PAKISTAN

1. Discriminatory family code

Under the Child Marriage Restraint Act of 1929, the minimum age of marriage is 16 years for females and 18 years for males. The fine for early marriage is currently about USD 10, although a recent bill has been proposed to increase the penalty to USD 1,000 and a possible jail sentence of 2 years.¹ The incidence of early marriage has fallen in the last decade. 2007 Data from the UN found that 10.8% of women ages 15-19 had been married.² The 2012 Demographic Health survey found that 2.8% of married women aged 20-49 were married by their 15th birthday, a figure that rose to 10.1% of women married before they turned 18.³ Significantly, the DHS indicated a decline in the number of girls married before 18 as well as a rise in the median age at first marriage among younger women, from 19.5 of women aged 25-49, as compared with 24.7 for men.⁴ In May 2014, the Sindh provincial assembly became the first in the nation to pass a bill prohibiting early marriage, the Sindh Child Marriage Restraint Bill.⁵

In relation to parental authority, fathers are considered the natural guardian of children, whereas mothers are merely “custodians.” In the event of divorce, Islamic Sharia law grants custody of sons until the age of seven and of daughters until the age of 16 to their mothers. Once children reach these ages, custody normally reverts to the father or his family.⁶

Apart from entitlement to maintenance for a limited period, the rights of divorced Muslim women are not defined in any law, and there still remains no concept of ‘marital property’, a division of combined assets at the time of dissolution of a marriage.⁷ Divorce is also difficult for women of other religious faiths. At present, adultery is recognized as the only ground for dissolving marriages under Christian law; while except for the Hindu Women’s Right to Separate Maintenance and Residence Act, 1946, personal status laws of Hindus remain uncodified.⁸

Women have the legal right to acquire land via Islamic and state law; however, their inheritance rights are governed by Islamic Sharia law. Women may inherit from their fathers, mothers, husbands or children, and under certain conditions, from other family members, but their share is generally smaller than that to which men are entitled. The social status attached to property

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¹ Khan (2014)
² United Nations 2012 World Marriage Data
³ NIPS and Macro International (2013), Table 4.3
⁴ NIPS and Macro International (2013), Table 4.4
⁵ Law Department of the Government of Sindh
⁶ CEDAW (2005), p. 120-121
⁷ Zia (2012), p.15
⁸ Zia (2012), p.15
and land often makes it difficult for widows and daughters to inherit even their entitled shares, as they may face opposition from the deceased man’s relatives. The 2011 Anti-Women Practices Law makes it a punishable offence to deprive women of their inheritance rights.

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Although Pakistani law allows all citizens to choose their spouse freely under the 2011 Prevention of Anti-Women Practice Amendment Act, in practice many women are denied this right, as forced marriages, and the practice of buying and selling brides reportedly continues in rural areas. A 2012 Pew survey found that 59% of respondents believed that a family should choose a husband for a woman; just six% believed that a woman should be free to choose her own husband without the input of her family. Marriages are sometimes arranged in order to settle disputes between different clans, particularly in rural areas. A 2004 amendment to the Code of Criminal Procedure prohibits and punishes this with imprisonment of three to ten years.

The practice of ‘honour killing’ is forbidden by the law. It is included in the definition of “social disorder” and perpetrators face a penalty between 10 and 14 years of prison.

Polygamy is legal in Pakistan, although the husband needs to obtain written permission from his existing wife or wives if he wants to marry another woman, and the practice is generally frowned upon. Reportedly, men who decide to take more than one wife rarely obtain consent and the required letter of permission from their first wives. However, the 2012-13 DHS found that only 4% of married women and 3% of married men are in polygynous unions; down from 7% and 4% respectively in 2007.

