

TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

COMMITTEE ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN 38TH SESSION (NEW YORK, 14 MAY- 1 JUNE 2007) PAKISTAN (1ST - 3RD PERIODIC REPORTS)

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Information Submitted to the Committee

On 22 May 2007, Pakistan submitted its combined 1st – 3rd periodic reports¹ under the *Convention on the Elimination of All Forms of Discrimination against Women* (the Convention), as well as written responses², to the list of issues and questions³ raised by the Committee on the Elimination of Discrimination against Women (the Committee). Mr. Mahmood Salim Mahmood, Secretary of the Ministry of Women Development, led the delegation from Pakistan.

Upon ratifying the Convention on 12 April 1996, Pakistan made a declaration⁴ on the Convention and entered a reservation on Article 29 (1)⁵.

¹ <http://daccessdds.un.org/doc/UNDOC/GEN/N05/454/37/PDF/N0545437.pdf?OpenElement>.

² <http://daccessdds.un.org/doc/UNDOC/GEN/N07/254/01/PDF/N0725401.pdf?OpenElement>.

³ <http://daccessdds.un.org/doc/UNDOC/GEN/N06/555/23/PDF/N0655523.pdf?OpenElement>.

⁴ 'The accession by [the] Government of the Islamic Republic of Pakistan to the [said Convention] is subject to the provisions of the Constitution of the Islamic Republic of Pakistan.'

The State report is divided into three sections. The first section provides an introduction and profile of Pakistan, describes the process for preparing the report, and explains the reasons for and effects of the declaration and the reservation on the Convention. The second section addresses the applicability of the Convention and provides information on the constitutional, legal and administrative framework. The third section looks at developments under each article of the Convention. The Government stated that the preparation of the report was an inclusive and transparent process incorporating non-governmental organisations (NGOs). Pakistan is a party to *International Convention on the Elimination of All Forms of Racial Discrimination* and the *Convention on the Rights of the Child*.⁶

The Committee's list of issues and questions addressed the declaration and reservation on the Convention and possible plans to withdraw them; the lack of any definition of discrimination in the Constitution; the absence of the laws prohibiting discrimination against women on the basis of their sex; the lack of institutional mechanisms enabling women to 'claim their rights'; and the number of gender-based discrimination cases and complaints that were brought before the Courts or the Federal Ombudsman. The Committee also focused on political participation, violence against women, trafficking in women, education and data collection, employment, health, and ratification of the Optional Protocol.⁷

Another point of significant interest to the Committee was the use of religion as a justification for discrimination against women. Although Pakistan's written responses provided useful information and the annexes showed useful data, they failed to provide more detailed explanations of how policies are implemented.

The Women's NGOs, the National Commission for Justice and Peace and the Democratic Commission for Human Development submitted a shadow report⁸ commenting on all the articles, in many cases analysing the State's implementation of the Convention and making recommendations about Pakistan's report. The shadow report targets continuing discrimination against women, the lack of any definition for discrimination in the Constitution, and obstacles to seeking judicial redress. It states that many laws in the Pakistani system, such as the Hudood Laws,⁹ the Family Laws,¹⁰ and the Citizenship Act are discriminatory and perpetuate violent customs such as honour killings and forced marriages. The shadow report also outlines how societal norms dictate that boys are often given priority over girls in the areas of education and health and recommends measures, which would redress the gender disparity, such as free education and more emphasis on vocational and technical education for girls. Finally, the shadow report refers to the overall lack of implementing mechanisms, which obstruct the advancement of women, and calls attention to violence against women as a widely practiced occurrence.

Shirkat Gah-Women's Resource Centre, with input from several other NGOs, also submitted a second shadow report¹¹ focusing exclusively on 'talibanisation' and 'poor governance' in Pakistan. This report summarises those problems, identifies relating issues, and calls on the Committee to raise certain questions with the State.

⁵ Article 29 (1) states that any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration.

⁶ See <http://www.ohchr.org/english/law/index.htm>.

⁷ <http://www.un.org/womenwatch/daw/cedaw/protocol/text.htm>.

