individuals without discrimination, the reality is quite different. It's disheartening to see that, in actuality, women do not have the human rights that are guaranteed to them. They have black-and-white options open to them. Even though there are laws in the country that are favorable to women, the bulk of legislation is only the newspapers and a culture where men's rule is prohibited. Its implementation has piqued my interest. Men try to pervert legal provisions and Qura'anic principles to their advantage, rather than following them in letter and spirit. This study discusses the legal framework for the benefit of women in documents, The present state of women in our country, and some recommendations for human rights implementation. We can only become a powerful and progressive nation once the weak segments of society are empowered.*

**Keywords:** Legal Framework, Human Rights, CEDAW, Hudood Ordinance, Gender Inequality

## **Introduction**

Pakistani society is similar to those closed-minded and male-dominated governments that rarely allow women to advance and become self-sufficient. As a result of these tendencies, a civilization emerges that places woman in a demeaning position in practice; Pakistan is a prime example of such a country.

Pakistan is the first Islamic country to have a female Prime Minister, Ms. Benazir Bhutto. Similarly, we have great politicians such as Shireen Mazari, Bushra Gohar, Sherry Rehman, Marvi Memon, Kashmala Tariq, and others. Still, we also have victims such as Malala Yusafzai, Kainat Soomro, Mukhtaran Mai, and Tehmina Durrani. These women are not members of any precise group or place but rather victims of man's terrible deeds, primarily for societal and biased causes. According to the World Economic Forum's 2012 study, Pakistan ranks 134th out of 145 countries, with 145th ranking among the world's most dangerous locations. According to the United Nations Development Program's 2012 Gender Inequality Index (GII), Pakistan ranks 123 out of 148 nations. Lack of education is one of the reasons why women suffer from deficit and violence. Due to a lack of education, people have made minimal contributions to financial, political, and communal activities. Women are unable to obtain their due rights and participate in appropriate programs. Because of this, women have become economically dependent on male members of society. The meager learning resources accessible to this underserved part of society fall short of quality. Aside from inadequate educational infrastructure, the collective behavior of the community and societal beliefs are often hostile to female education. A low level of living has also contributed to none or few admissions and much above-average dropout rates among female students.

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This paper attempts to explore various societal motivations, performance, and interaction. The report thus begins with the legal status of women and proceeds to analyze whether women enjoy all of these fundamental rights. The study also focuses on social, political, and legal aspects and terrorism's impact on women in society.

### **Historical Perspectives Pre-Independence-Era**

The struggle for women's rights legislation has a lengthy history that predates division. Women battled for their rights individually and collectively in the face of a massive onslaught from religious, cultural, and traditional patriarchies. The struggle has been difficult because there have been ongoing attempts to revoke, repeal, or otherwise destroy the modest advances won by women in the realm of their rights.

There were few campaigns for women's rights in the nineteenth and early twentieth centuries. Women were active in religious and nationalist activities and the Khilafat and independence campaigns. After independence, their engagement led to realizing their oppressed and subservient status in the social, political, and legal frameworks.

However, some of the first women's fights were against social discrimination and exclusion, particularly in the areas of education, purdah (veiling), and polygamy. For example, in 1921, while speaking at a rally in Lahore, the iconic Bi Amma, the mother of the Khilafat movement's imprisoned leaders, publicly removed her veil, claiming that because the majority of the males in the cause were her sons and brothers, she did not need purdah. It was a daring gesture at the time, but she was shielded by her age, prestige, and respectability as the mother of religious leaders fighting for a cause.

The Educational Reform Movement advocated for women's right to contemporary education. The Begum of Bhopal, Muhammadi Begum, Chand Begum, and the Faizi sisters, particularly Attiya Faizi, were instrumental in these attempts. Over time, a growing number of women began to receive an education.

Sultan Begum of Bengal was the first woman to acquire a master's degree in law in 1922. Women in the upper classes became more educated and voiced their aspirations for political inclusion and rights.

