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A meaningful democracy



**Mainstreaming
the rights of women
and religious minorities
in Pakistan**



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December 2018

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Abbreviations

CNIC	computerized national identity card
FATA	Federally Administered Tribal Areas
FNF	Friedrich-Naumann-Stiftung für die Freiheit
HRCP	Human Rights Commission of Pakistan
IDP	internally displaced person
KP	Khyber Pakhtunkhwa
POR	proof of registration

Introduction

Structural and institutional mechanisms are needed to ensure that citizens' fundamental rights are protected under the law and Constitution. The primary responsibility for creating and implementing these mechanisms, and for protecting and fostering an environment conducive to human rights, falls on the state. This applies especially to the rights of two highly vulnerable groups: women and religious minorities. In this context, civil society bridges the gap between the state and citizens, and monitors the extent to which the state delivers on its responsibilities.

The Human Rights Commission of Pakistan (HRCP) has spent over 30 years documenting and monitoring human rights violations, and promoting awareness of citizens' fundamental rights, not only under the law and Constitution, but also with respect to the international human rights treaties to which Pakistan is a signatory. With the support of Friedrich-Naumann-Stiftung für die Freiheit (the Friedrich Naumann Foundation for Freedom) (FNF), HRCP organized a series of seven consultations and workshops across Pakistan in 2018 that aimed to (i) identify human rights violations affecting marginalized groups – specifically, religious minorities and women – and (ii) put forward concrete recommendations to address these.

Given that 2018 was an election year, the goal was also to enable local body, provincial and national representatives of religious minorities and women to listen to, and address, their constituents' needs in a more targeted manner.

These consultations included the following:

- The nature of violence and other human rights violations against women and girls as refugees and internally displaced persons in Khyber Pakhtunkhwa (KP) – including the western districts that earlier comprised the former Federally Administered Tribal Areas (FATA) – and Gilgit-Baltistan.
- Political parties' manifestos with respect to the rights of religious minorities.
- The status of human rights in western KP (former FATA), with a special focus on women's rights.
- The development of a roadmap for creating an effective rights-based culture for Sindhi minority communities.
- The impact of water degradation on female water bearers in Sindh.
- The state of minorities' rights in Balochistan, focusing on sectarian killings.
- Patterns of 'honour' crimes against women in southern Punjab.

In each case, a wide range of participants was involved, allowing local stakeholders to engage with political representatives, civil society organizations, political analysts, journalists, women's rights groups, lawyers and students.

The aim of this publication is to disseminate the findings of each consultation, especially with a view to lobbying with parliamentarians, provincial and local body representatives, as well as the media and civil society. These consultations also attempted to broaden the human rights discourse in Pakistan by turning the conversation to issues

such as climate change and water management, smaller ethnic minorities that tend to be less visible, and women's political voice in the western districts of KP, following the Constitution (Twenty-Fifth Amendment) Act 2018.

The views expressed in this publication are those of the respondents who participated in these consultations, and do not necessarily reflect the views of either FNF or HRCP.

Political parties' manifestos and the rights of religious minorities

According to their manifestos for 2013¹, the country's main political parties are broadly committed to protecting the rights of religious minorities. This consultation sought to enable party representatives – especially those involved in manifesto drafting committees – to engage with civil society stakeholders, political activists and university students at this stage to determine how best to translate their general commitments into concrete manifesto assurances – assurances to which their voters could hold them in the July 2018 elections.

Background

Religious minorities represent important voting blocs. Over and above this consideration, it falls to the state to protect their fundamental rights under the Constitution – regardless of which party comes to power. Moreover, both civil society stakeholders and the media are criticized for not having lobbied governments more strongly to comply with their legal and constitutional obligations toward religious minorities. The engagement, therefore, facilitated political parties in formulating more inclusive policies. Participants were urged to include specific measures to protect minorities' rights in their manifestos and policies ahead of the 2018 elections and to implement these when they came to power.



Religious minorities in the political sphere

At the heart of this debate was the question of whether political parties should have separate wings for members of religious minorities or if the latter should be

¹ At the time this consultation was held, no political party had yet released its manifesto for 2018.

mainstreamed. As one participant pointed out, he had reservations about the concept of ‘minorities’ based on faith and self-identified as a Pakistani, not a ‘religious minority member’. Many participants, however, felt that, without reserved seats for minorities in Parliament or even political party wings representing minorities, they would lose what little political hold they might otherwise have.

There are times when I feel that my party perceives me solely as a representative of my religious community, not as a representative of the people.

