



WOMEN'S RIGHTS



POLICY BRIEF:

Pakistan's Compliance with the Convention on Elimination of All Forms of Discrimination Against Women

Pakistan's Compliance with International Women's Rights

EXECUTIVE SUMMARY

Since becoming a beneficiary of the Generalised System of Preferences (GSP+) scheme in 2014, the Government of Pakistan (GoP) has taken tangible legislative and institutional measures to improve compliance with international women's standards. Its commitment to advancing women's empowerment is reflected in key strategic-vision documents and the mainstreaming of gender in the planning and service delivery of key ministries. However, regressive social norms continue, in many cases, to thwart legal commitments made by Pakistan. The process, at the normative level, has failed to translate into tangible impact on the elimination of discrimination against women and the promotion of gender equality. Pakistan continues to perform poorly on all major global gender indexes. According to statistics, Violence against Women, especially Domestic Violence, remains widespread with survivors facing barriers, including bias and a lack of gender-sensitive safeguards, in accessing justice. Harassment of women journalists and human rights defenders, especially on online platforms, has also increased over the past decade. Women's representation in political and public life falls behind international standards. Despite many hurdles, the overall trend is positive with the appointment of the first woman justice at the Supreme Court and women occupying other key positions in the Judiciary and the Bar Associations.

INTRODUCTION

The GSP+ provides tariff preferences for imports to the European Union (EU) from vulnerable developing countries to support poverty eradication, sustainable development, good governance and participation in the global economy. Eligible countries can export goods to the EU market at zero duties for 66% of tariff lines. Pakistan is a major beneficiary of the trading opportunities offered under the GSP+. Since 2014, Pakistan's exports have increased to the EU Market by 65%.¹ With over 440 million consumers, the European Union is Pakistan's most important export destination.²

The preferential status under GSP+ is contingent upon beneficiary countries demonstrating tangible progress on implementing 27 international conventions on human and labour rights, environmental protection, climate change and good governance. Since entering the scheme, the GoP has taken tangible legislative measures to increase its compliance with the relevant conventions, however, owing to weak institutional frameworks and gaps in political will enforcement has lagged, particularly at the provincial levels.³

The following policy brief assesses the GoP's compliance in relation to its obligations to women's rights. The brief evaluates the GoP's performance under key provisions of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and concludes with strategic recommendations for progress.

ANALYSIS

The 2018-2019 GSP+ Monitoring report acknowledges that the GoP gives "high priority to the situation of women and girls".⁴ During the review of the government's Fifth Periodic Report in 2020, the Committee on the

¹ European Union GSP+ mission arrives to assess progress in implementation of international conventions. 22 June 2022. URL: https://www.eeas.europa.eu/delegations/pakistan/european-union-gsp-mission-arrives-assess-progress-implementation_en?s=175

² Id.

³ See European Commission. The EU Special Incentive Arrangement for Sustainable Development and Good Governance ('GSP+') assessment of Pakistan covering the period 2018 – 2019. 10 February 2020. [GSP+ Report] URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0022&qid=1675785438745&from=EN>

⁴ GSP+ Report at p. 12

Elimination of All Forms of Discrimination Against Women (CEDAW Committee) similarly noted the positive legislative reforms and improvements in the institutional and policy framework undertaken by the government to “accelerate the elimination of discrimination against women and promote gender equality”.⁵ Despite these efforts, Pakistan’s performance on international indexes continues to decline. In 2022, Pakistan ranked 145 out of 146 countries on the World Economic Forum’s Global Gender Gap Report.⁶ Furthermore, Pakistan ranks 130/139 countries on the Rule of Law Index of the World Justice Project.⁷

Women’s Empowerment

The GoP’s commitment to advancing women’s empowerment is reflected in the medium- and long-term strategic-vision documents, and the policies of various institutions and ministries to mainstream gender into their planning and service delivery. The Pakistan Vision 2025, which aligns with the United Nations Sustainable Development Cooperation Framework (UNSDCF) 2023-2027 for Pakistan, prioritises basic rights and gender equality as central tenants of the country’s development agenda, focusing on the need for gender responsive planning, engagement of vulnerable and marginalised groups, and increased reporting of violence against women (VAW) and related cases. In its first National Security Policy (2022-2026), the GoP recognises ‘gender security’ as a key pillar and aims to “ensure integration of gender equity into national security narratives through full and meaningful participation of women in decision-making, law enforcement, the justice sector, and peacekeeping.”