⁸ *Discrimination Lingers On...* Cedaw Shadow Report Pakistan, [http://www.iwraw-ap.org/resources/pdf/Pakistan%20SR%20\(NCJP\).pdf](http://www.iwraw-ap.org/resources/pdf/Pakistan%20SR%20(NCJP).pdf).

⁹ A set of penal laws brought into effect in 1979, which are the topic of much controversy within Pakistan due to the discriminatory nature of them.

¹⁰ Muslim Family Laws Ordinance 1961, aimed at protecting the women's rights in the context of marriage and divorce but found to be discriminatory against women.

¹¹ *Talibanisation & Poor Governance Undermining CEDAW in Pakistan, Second Shadow Report*
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Themes and Issues¹²

Declarations and Reservations

Committee member Mr. Flinterman enquired about the scope of the declaration on the Convention and what conditions were necessary for its withdrawal by Pakistan. Committee members indicated that although referred to as a declaration, it is in reality a reservation on all the articles of the Convention. They also raised a question about plans to withdraw the reservation on Article 29 (1). In response, the delegation stated that the declaration was under constant review and was not made with the intention of going against the Convention. The Committee questioned further on this topic later in the dialogue, but was met with the same response.

Political Participation

The Pakistani Constitution and legislation theoretically guarantee representation of women in Government. In reality, this seems far from true in practice, especially in the tribal areas. The Committee enquired about statistics on seats in Government held by women, expressed concern about the low level of female representation in the judiciary, and asked why no woman to date was ever appointed to the Supreme Court. The Committee further enquired as to how women can become appointed to the Court, to which the delegation pointed out that the procedure for such appointments is laid down in the Constitution and does not discriminate between men and women. Committee Member Tavares da Silva suggested exploring the possibility of using the Temporary Special Measures under General Recommendation No. 25¹³ to further women's participation in Government.

Documentation

A large number of women do not own identification documents, which acts as an obstacle to women in a variety of ways. These obstacles hinder access to Government services, as evidenced during the aftermath of the large earthquake Pakistan suffered in 2005. The lack of proper identification also impedes women's ability to exercise citizenship rights, to access loans and credit and could also be the reason for low female voter registration. This topic underscored a variety of discussions throughout the session and is receiving more attention from the Government of Pakistan in light of upcoming elections and its need to register more people to gain votes. The delegation detailed the measures being taken to rectify this problem, such as mobile units travelling to villages to register people; civil society actively trying to register people; and a Governmental statistics division, providing gender disaggregated data every year, due to intervention from the Ministry of Women Development,

Violence against Women

The State report, shadow reports and ensuing discussions with the Committee reflected that women in Pakistan often suffer violence at the hands of men and that there are currently insufficient measures for prevention. This problem stems from a tradition of violence against women coupled with a large degree of impunity by its perpetrators. Pakistan's National Policy for Development and Empowerment of Women, a statement issued in 2002, outlines policy measures for the advancement of women, and includes a specific chapter on violence against women. The chapter addresses issues such as the establishment of a zero tolerance policy towards violence against women; the condemnation of honour killings; Government policies regarding women's shelters; and the creation of family protection programmes at local levels, and the sensitisation of the police force. Other initiatives underway include requiring female police officers to investigate and handle crimes committed by or against women, training police officers to deal with violence against women, monitoring and reporting by the Federal Cabinet Committee to the Cabinet, and the establishment of the National Committee on Prevention of Violence Against Women. The State also set up shelters and is making available free medical services and legal aid for victims of violence.

¹² <http://www.un.org/News/Press/docs/2007/wom1628.doc.htm>.

¹³ [http://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20\(English\).pdf](http://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20(English).pdf).

In its list of issues and questions, the Committee cites the increase of occurrences of domestic violence. The delegation pointed out that a Domestic Violence Bill addressing issues such as forced marriages, is currently being worked on and indicated that “when the time is right”, the bill will be passed. The Committee repeatedly called the delegation’s attention to honour killings. Although the practice was outlawed by Parliament, the Committee was deeply concerned over the continuing occurrence of the practice in many areas of Pakistan. The delegation acknowledged that old traditional mindsets, which often lead to violence against women, are very difficult to change, and provided information about a gender crime cell within the National Police Bureau established to monitor crimes against women. The delegation also indicated that Pakistan is working to increase awareness of violence against women through monitoring and amending legislation as well as through intensive media campaigns. The Committee commended these efforts but expressed concern for the many programmes airing in the media subjugating women, and for the promotion of what one NGO referred to as the “talibanisation” of Pakistan.