Pakistani women have limited rights to divorce under Sharia law, which can only be granted under certain circumstances (e.g. if she has been deserted, if the husband is abusive, or if the marriage was never consummated), or if the wife requests a ‘Khula’ divorce, in which case she forfeits her dowry. In contrast, Pakistani men can repudiate (i.e. divorce their wives unilaterally) although there is a requirement to go through a three-month arbitration process with the local council. However, many women are unaware of this. Pakistani women have the right to pass citizenship onto their children.
2. Restricted physical integrity

There is no national **domestic violence** legislation. Although the National Assembly passed a bill criminalizing domestic violence in August 2009, it lapsed without passing the Senate, and it was ultimately decided that the provincial assemblies would be given the task of forming their own laws. Since then, a few states have proposed domestic violence legislation, such as that introduced by the Sindh Assembly in 2013\(^\text{22}\), however the commitment has been inconsistent and slow. In this time the government has also passed the Criminal Law Act (Second Amendment, 2011), referred to as the Acid Control and Acid Crime Prevention Act The Criminal Law Act (Third Amendment, 2011), referred to as the Prevention of Anti-Women Practices Act. However, it remains the case that there is no specific law covering all forms of gender-related violence.\(^\text{23}\)

Women have the legal right to press charges against their abusers, but rarely report incidents for fear that their accusations will be distorted to place the blame back on them.\(^\text{24}\) The US Department of State notes that police were reluctant to be involved in domestic violence cases, often returning the woman to her abusive family members and encouraging them to reconcile.\(^\text{25}\) In 2006, the Gender Crime Cell was established within the National Police Bureau to gather, collate and analyse data on gender-based violence, and the government reported that it also runs emergency shelters across the country.\(^\text{26}\) However, NGOs report that these efforts are not able to meet the demand, and are apparently often poorly run, under-staffed, and vastly underfunded.\(^\text{27}\) The CEDAW Committee has also is also condemned the paucity of information about the implementation of the standard operating procedures on the treatment of women victims of violence and at the scarce number of shelters for victims.\(^\text{28}\) Burn victims face serious problems, as there are only three recognized Government Burn Units in civil hospitals and three in military hospitals.\(^\text{29}\)

Despite the lack of legal framework, domestic violence continues to be a significant challenge for Pakistan society; the majority of which goes un-reported. In 2013 the CEDAW Committee expressed its concern at the high prevalence of domestic violence and marital rape related to the absence of clear legislation criminalizing such acts.\(^\text{30}\) It is reported that beatings are common, as well as other forms of domestic violence included torture, physical disfigurement, and shaving the eyebrows and hair off women’s heads. Additionally, in-laws abused and harassed the wives of their sons, and dowry and family-related disputes often resulted in death or disfigurement by burning or acid.\(^\text{31}\) In 2011 the Government provided figures from the

\(^{\text{21}}&text{The Domestic Violence Prevention and Protection Bill 2009 in CEDAW (2011), p.24}
\(^{\text{22}}&text{The Express Tribune (2013)}
\(^{\text{23}}&text{CEDAW (2013), p.3}
\(^{\text{24}}&text{CEDAW (2005), p. 87, 122-125}
\(^{\text{25}}&text{CEDAW (2013), p.8}
\(^{\text{26}}&text{CEDAW (2011), p.28}
\(^{\text{27}}&text{Zia (2012), p. 103-104}
\(^{\text{28}}&text{CEDAW (2013), p.6}
\(^{\text{29}}&text{Shirkat Gah (2013), p.12}
\(^{\text{30}}&text{CEDAW (2013), p.6}
\(^{\text{31}}&text{US Department of State (2013)}
Ministry of Women Development Crisis Centres that there were 2,195 cases of domestic violence between 2005 and 2008, but this is likely to be a vast underestimate. The 2012-13 DHS found that 39% of women age 15-49 have experienced physical and/or emotional spousal violence, the majority of which was psychological. All forms of violence were higher in rural areas. The data also shows that spousal violence increases linearly with the number of controlling behaviours displayed by the husband.

Rape is a criminal offence in Pakistan with sentences of 10-25 years imprisonment, although this does not extend to spousal rape. Prior to the introduction of the Protection of Women Act in 2006, rape was not listed under the penal code, but appeared instead under the Hudood Ordinance (enacted in 1979 to enforce Sharia law) as the crime of zina (extramarital sex), and cases were tried under Sharia rather than criminal law. This had meant that women who reported that they had been raped could themselves be charged, unless they were able to provide testimony from four adult male witnesses, or the rapist confessed himself to the crime.