Violence Against Women (VAW)

The GoP’s efforts to eradicate VAW have primarily focused upon introducing legislation. The Criminal Law (Amendment) (Offences relating to Rape) Act, 2016 introduced, inter alia, modern technology into investigation and trial processes for sexual offences, making DNA testing mandatory in rape cases and permitting the recording of statements of victims and witnesses via video links. Following this the Anti Rape (Investigation and Trial) Act, 2022 sought to set up special courts, special investigation units, anti-rape crisis cells, and a sex offenders register. In 2023, the Ministry of Law and Justice notified the Anti-Rape (Crises Cell and Medico-Legal) Rules 2022 that provide Standard Operating Procedures for the functioning of Anti-Rape Crisis Cells, including guidelines on conducting the physical examination of the victim/survivor of sexual violence. Legislation criminalising Domestic Violence has also been enacted in Sindh, Balochistan, Punjab and Khyber Pakhtunkhwa. The rules for these provincial laws, however, remain pending. In 2021, the Federal Domestic Violence (Prevention and Protection) Bill failed to pass by a single vote in the National Assembly.

Significant institutional measures have been adopted by the judiciary to improve access to justice for VAW survivors. In 2017, the Lahore High Court inaugurated Pakistan’s first Gender Based Violence Court to streamline cases involving female survivors of violence against women, provide extraordinary measures to support survivors, ensure speedy and confidential trials, reduce harassment and provide security against reprisals to survivors. In June 2019, the Supreme Court announced the establishment of 1,016 special courts to hear domestic violence cases. The CEDAW Committee, however, noted the continued lack of awareness of and training in relation to gender-based violence against women and girls among judges, prosecutors, police officers and medical personnel to enable them to respond effectively to such cases in a gender-sensitive manner.⁸ According to the National Commission on Human Rights (NCHR), police often dismiss complaints against abusers of domestic violence and mediation is encouraged to resolve the matter. Majority of police request the victim to sign a *razi nama* (mutual consent settlement) and return home.⁹

⁵ UN Committee on the Elimination of Discrimination Against Women (CEDAW), *Concluding observations of the Committee on the Elimination of Discrimination against Women – Pakistan. 10–28 February 2020*. [Concluding Observations] Para 5

⁶ World Economic Forum (WEF). *Global Gender Gap Report 2022*. 13 July 2022. Available at: <https://www.weforum.org/reports/global-gender-gap-report-2022/> The country ranked 145 on economic participation and opportunity, 143 on health and survival, 135 on educational attainment and 95 on political participation.

⁷ World Justice Project. *Rule of Law Index 2022*. 2022. URL: <https://worldjusticeproject.org/rule-of-law/index/downloads/WJPIIndex2022.pdf>

⁸ *Concluding Observations*, supra at note 5. para 31

⁹ National Commission on Human Rights (NCHR). *Domestic Violence: Policy Brief*. 2023. p. 10. URL: <https://www.nchr.gov.pk/wp-content/uploads/2023/03/Domestic-Violence-Policy-Brief.pdf>

One of the biggest challenges faced in Pakistan is the lack of consistent data on violence against women (VAW) to support the development of appropriate interventions, which has led to ineffective and weak policy reforms.¹⁰ Despite the positive measures adopted by the GoP, statistics show that VAW remains wide-spread, 34% of ever-married women between the ages 15-49 experienced intimate partner physical and/or sexual violence at least once in their lifetime¹¹ and 56% of ever-married women who reported experiencing physical or sexual violence have neither sought help to stop the violence nor told anyone¹². According to the Human Rights Commission of Pakistan (HRCP), a minimum of 11 rape cases are reported daily with more than 22,000 being reported between 2015 – 2021.¹³ Another study found that 90% of women in Pakistan have experienced some form of domestic violence in their lifetime.¹⁴ Actual numbers are much higher as cultural barriers and lack of institutional safeguards deter survivors from reporting.

National machinery for the advancement of Women

The National Commission on the Status of Women (NCSW) is an independent statutory body empowered with powers of a civil court. It exercises financial autonomy and has strong summoning and investigative powers. In 2019, the body's Employees Recruitment and Conditions of Service Rules were approved and notified. In July 2021, Neelofar Bakhtiar was appointed the chairperson of the commission after a gap of 2 years, despite a maximum limit of 30 days between appointments provided by law. The CEDAW Committee noted with concern the limited human and financial resources available to the NCSW to fulfil its broad mandate to promote and protect women's rights and gender equality¹⁵. Civil Society reports observe that a lack of Standard Operating Procedures for NCSW's dealings with the Ministry of Human Rights, other key Ministries, Divisions and the Women's Parliamentary Caucus negatively impacts coordination and streamlining on issues of gender equality¹⁶.