Pakistan has legislation in force to protect women from violence and in the dialogue with the delegation, the Committee learned that several initiatives are underway, including the work of an already existing Human Rights Commission. However the existing mechanisms and legislation, which act as protective measures for women, remain grossly inadequate. The Committee seemed to feel that too little was being done to combat violence against women. In closing remarks, Chairwoman Ms. Šimonović stressed the need for intensified attention coupled with a strong commitment to address violence against women.

Trafficking

The Pakistani Government, both in the State report and during the dialogue with the Committee, resisted the assumption that Pakistan is an origin, transit and destination country for victims of trafficking. However, the State report identifies the 2002 Prevention and Control of Human Trafficking Ordinance as a key mechanism in tackling trafficking, while admitting its flaws. . This Ordinance includes a definition of trafficking but a great deal of uncertainty and confusion surrounds much of the terminology used such as smuggling and illegal migrants. Committee member Ms. Ara Begum asked for further information regarding trafficking involving Bangladeshi women. Her questions included whether shelters mentioned earlier were accessible to foreign victims of trafficking and how the issuance of identification cards would impact these issues. The Committee also expressed concern that victims of trafficking and violence were often treated as the perpetrators, but that the perpetrators of violent acts and/or trafficking were very frequently let off too easily. The delegation directly answered the questions posed by the Committee, assuring the Committee that foreign women had access to the shelters and explaining that convicted traffickers are obliged to pay a fine which is often used to pay for the rehabilitation, and sometimes repatriation, of the victim. It also pointed out that Pakistan was working with surrounding countries to tighten the borders. The Committee emphasised that Pakistan has an obligation under Article 6 and suggested amending the laws combating both trafficking and prostitution. The Committee also suggested taking greater measures to ensure that perpetrators of such crimes go to prison.

Education

Although Pakistan stated that education was a high priority for the Government, the Committee had many concerns and questions relating to education. Females face major, and often dangerous, obstacles in the educational arena often experience discrimination. Fundamentalists are trying to keep girls out of school by closing schools down, female teachers are harassed, and threats are made openly on the radio. Committee members expressed real concern for high illiteracy rates of women, especially in the tribal belt, raised questions on segregated schools and whether this separation reinforced negative stereotypes of women, and requested more data on how many girls were actually attending school as well as additional general data. The delegation acknowledged that a gender disparity in attendance at school existed within Pakistan, especially in the tribal areas and explained that one of the ways it is addressing this disparity is by providing girls with a free school meal to encourage attendance. The delegation gave details on a National Commission for Human Development, which has a mandate that includes working to increase adult female literacy and realise

universal primary education. The delegation did not directly address this clear trend that is threatening the attendance of girls in school in certain regions of Pakistan.

Health

The situation of healthcare in Pakistan was difficult to ascertain from the report. Because of the lack of information provided in the State report, Committee members asked for clarification on a wide range of issues including accessibility to services, abortion, and the relationship between poverty, the maternal mortality rate and unsafe abortions. The Committee also enquired about Pakistan's policy regarding reproductive and family health and whether it included elements to effectively monitor and evaluate it. Committee member Ms. Arocha Dominguez enquired about the existence of emergency centres for women who have suffered traumas such as domestic violence. She further questioned if medical staff in these centres were trained to recognise and follow up if they suspected injuries were sustained because of violence. The delegation explained that due to scarce resources and difficult terrain, access to healthcare in the rural areas is especially difficult to carry out. However, the delegation stated that basic health units currently exist in each state, and that to date 96,000 female health planners were trained to 'deliver health requirements' and family care. This point was not further elaborated on. Abortions are illegal in Pakistan but the delegation pointed out that they may be performed on medical grounds. In response to the question regarding suspected violence against women, there are many female doctors but they are not trained in helping victims of violence, in their follow-up care, or in ensuring a secure relocation for them. The Government admits this is an area that requires more attention and assured the Committee it would take further action in this regard.