In 1917, a group headed by Begum Hasrat Mohani spoke with Secretary of State Montagu and demanded that women be granted equal suffrage in the approaching Montagu-Chelmsford reforms. The Muslim League and the Indian National Congress supported women's suffrage in 1918. However, when reforms were introduced in 1919, the rulers of India refused, arguing that Indian conditions were unsuitable for women's suffrage and leaving the topic to provinces. Women were granted the right to vote in Madras in 1921, and by 1925, all areas except Orissa and Bihar had given voting rights to propertied men and women.

Jahanara Shahnawaz presented a memorandum demanding rights for all, regardless of religion, caste, creed, or gender, at the First Roundtable Conference in 1930-31. The All-India Muslim League proclaimed its support for women's rights in 1932. Sixty lacs women were granted rights under the Government of India Act of 1935, and for the first time, six of the 150 allocated seats for women were presented in both the Council of State and the Lok Sabha and the Lok Sabha.

Several hundred Muslim women in India participated actively in the anti-colonial nationalist movement, leading processions, organizing rallies, and fighting against the colonial authorities, which, for the first time, used violence against protesting women. In January 1947, sixteen League leaders were arrested, including Salma Tassaduque Hussain, and Section 144 was implemented, which prohibited any public gathering of more than four individuals. The imprisoned ladies were

held at Gora Barracks, when three young burqa-clad females entered the women's criminal wards, scaled the building, and flew the Muslim League flag in February. When the Superintendent Jails arrived, they were beaten up by other convicts before being hauled out of the grounds.

The report of women getting into jails and encountering barricades and batons traveled quickly, and by the end of February, a significant group of women marched to the Secretariat Building. Fatima Sughra, thirteen, scaled the fence, removed the Union Jack, and replaced it with a dupatta resembling the Muslim League flag. Pathan women marched publicly for the first time in 1947, when the Civil Disobedience movement was initiated, and scaled walls to hoist the Muslim League flag.

They were arrested, tear-gassed, and baton-charged. On April 3, 1947, fifteen hundred Pathan women demonstrated openly through picketing. They also established the 'War Council' and established mobile radio stations as well as an underground radio station known as the Pakistan Broadcasting Station, which functioned until August 1947, when Pakistan gained independence.

### **Historical Perspectives Post-Independence Era**

Pakistani women were granted suffrage under the Pakistan (Creation of Pakistan) Ordinance in 1947, and the ability to vote in national elections was reaffirmed in 1956 under the interim Constitution. From 1956 to 1973, Pakistan's Constitution had a provision for the reservation of seats in Parliament for women.

Zulfikar Ali Bhutto's democratic rule (1970-1977) had liberal attitudes regarding women. All government services previously prohibited to women were made available to them. Women were given 10% of the seats in the National Assembly and 5% in the provincial assemblies, with no restrictions on running for general seats.

Gender equality was explicitly guaranteed in Pakistan's 1973 Constitution. According to the Constitution, "there shall be no discrimination based on sex alone." Furthermore, it protects marriage, family, the mother, and the child while supporting the "full participation of women in all spheres of national life."

However, through discriminating legislation against women, Zia-ul-Haq began the process of Islamization. He prohibited women from engaging in or watching sports and advocated purdah. He suspended the fundamental rights provided by the 1973 Constitution, including the right to be free of sex discrimination.

Benazir Bhutto expressed concern about women's social issues, health, and discrimination against women. She outlined various proposals to establish women's police stations, courts, and development banks. She also promised to eliminate the contentious Hudood laws limiting women's rights. On the other hand, Benazir Bhutto did not propose any legislation to promote the social position of Pakistani women throughout her two incomplete periods in government (1988-1990 and 1993-1996). She could not overturn one of Zia-ul-Haq's Islamisation laws, shielded from routine legislative change and judicial review by the Eighth Constitutional Amendment.