Participant at consultation in Lahore, 26 April 2018

Another participant said that the process of drafting manifestos had declined in quality because they were perceived as having little impact on voters – to the extent that some party members were not necessarily familiar with their party’s manifesto pledges as far as the rights of religious minorities were concerned. As an example, he cited Article 22(3)(b) of the Constitution, which states that ‘no citizen shall be denied admission to any educational institution receiving aid from public revenues on the ground only of race, religion, caste or place of birth.’ Yet, the criterion that students who had learned the Quran by heart receive an additional 20 marks when their admission scores are being calculated, effectively discriminates against students from religious minorities.

Recommendations

- All political parties should agree on certain rights that must be accorded to religious minorities, and these should be clearly stated in their manifestos, accompanied by an action plan.
- There should be a democratic process within political parties for drafting manifestos. Parties should sensitise their workers to the rights of religious minorities and incorporate their feedback.
- Parties need to engage with civil society before finalising their manifestos, which should be released 10 months before an election, allowing open dialogue to close any lacunae concerning the rights of religious minorities.
- It should be clear whether political manifestos are people-oriented, rights-oriented, or state-oriented.
- There should be a mechanism to track each party’s progress against the manifesto pledges they have made to protect the rights of religious minorities. At the end of their term, they should be held accountable for their performance in this context.
- All parties must pledge to remove hate speech and material from school textbooks and curricula. Similarly, the positive bias in favour of Muslim students needs to be addressed in party manifestos.

Human rights violations against female IDPs and refugees from Khyber Pakhtunkhwa and Gilgit-Baltistan

The aim of this consultation was to highlight the issues faced by internally displaced persons (IDPs) and refugees from former FATA, KP and Gilgit-Baltistan. Given that the mainstream media has paid little attention to the human rights violations experienced by women and girls in these crises, there are serious gaps in public and policymakers' knowledge that need to be addressed.

Background

Northwestern Pakistan has witnessed years of military and insurgent operations, triggering large-scale internal displacement. The situation of nearly 1.4 million registered Afghan refugees and an estimated 1 million additional unregistered Afghans also remains a matter of grave concern. In this context, girls and women are especially vulnerable to violence and human rights abuses.

Meanwhile, although IDPs *are* legally Pakistani citizens, they tend to be treated differently from the rest of the population, for instance, where access to rights and public services is concerned. Again, women and girls face specific challenges in the IDP context. Moreover, given that Pakistan's IDPs hail from different areas of KP, former FATA and Gilgit-Baltistan, their problems cannot be clubbed together and resolved accordingly. The nature of violence against women and girls in the IDP and refugee contexts is different and must be assessed separately.



Afghan refugee women and girls

Currently, research on refugees in Pakistan is restricted primarily to Afghan refugees, but with limited data on Afghan women and girls for reasons of access. Not only is it difficult for field researchers to gain access to this population group, but, given that refugees are not considered 'citizens' under Pakistani law – and their own mobility is often severely restricted – their access to justice in terms of the police and legal representation in cases of violence can become extremely difficult. In addition, a serious constraint identified by participants was female refugees' lack of access to everyday public services such as education and healthcare.

Refugees' children are 'stateless children'. They have faced an identity crisis since birth and cannot claim the legal rights they would have had as citizens.

Participant at consultation in Islamabad, 14 May 2018

Female IDPs from former FATA (western KP)

Participants estimated that some 5.3 million people had been displaced from the area comprising former FATA since 2008, of which over half were women and children. This humanitarian crisis has been compounded by the dearth of research in this area, given that civilians, human rights workers and journalists cannot enter KP's western districts easily, if at all, given that it remains a heavily securitized area.

A key constraint to addressing female IDPs' problems is that any official or local committees set up to assess the status of IDPs' access to fundamental rights tend to include elders and influential people from that region. Input from ordinary citizens, much less from women, is not incorporated.

Female IDPs from Gilgit-Baltistan

IDPs from Gilgit-Baltistan, especially women and girls, receive very little attention in the mainstream media. Two primary factors have contributed to the IDP crisis in Gilgit-Baltistan: (i) the incidence of natural disasters, such as the Attabad landslide in 2010, which displaced the entire village, and (ii) border tensions and sub-regional conflicts. Some participants noted that people who lived close to the border were unable to work their fields because of the threat of landmines; this had a negative impact on their livelihoods. Both factors had led to internal displacement, with women and girls often bearing the brunt of the stress of living in IDP camps. Women IDPs often struggle to sustain their livelihood, given the limited income opportunities available to them outside Gilgit-Baltistan. This is exacerbated by the inadequacy of any compensation packages awarded by the state.

In cases of domestic violence, for example, female IDPs are constrained by their lack of access to the police or legal services and lack of knowledge of how the system works.