Stereotypes

The Committee spent considerable time discussing negative stereotyping of women, and asking many questions regarding the scale and scope of efforts to combat negative stereotyping and whether these efforts were targeting the right areas. The Committee acknowledged that tradition and customs play a large role in Pakistan and that deeply entrenched mindsets result in negative stereotypes of women. The Committee posed questions regarding the administration of justice and the treatment of women in prison. The Committee was particularly interested in how the Government proposed to eliminate these stereotypes. Committee member Ms. Gabr noted that this kind of negative stereotyping of women contravened Islamic law. The delegation emphasised the important role that education plays in abolishing stereotypes and stated that work is underway to revise curriculum and textbooks. Committee Member Ms. Shin raised the issue of media broadcasts, and enquired as to what the Government was doing about jirgas¹⁴ condoning violence against women and perpetuating the traditional mindsets, which remain an ongoing obstacle to achieving equality for women.

Conclusion and Next Steps

Several major issues continue to hinder the process of bringing Pakistan's practices in line with the Convention, although the delegation did demonstrate that many improvements have been made and identified many areas that require further attention and action. The issues of paramount concern to the Committee were bringing an end to violence against women and combating negative stereotypes, both of which are grossly impeding the advancement of women. Positive steps need to be taken in the form of improved legislation, intensive media campaigns and the allocation of more resources to address practices that hinder the full implementation of the Convention. The NGOs which presented the shadow report, although happy that the report was finally submitted to the Committee, felt that the delegation dodged many of the important questions, failed to offer enough information in certain areas and even gave incorrect information at times. In his closing remarks, Mr. Mahmood thanked the Committee and declared that the delegation learned a great deal. He further stated that they noted the Committee's comments, and would continue to work towards empowering women. .

¹⁴ A group of tribal elders who settle disputes by consensus, mostly located in the tribal areas.
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The Committee's Concluding Comments¹⁵ urged Pakistan to immediately withdraw its declaration to the Convention. While the Committee commends institutional structures which work towards the implementation of the Convention, such as the Ministry of Women Development and the National Commission on the Status of Women, it is seriously concerned that these and other similar bodies do not have adequate authority or human and financial resources to carry out their mandates. The Committee recommends that Pakistan strengthen its national machinery for the advancement of women and identify means for cooperation between all gender equality mechanisms to ensure maximum effectiveness. The Committee calls on the Government of Pakistan to review and revise all discriminatory legislation immediately, to bring those found to be discriminatory in line with the Convention, and to ensure the revised legislation is properly implemented. It places particular weight on the need to amend the Trafficking Ordinance of 2002, as it does not currently ensure protection for those who are victims of trafficking. The Committee also recommends that a definition of discrimination, encompassing both direct and indirect discrimination, be included in the Constitution.

The Committee urges the State party to place combating violence against women as a top priority and adopt without delay a comprehensive strategy to address violence against women and girls. It also strongly urges the Government of Pakistan to adopt a Bill on Domestic Violence within a definitive timeframe, ensuring female victims of violence are able to seek redress and that the State party take action to end impunity for violent acts against women and girls. The Committee recommends that Pakistan intensify its efforts in carrying out awareness raising campaigns and training programmes, to facilitate understanding and appreciation of the equality between men and women and the new law reforms, especially for judges, lawyers, and law enforcement personnel. It also advises the State party to target stereotypes and traditional norms, which stand as obstacles to the advancement of women. Along with this, it calls on the State to address the influence of non-state actors which, 'through the misinterpretation of Islam and the use of intimidation and violence, are undermining the enjoyment of the human rights of women and girls.' The Concluding Comments call upon the Government of Pakistan to increase the representation of women in all areas of both public and political life, to ensure women have national identity cards, to place a high priority on reducing illiteracy rates among women, and finally to increase and enhance women's access to healthcare.

¹⁵ <http://www.un.org/womenwatch/daw/cedaw/cedaw38/cc/Pakistan.pdf>.

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ABOUT THE PUBLICATION

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