The Nawaz Sharif government presented a fifteenth amendment to the Constitution in 1997, which would entirely substitute the existing legal system with a comprehensive Islamic one and overrule the "constitution and any law or judgment of any court." The idea was adopted by the National Assembly (lower house), but women's groups, human rights advocates, and opposing political parties were outraged. They asked that the Hudood legislation be repealed since it is discriminatory towards women and violates their fundamental rights. Women's empowerment is one of the 16 goals specified in the Pakistan 2010 Programme (1997), a significant policy document. Later in the paper, women were left off of the list of 21 primary areas of interest. Similarly, the "Human

Development and Poverty Reduction Strategy" (1999) identifies women as essential for poverty reduction but lacks a gender framework.

The government of Pakistan, led by Nawaz Sharif, believed that the country could only progress if equal opportunities were provided to women, who made up half of society and was taking appropriate steps to increase women's rights to help them catch up with men. Nawaz Sharif, who is also a state party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), led the government to take measures to ensure women's rights as envisioned in the CEDAW, and the government is still implementing numerous reforms to enable women to participate in all walks of life. Nawaz Sharif launched the Prime Minister's Youth Loan to help Pakistan's youth construct a better future for themselves, with half of the funds going to women to encourage them to start their enterprises and provide women equal rights.

### **Legal Framework on the Rights of Women**

Since Pakistan's independence in 1947, various laws have been enacted to provide women with protection and shelter. No distinction was made between men's and women's rights throughout the formulation of Pakistan's Constitution. Thus, the Pakistani Constitution states that there shall be no discrimination based solely on gender, that the governing body will ensure that women are fully involved in all aspects of governance (Constitution of Pakistan, 1973, Art. 34) and that the authorities will safeguard the family (Constitution of Pakistan, 1973, Art. 25).

Greater autonomy was extended to the provinces in 2010 with the 18th amendment to Pakistan's 1973 Constitution to enhance and improve women's issues, among other topics. The fundamental problem affecting practically all organizations in the country is the need for more law enforcement.

The government has enacted the following laws to safeguard women:

- The Dowry and Bridal Gifts Restriction Act of 1976 was passed.
- The Hudood Ordinance was updated by the Protection of Women Act (2006). The crime of rape has been transferred from the Pakistan Penal Code to this Act, which distinguishes rape from sex outside of marriage and eliminates the need for the testimony of four witnesses.
- The West Pakistan Family Courts Act of 1964. · Criminal Law (Amendment) Act, 2010 (on sexual harassment). · Criminal Law (Amendment) Act, 2004
- The Criminal Law Act (Second Amendment, 2011) is called the Acid Control and Crime Prevention Act.
- Protection against Harassment of Women at the Workplace, 2010. · Prevention of Anti-Women Practices (Criminal Law Amendment) Act, 2011.
- Enforcement of Women Ownership Rights Act 2012. · National Commission on the Status of Women Act, 2012. · Domestic Violence (Prevention and Protection), Act 2012. · The Women in Distress and Detention Fund (Amendment) Act, 2011.

In addition to those above, our state has adopted several transnational and local agreements to protect women's rights. Pakistan is also a signatory to the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Beijing Plan of Action, and the International Conference on Population and Development (ICPD). Pakistan ratified CEDAW in 1996, with a reservation on Article 29 of the Declaration, and pledged to eliminate all forms of discrimination against women. Pakistan is therefore expected to stop any gender-based inequalities, omissions, or limits that prejudice or invalidate women's identity, satisfaction, or use based on equal opportunity for both genders, human rights, and essential self-determination."

There is also a contradiction in Pakistan's constitutional structure regarding women's rights. When General Zia ul-Haq took over as President of Pakistan, he made up a portion of the government.

Specific provisions of Pakistan's Constitution have been ratified. Even though Zia ul-Haq's Islamization program stated that the country was committed to ending exploitation and ensuring all fundamental rights are guaranteed to all citizens.