Participant at consultation in Islamabad, 14 May 2018

Recommendations

- Greater research is needed on the nature of problems faced by female refugees and IDPs to design targeted interventions. This includes identifying the most vulnerable among these groups.
- The media needs to monitor emerging as well as existing humanitarian crises in areas such as KP and Gilgit-Baltistan. This implies giving the media access to such areas.
- The legal vacuum surrounding refugees needs to be removed by Pakistan becoming a party to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.
- The duration of the residential permits given to Afghan refugees should be increased to five years.
- A cultural exchange program between Afghanistan and Pakistan would help ease relations, with positive implications for Afghans now resident in Pakistan.
- Afghan refugees should be allocated special seats in Pakistani schools and colleges.
- Women IDPs from former FATA need to be consulted so that all reforms are gender-sensitive.
- A mechanism similar to the Coalition Support Fund (used to compensate losses to army personnel) could be developed to cater to civilian losses.
- The Gilgit-Baltistan assembly needs to be empowered, with women given a political voice in all social, political and economic decisions.

Minorities' rights in Balochistan: Curbing sectarian violence

Given the spike in sectarian violence in Balochistan, the aim of this consultation was to assess the reasons for this violence and propose strategies that could help curb the problem, especially in terms of ensuring the physical protection and human rights of the Shia Hazara and Christian communities – the province's two main minority groups, both of whom are frequent targets of sectarian violence. The discussion also examined the link between sectarian violence and Islamic fundamentalism in the context of the Sunni-Shia fault line and the geopolitical strategies of other ethnic groups in Balochistan.

Root causes of sectarian violence

According to one participant, the current sectarian violence could be traced to the rise of competing ideologies in the wider region, in turn affecting the degree of sectarian violence in Balochistan. Another participant alleged that, in the last five to six years, 150 new seminaries or *madrassahs* had been built in Balochistan, reportedly with foreign funding. The rapid expansion of this network has enabled religious indoctrination.



Nature and types of violence

Minorities face violence at several levels, including target killings and terrorism. Discriminatory policies by the state and by political parties often indirectly exacerbate this degree of violence against minorities. For example, the political parties that wield influence in the province do not have minority wings, nor do minorities elect their representatives directly.

Human rights violations take other forms as well. Minorities are compelled to study Islamic studies in school. The quota for minorities in government services is not

implemented adequately: implementation is discriminatory and highly politicized. Minority communities face discrimination when seeking university and college admissions, and job opportunities. Some communities have been slowly and systematically ghettoized, such as the Shia Hazara. Others, such as Christian households remain scattered and thus vulnerable.

As a result of the spike in violence, many members of minority communities are exploring opportunities for migration or seeking asylum.

Participant at consultation in Quetta, 26 May 2018

Recommendations

- There is a need to revisit the curriculum to ensure that it is sensitive to different faiths and sects. Moreover, minorities must have a say in this exercise.
- Political parties need to play a more proactive role in shaping the overall narrative. Party members should be seen to take part in festivals central to all religious minorities, including Diwali, Nauroze and Christmas. They should also make greater effort to visit religious sites to help bridge the communal gap.
- Protecting minorities' rights should be part of the agendas and manifestos of all political parties.
- Pressure groups, with representation from civil society, the bureaucracy and politicians, should lobby against sectarian violence. Political parties should also organize their lobbying for this cause across party lines.
- NGOs and civil society should expand their efforts to promote pluralism.
- The politics and policies regarding the country's western borders should be closely reassessed through the lens of sectarian and ethnic conflict. A better thought-out foreign policy is needed to help curb sectarianism in Balochistan.

A rights-based cultural roadmap for Sindh: Religious and ethnic minorities

The plight of religious minorities: Forced conversions among women

Sindh has witnessed a notable rise in crimes against religious minorities. Women who are vulnerable by virtue of their gender, face the additional ‘stigma’ of belonging to a religious minority community. This gives rise to multiple forms of discrimination. Strong and meaningful legislation is necessary to protect them against a social system that is heavily weighted against their fundamental rights as citizens.

Overall, the lack of constructive dialogue on forced conversions, especially among the Hindu and Christian communities in Sindh, is compounded by the seeming reluctance, as one participant pointed out, to sign into law such legislation as the Criminal Law (Protection of Minorities) Bill. Indeed, there is no national legislation to prevent forced conversions.

The primary source of data on forced conversions is the media. Statistics are collected through local news reports because such cases are rarely reported to the authorities.

Every year, an estimated 1,000 non-Muslim girls across the country are forcibly converted to Islam with a view to marriage under duress to Muslim men.

Participant at consultation in Hyderabad, 22 October 2018

Under Pakistani law, conversions are deemed ‘forced’ only if there is ‘duress’ involved. Yet, there are almost daily news reports of girls from religious minorities having been kidnapped – especially among lower-income households. Commonly, Christian and Hindu girls are kidnapped, forced to convert to Islam and then marry their kidnappers. The authorities rarely take any concrete steps to prevent these conversions.