Under-reporting and inconsistent data collection makes it difficult to ascertain the number of rapes each year, however rape and gang rape are reportedly widespread throughout all parts of the country. The government’s 2011 report to the CEDAW committee notes that the separation of rape from the crime of zina (which is still illegal) has led to an increase in reports of rape. However, the US Department of State human rights report states that local NGOs have reported that it is still very difficult for women to bring rape cases, as to do so requires applying directly to the court, which is beyond the financial means of many women. The report also notes cases where police have abused, threatened and even sexually assaulted rape victims, and demanded bribes before agreeing to register a case, or where cases were dropped under pressure or after receipt of a bribe from the perpetrator. Elsewhere NGOs have reported insensitive attitudes of Medico-Legal Officers who are required to collect the required evidence of rape.

Due to the popularity of informal justice mechanisms, extrajudicial resolutions to rape accusations were common, with a victim often forced to marry her attacker. Women from religious minorities are also reportedly at risk of abduction for the purpose of forced conversion and forced marriages. In addition, laws on rape and sexual assault do not specifically make

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32 CEDAW (2011), p.82
33 NIPS and Macro International (2013), Figure 14.5
34 NIPS and Macro International (2013), Figure 14.7
35 US Department of State (2013)
37 CEDAW (2005), p.117
38 US Department of State (2013)
39 CEDAW (2011), p.25
40 US Department of State (2013)
41 US Department of State (2013)
43 US Department of State (2013)
44 CEDAW (2013), p.10
incest a crime, which has serious implications for victims of incest, who are deterred from coming forward and disbelieved by police, prosecutors and judges.  

Two laws addressing sexual harassment were introduced in 2010, with punishments of up to three years imprisonment or a fine of 500,000 rupees (USD5880).\(^{46}\) It is thought to be a widespread problem, particularly affecting domestic servants.\(^{47}\) In 2010 the country’s first federal ombudsman was appointed for protection against harassment of women at work. Since 2010 the office had received 139 cases; the office disposed of 130 cases and nine were under process.\(^{48}\)

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There is no evidence to suggest that female genital mutilation is practised in Pakistan. So called ‘Honour killings’ are specifically criminalised in Pakistani law, with punishments of 10-14 years in prison, and the CEDAW 2011 report notes that there have been some convictions under the law.\(^{49}\) However, in 2013 the CEDAW Committee found that despite the provisions in the Criminal Law (Amendment) Act of 2004 that criminalize offenses in the name of so-called honour, the Qisas and Diyat ordinances continue to be applied in these cases, resulting in perpetrators being given legal concessions and/or being pardoned and not being prosecuted and punished.\(^{50}\) The US Department of State cites NGOs figures showing that 2,773 honour killings were reported between 2008 and 2012, and estimates that less than 2% of honour killings are ever reported.\(^{51}\)

**Abortion** is permitted in cases where the woman’s life is in danger, or provide “necessary treatment” before the organs of the foetus have been formed, and otherwise remains criminalized on all other commonly recognized grounds, including in cases of rape, incest, and fetal impairment.\(^{52}\) However, legal abortion remains inaccessible to most women, particularly in rural areas. In 2013 the CEDAW Committee expressed its concern over the lack of adequate access to family planning services, restrictive abortion laws and the large number of women resorting to unsafe abortions, as well as the lack of adequate post-abortion care services.\(^{53}\)

Women in Pakistan have the right to use contraception and to access information about family planning, although in practice, pressure from husbands and in-laws and restrictions on freedom of movement can make it very difficult for younger women in particular to access reproductive health services.\(^{54}\) Sindh Assembly recently passed a health bill which better protects the