The main focus of Hudood Laws, a penal system based on Islamic jurisprudence, is on inflicting punishments for three sorts of crimes. In Islamic law, certain offenses are categorically prohibited: the usage of intoxicants, personal property theft, fornication (zina), and adultery. Zina is the most contentious topic of all because there is no legal distinction between adultery and rape. The ordinance and its execution against women were widely scrutinized as discriminatory. In the Law of Evidence, which went into effect in 1983, women were barred from delivering evidential testimony in certain types of proceedings and required verification by another woman in others. This law makes it abundantly clear that men and women are not on equal footing. When Benazir Bhutto and Nawaz Sharif came to power, no significant efforts were made to raise the status of women, which negatively impacted women's rights in various ways. The Shariah Bill of 1991, which declared Islam to be the state's supreme law, deteriorated the position even further. It was a huge disappointment for everyone in the society when the order that reserved seats for women in Parliament was withdrawn, and no efforts were made to renew it by either the Benazir or Nawaz governments (the policy of reserving seats for women was reinstated by the Pervez Musharraf government in elections held in 2001). Though protests were raised against the Hudood Ordinance, particularly the provision for Zina, they were in vain. While speaking at the Fourth World Conference on Women in Beijing in 1995, Benazir Bhutto guaranteed participants her commitment of the government to becoming a party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and improving status of women in Pakistan; Despite being affiliated to CEDAW, however, little concrete was accomplished to attain its objectives.

There are three areas in Pakistan where the provisions of CEDAW conflict with Pakistani culture and laws. These are the integrated learning system, legacy laws, and evidence laws. Because of the cultural division of men and women, the first type, co-education, is usually unpopular. It is worth noting that the co-education system existed in Pakistan until the 1970s, and students from all social, economic, and religious communities attended the same system. However, during Zia-ul-haq's administration, the plan was temporarily dissolved.

To some extent, the co-education system has been resurrected. However, at the post-graduate level, a co-education system is in place throughout the country. The following two categories, laws of inheritance and law of evidence, conflict with the Pakistani Constitution, as both are derivatives of the Qur'an and are impregnable.

Another area of contention among the public is whether a girl's guardian's approval is required during her marriage. In recent times, various Courts have issued rulings in favor of both a couple who contracted marriage with their free consent but without the permission of the girl's guardian and a guardian/father who resisted/contested the wedding of a daughter. Due to verdicts on both sides, ambiguity occurred in Pakistani case law. However, in the late 1990s, following the decisions in the Humaira Butt and Saima Waheed cases, the courts decided (based on the Hanafi school of thought's interpretation) that once the children reach the age of majority, the consent of the bride and bridegroom who are entering into matrimony ceremony is relevant. That is, the parents' approval of the marriage is entirely irrelevant. The court judgment plainly stated that the recurring issue in society is the product of custom (tradition), not Islamic law.

Except for a few contentious legislation seen to be following Islam, the remainder of Pakistan's laws are not discriminatory against women. As previously said, most legal provisions in our country are construed following the Hanafi school of thinking, which is the most lenient

interpretation in the Muslim world, even though arrangements for other schools of fiqh have been made at times. The Pakistani government has been open about the challenges it faces in eliminating stereotypes against women and implementing the Convention, such as local social conventions, the feudal system, and other barriers to law enforcement. The enormous issue the government faces in implementing the lower-level pattern is local customary limits and leaders' political desire to appease particular political factions.

### **The Status of Women's Rights in Practice**

A thorough assessment of realistic features of women's rights implementation indicates that these rights are abhorrently violated in various ways. People purposely or accidentally breach these rights, violating Islamic rules and instructions.

All regulations and laws of Pakistan are Islamic because Pakistan is an Islamic country. However, the people also practice several rituals and traditions contrary to Islamic rules. Due to cultural norms, women in Pakistan are unable to exercise their legal and religious rights. Though Pakistan is an Islamic state that guarantees its citizens' rights, when it comes to women's rights, it looks to cultural values, practices, and traditions. In society, alternative court systems such as Jirga and panchayat add to women's miseries and grievances, and as a result, the survival of religion and national laws safeguards and activities.