Conversion of minors

Many participants agreed that the ‘conversion’ of women was linked to kidnapping, with the police often refusing to register an FIR for kidnapping because the official position is that, since the women had ‘converted’, no crime had been committed. When lawyers take up cases of forced conversions, they are pressurised to drop the case by external or influential parties.

Minors are more vulnerable to conversion than women. These conversions are also linked with a personal desire to marry. Consent can be problematic in such cases because the day a minor girl shows a willingness to convert to Islam, a cleric can be found to perform the *nikkah* immediately. For young girls under 16, who may be easily swayed, pushing them towards adopting a new religion is clearly problematic.

The police may often refuse to register an FIR for kidnapping [in the case of forced conversions] because the official position is that, since the women has ‘converted’, no crime has been committed.

Participant at consultation in Hyderabad, 22 October 2018

Legislation on forced conversions

Recent legislation protecting Hindu and Sikh personal laws (including issues of marriage) have been passed into law at the national and provincial levels, respectively. However, in November 2016, the Sindh assembly passed a bill to curb forced conversions. While the bill garnered substantial support from almost every political party, hardliners prevented the bill from being passed into law.

Several participants felt that even the Hindu Marriage Act 2017 contained serious gaps in implementation. While the bill involved extensive lobbying, no rules were devised. Discussions surrounding the bill at the time advocated in favour of setting the permissible age for conversion at 18 for girls. Those objecting to the bill argued that the age limit should be 16, as in Punjab, where the legal age for marriage for girls is 16 years.

The state must ensure that minorities are not driven to give up their faith by denial of their rights.

Participant at consultation in Hyderabad, 22 October 2018

Recommendations

- Improved statistics on the kidnapping of girls and women from religious minorities – especially in cases of suspected or alleged forced conversion and marriage – are needed, ideally in correlation with their socioeconomic conditions, and mapped by district across Sindh.
- During its election campaign in July, the present government claimed it would work for the rights of minorities and ensure their equal treatment as citizens. Pressure groups should lobby with the government to deliver on its promises.
- Landmark policies protecting the rights of religious and ethnic minorities are needed.
- The pending bill on forced conversions should be passed into law.
- Official committees, such as those set up to investigate and monitor sexual harassment, should be established similarly to monitor and document cases of forced conversion.
- If a girl under the age of 18 expresses her desire to adopt a new religion, she should be allowed at least six months to contemplate the decision before committing to it.
- Only girls older than 18 should be allowed to convert.
- In general, far greater acceptance of the specific needs of religious and ethnic minorities should be fostered in society.
- Non-Muslims should not be compelled to study Islamiyat in school or college.
- Media reporting needs to be more accurate and more sensitive to the plight of religious and ethnic minorities in Pakistan.
- Similarly, the police and judiciary need to be sensitized to the specific circumstances that often work against religious and ethnic minorities, such that the latter can be assured of equal treatment under the law.



Ethnic minorities: A question of identity

Karachi, Pakistan's largest urban metropolis and its commercial hub, is home to more diverse ethnic minorities than any other city in the country. Among others, these include Afghans, Bengalis, Biharis, Burmese, Kashmiris, Sheedis and Iranians. Yet, there is no reliable data as to the numbers these communities constitute – with important implications for their status as 'residents' in many cases, and the rights (or lack thereof) to which they are thus entitled.

We lost a great opportunity by not including ethnic minorities in the recent census in 2018.

Participant at consultation in Karachi, 23 October 2018

While some degree of uneasy – and often informal – relocation has taken place, many such groups remain subject to regular harassment, extortion and violence – not only by law enforcement agencies, but also by other ethnic groups in relatively powerful political or economic positions. This consultation, held in Karachi, focused on the plight of Bengali and Afghan ethnic minorities.

Identifying the problem

Often, when ethnic communities are compelled to migrate, residents feel threatened by what they perceive as 'shrinking' opportunities. Globally, progressive norms such as pluralism and the organic absorption of other cultures and ethnicities has receded. The emphasis now is on controlling immigration and has tilted in favour of strengthening religious identities.

The Bengali community, for instance, faces severe insecurity and vulnerability, given their uncertain legal status in the country. A representative of the Bengali community said that, unlike the Afghan community, which was earlier welcomed by the state, Bengalis had been subject to continual apathy.

We have seen how people are able to get CNICs [computerized national identity cards] and other documents if they get political affiliations. Is this a way to get the required documents? If one wants a CNIC, we pay Rs70,000 and Rs40,000 for an intermediate certificate.

Participant at consultation in Karachi, 23 October 2018

As a result, if one has resources, registration – and the rights that should accompany it – become possible. Regrettably, there is little awareness of the international and national legal frameworks that protect the rights of ethnic minorities.

But what if one doesn't have the resources? Our [Bengali] families are buried in this country and our children are born here, but we still have to pay large sums of money to prove our existence.