\(^{45}\) Equality Now (2013), p.1
\(^{47}\) US Department of State (2013)
\(^{48}\) US Department of State (2013)
\(^{50}\) CEDAW (2013), p.6
\(^{51}\) US Department of State (2013)
\(^{52}\) UN (2013)
\(^{53}\) CEDAW (2013), p.9
\(^{54}\) CRR (2013)
patients.\textsuperscript{55} Also, the National Assembly of Pakistan passed the Reproductive Healthcare and Rights Act 2013.\textsuperscript{56} In its 2011 report to the CEDAW Committee, the government admitted that the contraceptive prevalence rate had declined from 36\% in 2005-2006 to 30\% in 2006-2007.\textsuperscript{57} However, while contraceptive knowledge rates, at over 95\% for modern methods, are very high for currently married women\textsuperscript{58}, usage rates are low. The 2012-13 DHS found that only 26\% of currently married women were using a modern method of contraception\textsuperscript{59}, and among women without children, over 99\% were not using any form of contraception.\textsuperscript{60} About half of the women not currently using contraception planned to use contraception in the future. However, more than half of those who had no intention to use in the future cited a religious or familial reason, such as leaving the number of children that they bore ‘up to God.’\textsuperscript{61}

Pakistan is a source, transit, and destination country for women, and children subjected to forced labour and sex trafficking, with a large percentage of trafficking occurring within the country. Trafficking experts describe a structured system for forcing women and girls into prostitution, including the presence of physical markets in which victims are offered for sale. Women and girls are also sold into forced marriages; in some cases their new “husbands” move them across international borders and force them into prostitution abroad, and in other cases, sometimes organized by extra-judicial courts, the transaction is used to settle debts or disputes.\textsuperscript{62} Research shows that there are about 264,000 child domestic servants in Pakistan, most of whom are girls.\textsuperscript{63} NGOs have documented extensive violence and abuse against these domestic workers, which goes largely unpunished.\textsuperscript{64} The Prevention and Control of Human Trafficking Ordinance 2002 and Prevention and Control of Human Trafficking Rules 2004 only focus on external trafficking; therefore no law focuses on the issue of internal trafficking within Pakistan’s borders.\textsuperscript{65} Two key bills that would address the trafficking of children into domestic servitude have been waiting before the National Assembly to become laws for several years.\textsuperscript{66}

3. Son bias

The male/female sex ratio at birth is 1.05 and for the working age population (15-64 years old) is 0.89.\textsuperscript{67} There is evidence to suggest that Pakistan is a country of moderate concern in relation to missing women but the situation is improving. Hudson and others used census data to show that close to six million Pakistani women were missing in 1998.\textsuperscript{68}

\begin{footnotesize}
\begin{enumerate}
\item The Express Tribune (2013)
\item Reproductive Health Matters Journal (2013)
\item CEDAW (2011), para 10
\item NIPS and Macro International (2013), Table 7.1
\item NIPS and Macro International (2013), Table 7.3
\item NIPS and Macro International (2013), Table 7.4
\item NIPS and Macro International (2013), Table 7.13
\item US Department of State (2013b)
\item Equality Now (2013), p.3
\item Equality Now (2013), p.3
\item Zia (2012), p.11
\item Equality Now (2013), p.4
\item CIA (2014)
\item CIA (2014)
\item Hudson and Den Boer (2005), p. 22
\end{enumerate}
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Data from the 2012-13 Demographic and Health Survey (DHS) indicates that boys are more likely than girls to be fully immunized (56% versus 52%).\(^6^9\) Rates of under-five mortality were slightly higher for boys than girls.\(^7^0\) Overall, this could indicate some preference towards boys in early childhood care. Gender-disaggregated data regarding childhood malnutrition was not available. With regards to stunting of children, a 2011 study among Pakistani primary school children aged 5-12 years old found that stunting and thinness were not significantly correlated with gender.\(^7^1\)

More girls than boys attended both primary school (62.9 versus 56.5%, and middle/secondary school (40 versus 34%).\(^7^2\) The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) Committee reported that girls’ right to education is further complicated by high illiteracy rates and high dropout rates, especially in the rural areas; which it attributed to the prioritization of boys’ education over that of girls, the lack of qualified female teachers and school infrastructure, and the long distances to school.\(^7^3\) The Pakistani Youth Policy does not cover disability issues and has little focus on adolescents and adolescent girls in particular.\(^7^4\)