Do not enter the communal structure. Women are more likely to Fear the male members, which prevents them from asserting their rights. In many cases, ladies who claimed their rights were illegally punished with benefits granted in violation of the clan's or society's established rules. Our Constitution recognizes such tribal judicial systems in places such as FATA and PATA, but they are also unlawfully practiced in other parts of Pakistan. Because the state-enforced system of justice/courts has no authority over a Jirga decision in FATA and PATA, abuses of women's legal and fundamental rights are joint. Because Jirgas are governed by men who are already biased and unable to recognize women's rights, they make judgments based on their preconceived conceptions and bigotry against females.

As previously said, women are virtually entirely ignored in Pakistani society due to patriarchy. Women face violence as a result of male dominance and control over society. Because women are deemed inferior in society, men find women's superiority/high position objectionable. Because of their lesser social status, they are unable to advance in the event of violence against their male family members, who are in charge of them. The fundamental reason for women's discrimination and violence in society is the broad awareness that a daughter holds no vital place in a family unit. She cannot protect her family or earn a living for them. The Islamic religion, on the other hand, considers the family to be a vital unit for the safeguarding of women's rights. Marriage and parenthood are essential in Islam and are considered to be goals of its justice system. Too much emphasis has been placed on married life and family, as though they were places of worship for God.

Aside from family, another aspect contributing to women's plight in society is the feudal system. The woman is regarded as the root of all evil. They are usually vilified and blamed for the unpleasant activities of men.

A large percentage of Pakistani women encounter harassment or its threat at home or in their daily lives. A male who has preexisting biases about women's rights is the keeper of family matters and respect. Thus, if a woman's behavior is deemed to be a threat to the patriarchal order, she is subjected to punishments such as sexual exploitation, blazing, beatings, and honor killing. It is a fact that women face inequity and injustice, sometimes in the name of custom and sometimes in

the guise of religion. Gender violence against women can be seen in the form of killings in the name of honor, acid attacks, forced marriages, minors marrying, bride burning, and so on. The complete summary of Amnesty International's (2012) annual report on women's rights demonstrates that women in Pakistan are in terrible shape. According to reports, the Aurat Foundation registered forty-four acid attacks, seven hundred and five murders in the name of honor, 610 family aggression cases, 827 rape cases, 1575 murders, and 8539 cases of violence. Men commit serious crimes against women under the guise of specific laws and customs, such as Ghag or Forced Marriage, honor killing, selling of 'brides,' bride burning due to insufficient dowry, Marriage to Qura'an or Haq Bakshish, surrendering the right to marry for relinquishment of property rights and acid attacks, all to keep women oppressed and under their control and to extract their benefits.

## Conclusion

Pakistan is a country that was founded in the name of Islam and to provide all men and women with primary and fundamental rights that they did not have before the partition. However, it is disheartening to discover that, in reality, women do not have the rights that are written down for them. Though there are laws in favor of women in the country, most of them are merely on paper, and the male-dominated society is uninterested in seeing them implemented. Men try to pervert legal provisions and Qura'anic principles to their advantage rather than following them in letter and spirit.

As previously said, numerous career options should be available to women to become self-sufficient (Jalal-ul-Din and Khan, 2008: 489). The government must take tangible steps to implement CEDAW and national law provisions in letter and spirit to empower the weaker segments of society. In such a context, it is necessary to organize periodic training and awareness workshops to educate women about their rights and equip them to make legitimate requests.

As previously said, numerous career options should be available to women to become self-sufficient (Jalal-ul-Din and Khan, 2008: 489). The government must take tangible steps to implement CEDAW and national law provisions in letter and spirit to empower the weaker segments of society. At the same time, it is the government's responsibility to remove any forms of illegal customs that violate women's rights. The government should make it easier for women to participate in mainstream political issues. We can only become a powerful and progressive nation once the weak segments of society are empowered.

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