Participant at consultation in Karachi, 23 October 2018

Post-Partition, a second wave of migration occurred in the late 1970s, following the former Soviet invasion of Afghanistan, when Pakistan opened its borders to refugees from across the border. While the Afghans were given an area in which to settle, they were not provided many of the amenities or facilities to which *citizens* are legally entitled and to which, under the Universal Declaration of Human Rights, *residents* seeking asylum should be entitled as 'inalienable entitlements'. Complicating the problem, as one participant pointed out, is that whenever an Afghan militant wing carries out a terrorist act, the entire community bears the brunt.

'Following the Army Public School tragedy in December 2014, strict measures were carried out and their [Afghan residents'] POR [proof of registration] cards were seen with suspicion.... Many times, when Afghans were rounded up, their POR cards were torn up by the police, while many of them stayed in camps for fear of being picked up.

Participant at consultation in Karachi, 23 October 2018

Recommendations

- The state must take responsibility for migrant communities that currently lack CNICs. If they wish to be repatriated, the state must play an active role in listening to them and addressing their needs.
- There needs to be far greater awareness of the international and national legal frameworks that protect the rights of ethnic minorities.
- Ethnic minorities who contribute to the country's economy, deserve the right to citizenship.
- The state needs to collect coherent and reliable data on all ethnic minorities, including a rigorous mapping study, with a view to pro-ethnic minority policymaking.
- The state must set a clear criterion for residents who are entitled to CNICs and to POR cards.
- The consensus is that all children born to ethnic minority families in Pakistan should be entitled automatically to CNICs.

Patterns of 'honour' crimes in Southern Punjab

The incidence of 'honour' crimes in southern Punjab is reportedly on the rise. While the media reported about 1,000 such cases in 2018, the figures do not reflect the full picture. Many cases go unreported, especially in traditionally conservative areas, as families feel they are unlikely to ever obtain justice. Legal loopholes, which the government has yet to address, have resulted in abysmally low conviction rates. Patriarchal structures, coupled with weak police investigation mechanisms and court procedures, allow perpetrators to roam free – even as women continue to face violence and death in the name of so-called 'family honour'.

'Honour' crimes and custom

While women are ostensibly protected under Pakistan's family laws and the Constitution, many parts of southern Punjab are governed by regressive cultural norms and the dictates of councils of tribal elders. Invariably, these norms are strongly patriarchal and more likely to favour those who kill, abuse, mutilate (often in the form of acid attacks) or stigmatize female family members accused of 'transgressing' against tribal practices than protecting the latter against this form of violence. The aim of this consultation was to give women who had witnessed or experienced such customs, a safe platform.

Women's honour is used to aid the self-interest of men.

Participant at consultation in Multan, 11 November 2018



The extreme practice of *karo kari* refers to premeditated honour killings, which are committed primarily against women who are perceived to have brought 'dishonour' to their family by engaging in illicit premarital or extramarital relations. To restore this 'honour', a male family member must kill the female in question. The custom of *watta satta*, in which a man from one tribe wants to marry a woman from another, or the same, tribe, and effectively 'offers' a female relative in exchange, is also common in southern Punjab. The practice of *vani* allows women, often young girls, to be married off to a rival tribe member as punishment for an offence committed by a male member of the woman's own tribe. There is also the horrific custom of 'exchange rape', in which a woman from one clan or family is raped to 'compensate' for an earlier rape in another clan or family.

As a participant pointed out, the question of women having any say in such decisions does not even arise. Complicating this, is the fact that such practices are often tied to blood feuds and property, with shared rights and obligations generally at women's expense.

When powerful people [who have committed an 'honour' crime] are not even tried within the legal system, the implementation of the law becomes difficult. If perpetrators were seen to be punished, then 'honour' killings might even cease.

Participant at consultation in Multan, 11 November 2018

'Honour'-based social standards mean that women who elope and engage in a court marriage will likely be hounded and stigmatised. Should they be lucky enough to escape violence perpetrated by their own families, the stigma itself is not allowed to lapse. Women who have been raped are often accused of having engaged in illicit relations or having been 'provocative'. Cases of rape may be suppressed or 'resolved' between the families concerned. The burden of guilt, therefore, as many participants pointed out, invariably falls on the woman. In instances where such crimes even enter the legal system – and many do not – long procedures, weak police investigations, poor legal counsel and powerful connections on the part of the accused, enable offenders to be acquitted.

Where does the legal system fail women?

As far as 'honour' crimes involving forced marriage are concerned, the legal grey area centres on age, although Section 498-B of the Pakistan Penal Code outlaws forced marriages. Under the Guardians and Wards Act, if a guardian is appointed to a child, then the legal minimum age for marriage is 21 years, whereas under Islamic law, it is 16 years. The Constitution of Pakistan and General Clauses Act stipulates 18 years as the minimum age for marriage. The Child Marriage Restraint Act 1929 declares the marriage of a child under 16 to be a criminal act, in which her parents are liable to be punished.