4. Restricted resources and assets

The law grants Pakistani women access to property other than land on the same grounds as men. However, while there are no legal restrictions to women’s ownership rights in Pakistan, discriminatory practices and norms prevail. Women in Pakistan are unable to exercise the rights to land granted to them by constitutional, statutory, and religious law, under pressure of customary law and traditional practice. Concerning access to land, women’s access to the natural resources they depend on for their livelihoods is inherently insecure and easily lost in times of scarcity.\(^7^5\) The share of female land ownership is very low.\(^7^6\) A household survey, published in 2005 profiled by the International Centre for Research on Women found that women owned less than 3% of the land – even though people in 67 per cent of sampled villages agreed that women had a right to inherit land.\(^7^7\) Further, in cases where women do own land, they may not have actual control over it, as in reality, many women allow their husbands to manage such property on their behalf.\(^7^8\)

However, there are some promising initiatives: the Sindh Government has given land to landless women in Pakistan in the last few years, through its Land Distribution Programme.\(^7^9\) Another

\(^6^9\) National Institute of Population Studies NIPS and Macro International (2013), Table 10.3
\(^7^0\) National Institute of Population Studies NIPS and Macro International (2013), p. xxiii
\(^7^1\) Mushtaq et al. (2011)
\(^7^2\) NIPS and Macro International (2013), Table 2.15
\(^7^3\) CEDAW (2013), p.7
\(^7^5\) USAID (2010), p.3
\(^7^6\) USAID (2011)
\(^7^7\) Mason and Carlsson (2004)
\(^7^9\) Participatory Development Initiatives (2009), Sindh Government’s Land Distribution Program (2009)
initiative supporting women is the Benazir Income Support Programme, which is the government’s social safety net programme aiming at helping the poorest in the context of the recent financial crisis.\textsuperscript{80} 

Section 18 of the Constitution grants all citizens the right to conduct any lawful trade or business, and the government reported that all of the services of the formal banking sector are available to women.\textsuperscript{81} Pakistani women are entitled to obtain \textit{bank loans and other forms of credit}, and a number of credit institutions now target women. However, their access is limited by their inability to provide the required collateral. Increasingly, rural women are forming co-operatives, often with the assistance of micro-credit lending institutions. However, recent studies have raised concerns that micro-credit programmes are not always targeted to the needs of rural women and tend to steer women towards traditional activities rather than promoting their technological and entrepreneurial capacities.\textsuperscript{82} According to 2011 World Bank data, women were only slightly less likely than men to have obtained a loan in the past year. While they were more likely to obtain that loan from a financial institution (1.9\%, compared with 1.2\%); they were less likely to obtain it from a private lender (1.9 versus 2.6\%); as well as from family or friends (22.3\%, compared with 23.9\%).\textsuperscript{83} Additionally, NGOs have noted that fewer women than men have the Computerized National Identity Cards required for voting, inheritance and accessing Government as well as most private schemes, benefits, and resources.\textsuperscript{84} These financial restrictions may have their origins in social attitudes. According to Pew research 79\% of Pakistanis share the view that a marriage where the husband bears the financial responsibility while the wife cares for the house and children is more satisfying; compared with just 18\% of Pakistanis who favour a non-traditional approach.\textsuperscript{85} 82\% of those surveyed also felt that that men should have more of a right to a job than women during tough economic times is prevalent in nine of the countries surveyed.\textsuperscript{86} In Pakistan the value of a woman’s testimony in court is considered half that of a man’s in financial matters.\textsuperscript{87} 

5. Restricted civil liberties 

Social norms that reinforce women’s primary responsibility as a wife and mother are very strong in Pakistan. Her sphere is the household, and her behaviour reflects upon the honour of her whole family. Because of this, women’s \textit{access to public space} is often circumscribed, particularly in regard to mobility.\textsuperscript{88} Although women have the legal right to freedom of movement, widespread discriminatory practices limit their ability to exercise this right,
particularly in Taliban-controlled tribal areas. Women are often harassed when taking public transportation. At its most extreme, ‘honour’ killings and the practice of purdah severely circumscribe the civil liberties of women. However, women do have the right to apply for passports on the same grounds as men.