Most participants felt that access to the criminal justice system was the key problem.

In the case of an 'honour' crime, if you go to the police station to lodge an FIR, the other side's tribal elders will already be there to protect the perpetrator. And even if you do lodge an FIR, they may put pressure on the police to leave loopholes that allow the perpetrator to be acquitted easily.

Participant at consultation in Multan, 11 November 2018

Rape victims need to go to a hospital before they can lodge an FIR. However, rampant corruption in many hospitals in southern Punjab means that women are unable to obtain the correct report they need to file a serious complaint. The lack of forensic labs in the area means that they cannot collect admissible evidence. Weak police investigations result in a weak *challan* and, eventually, the exercise of the trial itself proves futile.

Ironically, some participants noted that locals preferred the tribal system of the *panchayat* because the formal justice system was too long and frustrating: one case alone might start with a magistrate before moving to the sessions court, the high court and

finally the Supreme Court. As one participant said, this might cost them ‘a generation’, whereas the traditional *panchayat* system ensured ‘speedy justice and resolution’.

Recommendations

- The legal community alone is aware of which legal provisions protect women against violence. Advocacy measures are needed to make these provisions common knowledge among women and men.
- Awareness of women’s legal and fundamental rights needs to be incorporated in school curricula.
- At the broadest level, the patriarchy entrenched in southern Punjab – and extending across the country – needs to be countered through continual public campaigns, advocacy and lobbying with policymakers at every level.
- The economic empowerment of women and concrete measures to enhance their role in the public sphere will reduce the gender gap, in turn reducing women’s vulnerability in terms of access to justice and law enforcement services.
- Robust measures are needed to reduce the rate of acquittals in cases of rape and honour killings.
- The process of reporting rape and harassment and accessing justice should be made quicker and easier.
- Decisions by parallel legal systems must be outlawed.
- Separate women’s desks at all police stations and special seating arrangements in the courts should be organized.
- A witness protection program is needed in cases where key witnesses to ‘honour’ crimes might recant their statements for fear of retaliation.
- It is very difficult for rape victims to bring forth witnesses. Amendments or provisions should be made to cater to this. In many cases, medical statements should be enough for the judge to give a verdict.
- Information on government departments for women’s protection needs to be advertised extensively, especially where rural sub-offices do exist. Moreover, such offices should be well equipped to facilitate victims in rural areas in filing complaints.

Human rights in western Khyber Pakhtunkhwa: Focusing on women's rights

Following the passage of the 25th Amendment Act 2018, the people of former FATA – the region now referred to as the western districts of KP – are a step closer to realizing their long overdue political, economic and social rights. In mainstreaming the region, however, the state must be careful not to bargain away women's rights – their right to education, health, employment, mobility and, above all, a political voice.

This consultation explored how the rights of women in the western districts of KP can be protected and upheld, with a focus on legislative and administrative interventions and advocacy. The discussion focused on strategies to bring women to the forefront after the merger of former FATA with KP.

Background

There has been almost no concept of individual rights in the region's history, with women's rights remaining even weaker than those of men for structural reasons. Traditional formal and informal institutions have tended to violate the rights of women. Since women are not represented in these institutions, they are not a part of strategic decision-making.

Western KP is currently in an 'institutional limbo'. With the old institutions abolished, including the jirga and paralegal system instituted by the Taliban, and new systems still being developed, the region is operating without a coherent constitutional, administrative or judicial setup.

Participant at consultation in Islamabad, 15 November 2018

At the informal level, the justification for women's repression of women draws on interpretations of culture, tradition – including *riwaj* [customary practices] and religion. 'Tribalism', as one participant pointed out, is glorified. There is the added threat of the ascendancy of the Taliban, which is likely to weaken women's position in society even further.

Women's representation, electoral participation and constraints to decision making

Many women who attended this consultation pointed out that they had fought alongside men, lobbying for FATA reforms for years. Women had led the march for these reforms in 2017 in Islamabad. Yet they had not been part of the decision-making process when plans to merge the region with KP were developed. The 120-member committee operational in Wana, South Waziristan, which is the sole decision-making body and mediating authority between the state and citizens, does not include a single woman. No representation has been given to women in any of the taskforces related to the merger, nor are there any women members in the KP provincial cabinet.

Women should be given adequate representation in any committees and taskforces set up to oversee the transitional period of the region's merger with KP.

Participant at consultation in Islamabad, 15 November 2018

While there were some positive electoral reforms, such as the Election Commission of Pakistan's power to declare elections null and void in any constituency where women's representation was less than 10 percent, as several participants pointed out, this remained a problem if women's polling stations were set up too far from settlements and if a significant number of women were excluded from the electoral process because they had been unable to procure a national identity card to register a voter – unless a male family member were to accompany them. Indeed, women's restricted mobility is a key factor constraining their role in decision making, and the presence of numerous security check-posts across the region has only exacerbated this.



Anecdotal evidence from participants from former FATA also indicates that the traditional *jirga* system, which is controlled exclusively by men, decides the fate of women – to the point that disputes may be resolved by 'marrying' women to the Quran to protect men's personal interests. Girls' lack of access to education – given the frequency with which girls' primary schools are targeted by the Taliban, who warn families not to send their daughters to school – remains a serious violation of their fundamental right to education.

A special prosecutor should be appointed in KP to deal with crimes against women.

Participant at consultation in Islamabad, 15 November 2018

Recommendations

Policy

- The women of former FATA need to be at the centre of policymaking, especially with respect to achieving the Sustainable Development Goals agenda in the coming years.

- There is a need for reliable data and a rigorous data collection mechanism, especially to document the number of internally displaced persons in the western districts of KP.
- A separate commission for the status of women in former FATA needs to be set up to address their specific needs.
- The KP provincial government should create a special cell, under the KP Commission on the Status on Women, to monitor the implementation of, and compliance with, gender-related laws in former FATA.
- A special prosecutor should be appointed in KP to deal with crimes against women.
- The region must be demilitarized and check-posts reduced progressively to ease women's mobility constraints.
- The mainstream media should be allowed to enter the region and monitor and report on the state of women's rights here, with a view to informing policy.
- Civil society must engage with Parliament and the mainstream media to focus attention on women's property rights in western KP.

Women's access to education, health and other services

- There is a need for long-term education planning and reforms, taking into account the area's cultural and religious norms. However, the curriculum must include greater focus on women's rights.
- The population department needs to be merged with the health department to protect frontline workers of the population department.
- Internally displaced women suffer most in terms of lack of access to education and health. A Civilian Support Fund should be set up to address this.
- Women have as much right to information through Internet connectivity in former FATA as any other part of the country.

Women's political representation

- Political parties need to address the inadequate representation of women from former FATA in their membership.
- Gender-based segregation in the region needs to be addressed gradually through political activities that involve both men and women.
- The FATA Interim Governance Regulation 2018 needs to be revisited in favour of women: the local bodies system in KP could be extended to this region, automatically giving women greater representation.
- Women should be given adequate representation in any committees and taskforces set up to oversee the transitional period of the region's merger with KP.

Allocation of resources

- There is a need for gender resource budgeting and for monitoring the use of the budget allocated to women.

- 30% of the annual budget of KP should be allocated to its western districts, of which a special share should be reserved for women.
- The National Finance Award is population-based. Its provincial share should be increased on the basis of the development outcomes and progress of the Sustainable Development Goals relating to women.

Driving behavioural change

- Workshops, seminars and consultations should be held in every western KP district to understand, highlight and resolve the gender-specific challenges of each.
- Radio broadcasting is a key tool of change in this area and should be used to drive behavioural change and promote pluralistic values. This includes a robust advocacy strategy driven by civil society, but with messages that are sensitive to local needs and values.

The impact of water degradation on female water bearers in Sindh

With the water crisis the country is facing, the human rights discourse in Pakistan needs to emphasize the connection between gender and resource management, given how poor irrigation planning and water management has resulted in the loss of livelihoods for women in Sindh. This consultation sought to assess the impact of water degradation on women water bearers, especially in Badin, Mithi and Umerkot in the province's interior.

Water is an issue for the whole country. But in Sindh, it is now a question of life and death.

Participant at consultation in Hyderabad, 17 November 2018

One participant pointed out that the water crisis in Sindh was characterized by three factors: availability, access and quality. An important aspect of the degradation of water quality in Sindh is its high levels of fluoride, which have had a long-term impact on health, leaving women, men and children prone to bone deformations and dental damage. In some rural households, this increases the burden of work on women whose male family members may be unable to work for a living due to poor health.



Water rights as women's rights

Increased periods of drought and water degradation have meant that the distance between women's homes and water sources has increased, thus increasing their burden of work. This incurs an immediate opportunity cost in terms of energy and time. Many women take their younger children with them for lack of childcare, which again incurs an opportunity cost in terms of health. Women and children often spend up to five hours engaged in the gruelling task of

extracting and carrying water back to their homes, especially in families that do not own animals to help. And yet, as a participant (a union councillor) pointed out, this is not even counted as 'labour'.

We have had to migrate from Tharparkar to escape water scarcity... only to be dogged by water degradation in urban Sindh.

Participant (water bearer) at consultation in Hyderabad, 17 November 2018

Meanwhile, water as a resource continues to be appropriated for sale and distribution by vested interests – what one participant referred to as a ‘new form of colonisation’. It is worth reiterating another participant’s story of a workshop she held in Nagarparkar, where women were asked to draw their ideal homes. Invariably, the most important feature in every case was a simple tap – implying access to clean, piped water.