Rights to freedom of speech, assembly and association are often violated in Pakistan. There are a large number of active and vocal NGOs working on women’s rights issues; the 2011 CEDAW report notes that ‘women are prominent in the NGO sector, and women head the best known and most effective organizations associated with enabling women to access their rights and entitlements.’ Among women’s organisations, Women’s Action Forum (WAF) does some work to challenge discriminatory legislation against women, the exclusion of women from media, sports and cultural activities and dress codes for women, among other issues. Their activism has inspired other women to create women’s rights groups and resource centres.

However, Freedom House reports that NGOs women’s education and empowerment, and female NGO staff in general, have faced threats, attacks, and a number of murders at the hands of radical Islamists, particularly in the north of the country. In addition NGOs reported to CEDAW that 2012 and 2013 saw the brutal killing of women’s rights activist Farida Afridi and the murder or serious injury of twenty additional human rights defenders in the past four months in five separate incidents. Girls and co-education schools have come under particular attack from Taliban extremists in recent years. Among their restricted civil liberties, women also face difficulties with authorities in place when exercising their right to file a First Investigation Report (FIR). For example, there were reports in 2012 that authorities filed FIRs without supporting evidence to harass or intimidate detainees or did not file them when adequate evidence was provided unless the complainant paid a bribe.

Although there are no legal restrictions on women’s ability to stand for elected office or otherwise participate in political activity, some reports claim that restrictions on women’s mobility have been used to prevent women from voting or submitting candidatures for election. By law 33% of seats in the local elected bodies and 17% of seats in the National Assembly, provincial assemblies, and the Senate are reserved for women. As of 2014 there were 67 women serving in the National Assembly (20.7%); and 17 (16%) women in the upper

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89 CEDAW (2005), p. 46; ADB (2008), p. 15-16
90 Pakistan Today (2011),
91 Passort application forms The Passport Rules, 1974, Art. 4; CEDAW (2005), p. 54
92 Freedom House (2013)
93 CEDAW (2011), p.60
94 WAF (n.d.)
95 Shirkat Gah (2013)
96 Freedom House (2013)
97 Equality Now (2013), p.4
98 Human Rights Watch (2013), p.1
99 UK Home Office (2013)
100 CEDAW (2005), p. 35-37, 46
101 CEDAW (2005), p. 45
house. However, despite the legal quotas that make it easier for women to participate in public life, public opinion lags behind. In a 2012 Pew opinion poll, 62% of respondents believed that men make better political leaders than women, while 19% answered that men and women were equally capable. Only 10% believed women were better. The CEDAW Committee also found that patriarchal attitudes and deeply rooted stereotypes regarding the roles of women and men in society result in the forced disenfranchisement of women and impede and discourage their participation in elections (as candidates and voters). It also reiterated its concern at the low participation of women in the judiciary in the superior courts and the total absence of women judges in the Supreme Court.

Women are discriminated against in terms of citizenship. As per the Citizenship Act 1951, foreign husbands of Pakistani wives do not get automatic citizenship, as is the case with foreign wives of Pakistani men.

The role of the media is also important in perpetuating gender stereotypes. While the increased and rapid growth of this industry has created employment opportunities for women, it is still very difficult for women to be treated as equals.

Pakistan offers women 12 weeks of paid maternity leave at 100% of their wages, paid for by their employer. However there is no other protection for expectant mothers written into law, and the current law lacks sufficient enforcement mechanisms. The large number of women employed in the informal sector and in agriculture as unpaid family workers means that they are not covered by maternity laws. However the 2012 Pew Global Attitudes Survey shows that only 29% of Pakistanis believe women should be able to work outside of the home.

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102 IPU (2014)
103 Pew (2012), Q.44
104 CEDAW (2013), p.7
105 Zia (2012)
106 ILO (n.d.)
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