In Nagarparkar, water scarcity and degradation often lead to a chain reaction of forced migration, debt and bonded labour. Almost 80% of the families in this area have migrated to other agricultural lands, with many finding themselves caught in the trap of bonded labour. If the problem of water access and degradation could be resolved, this would help resolve numerous other socioeconomic and human rights problems.

The role of the state and the elite

Many participants felt there was a serious lack of coordination between government departments on water issues. Moreover, women’s negligible representation in water management and irrigation planning bodies was a grave concern. It was ironic, as one participant pointed out, that while there was substantial technical data being collected on water use, it was never translated into everyday parlance for those people affected directly by water degradation. Addressing water rights nationally also means talking about upper and lower riparian rights fairly and sensibly.

Any water policy finalized by the Sindh government must include input from women water bearers, as they know their problems best.

Participant at consultation in Hyderabad, 17 November 2018

While the state has taken some useful initiatives to improve the provision of drinking water by increasing the number of tube-wells, dug-wells and hand-pumps, these remain inadequate. Water issues are highly political, as another participant pointed out: whenever a government project is announced, decisions concerning the distribution of water are made based on local politics – often to the detriment of women water bearers.

Elite capture and ‘big’ development is also a barrier to women’s access to water. Feudal landlords can afford to use electric pumps to draw water from sources on their land for *their* use alone, forcing local women to travel even farther to extract water manually. Moreover, the corporate monopoly over mega-projects has had indirect effects on the quality of water. The Thar coal project, for instance, has contributed to the degradation of nearby water reservoirs. In Nagarparkar, the wastewater from kilns is directed to nullahs and canals, which are local sources of drinking water.

Recommendations

- Policy formulation on water issues must incorporate input from women water bearers.
- At least two women at all levels – from farmers’ organizations to company boards – should be part of water course associations.

- Water boards should be formed to monitor water quality and assess the impact of different projects on existing water reservoirs.
- The water rights of local populations must be considered when conducting environmental assessments of proposed mega-projects.
- The Sindh Water Commission should assess the extent of industrial waste entering the Indus in Punjab and flowing into Sindh, with recommendations to mitigate this.
- The technical data being collected on water use should be made more accessible, in everyday terms, to people affected directly by water degradation.
- There should be a five-year provincial plan to ensure safe drinking water for local populations across Sindh.

Conclusion

The aim of these consultations was to explore each theme and devise a way forward. Among the existing gaps in knowledge that emerged were the nature of problems faced by vulnerable groups at the level of people's daily, lived experience (both women and religious minorities), and the effectiveness (or otherwise) of national legislation in cases of human rights abuses.

Key outcomes

- In addition to exploring issues of identity and the correlation with discrimination and exploitation at the level of the state and society, these consultations enabled participants from a range of socioeconomic, ethnic and religious backdrops to deconstruct the power dynamics they felt had contributed to the violation of rights.
- Participants who may not have been aware of legislation or policy that affected their rights were given the opportunity to identify and question gaps in formulation and implementation.
- The effectiveness of these events is evident from their ability to mainstream gender in the context of key changes, whether political (such as the FATA merger with KP) or environmental (such as water degradation in Sindh).
- The consensus was that a rights-based approach was critical to policymaking and implementation. This would also strengthen the consultative aspect of political processes and help ensure that inclusivity gradually becomes the norm and not the exception. For this to occur, marginalized groups such as women and religious minorities must be politically mainstreamed and adequately represented at every level of decision making – not only for issues that affect them, but for issues that pertain to all citizens' fundamental rights.
- A substantial degree of behavioural change is required to change entrenched attitudes towards women and religious minorities. Such interventions need to increase their bargaining power – for example, by increasing women's role in decision making at the household level or by introducing curricular changes that allow schoolchildren to internalize the understanding that religious minorities are equal citizens in every way.

Appendix

<i>Consultation/workshop theme</i>	<i>Date</i>	<i>Venue</i>
Political parties' manifestos and the rights of religious minorities	26 April	Lahore
Human rights violations against female IDPs and refugees from KP and Gilgit-Baltistan	14 May	Islamabad
Minorities' rights in Balochistan: Curbing sectarian violence	26 May	Quetta
A rights-based cultural road map for Sindh: Religious and ethnic minorities (Day 1)	22 October	Hyderabad
A rights-based cultural road map for Sindh: Religious and ethnic minorities (Day 2)	23 October	Karachi
Patterns of 'honour' crimes in southern Punjab	11 November	Multan
The state of human rights in western KP: Focusing on women's rights	15 November	Islamabad
The impact of water degradation on female water bearers in Sindh	17 November	Hyderabad