The tenure of the chairperson of the Punjab Commission on the Status of Women (PCSW) was terminated in May 2019, just months before the end of her term. To date, the commission still remains without a chair, despite the law requiring the appointment of new chairs within three months from a vacancy arising. In 2021, the provincial Balochistan Commission on the Status of Women was finally set up and a chairperson was selected.

Equal Participation in Public and Political Life

Pakistan ranked 95/156 for political empowerment under the WEF Global Gender Gap Index Report 2022¹⁷. Article 34 of the Constitution emphasises full participation of women in national life. The Elections Act 2017 also recognises reducing the gender inequality in voter turnout as an important goal and provides for re-polling in case there is evidence of low women turnout or if the parties agree to restraining women's right to vote.¹⁸ At the time of the 2018 general elections, women comprised 44% of registered voters – indicating approximately 12 million missing women in the vote register. Equally important, the male–female gap in voter turnout in the 2018 general elections stood at 9.1% , with 11 million fewer women exercising their right to vote than men.¹⁹

International standards recommend a 30% quota for women in all parliamentary bodies and bureaucracies to achieve a 'critical mass'. In Pakistan, 22% of all seats in the National Assembly are reserved for women. In the

¹⁰ Concluding Observations, supra at note 5. Para 31

¹¹ National Institute of Population Studies - NIPS/Pakistan and ICF. 2019. Pakistan Demographic and Health Survey 2017-18. Islamabad, Pakistan, and Rockville, Maryland, USA: NIPS and ICF.

¹² Id.

¹³ Human Rights Commission of Pakistan (HRCP). State of Human Rights in Pakistan 2021. 2022. Available at: <https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2022-State-of-human-rights-in-2021.pdf>

¹⁴ See NCHR. Policy Brief: Domestic Violence. 2023.

¹⁵ Concluding Observations, supra at note 5. para 21

¹⁶ Aurat Foundation & Legal Aid Society. Civil Society's Alternative Report on CEDAW 2020. P. 2 URL: <https://www.af.org.pk/Reports/Civil%20Society%20Alternative%20Report%20on%20CEDAW%20Pakistan%202020.pdf>

¹⁷ Supra at note 6

¹⁸ Section 9 (1) of the Elections Act 2017

¹⁹ Institute of Development and Economic Alternatives (IDEAS). Women's Political Participation in a Pakistan Metropolis: Navigating Gendered Household and Political Spaces. 2019. Available at: https://ideaspak.org/wp-content/files_mf/155619037120190423.pdf

Senate, there is only a 17% quota for women Senators. Under the Election Act, 2017, political parties are bound to select candidates to ensure at least 5% of those nominated for election to general seats are women.

Women comprise a mere 1.5% of the police force in Pakistan.²⁰ Women's representation in the judiciary also remains low at 15% with only 5% of Justices in the High Court being women. Symbolic advances have been made in the past few years. In 2023, Justice Hilali became the first female Chief Justice of the Peshawar High Court. In 2022, Justice Ayesha Malik was appointed as the first female Supreme Court Justice in Pakistan. Despite constituting only 12% of legal fraternity, women continue to make strides in the legal profession²¹. In 2003, two lawyers – Rabiya Bajwa and Sabahat Rizvi – made history by becoming the first female Vice President and Secretary, respectively, to be elected to the Lahore High Court Bar Association (LHCBA).

Women Human Rights Defenders and Journalists

Studies show that women standing up and defending human rights face threats, stigma and violence – not least rape and other forms of sexual abuse – more often than their male counterparts in Pakistan. A baseline survey on the situation of women human rights defenders in Pakistan, revealed that 48 percent of organisations working on human rights for women received threats at some point in their work.²²

The harassment of women journalists, especially on online platforms, has also become cause for serious concern. While online harassment is not peculiar to Pakistan, it feeds into already existing gender bias. In a 2020 report, titled “Women Journalists and the Double Bind: The Self-Censorship Effect of Online Harassment in Pakistan”, Media Matters for Democracy (MMfD) reported that 60% of the participants shared that they had faced some form of attacks, threats or harassment because of their profession: journalism²³. It found out that 10 percent more women said that they faced harassment and threats as compared to 2018.²⁴

Marriage and Family

The Hindu Marriage Act, 2017 regulates marriages of Hindus in Pakistan, and accommodates all the important requirements of a Hindu marriage, including its registration, the provisions for dissolution of the marriage, and the grounds on which such marriage may be dissolved. The Act allows women to seek dissolution of marriage on grounds of oppression. The adoption of a bill to amend the Christian Marriage Act and the Christian Divorce Act currently stands delayed and a bill to regulate Sikh marriages is in the draft stages.

Pakistan in its efforts to prohibit the practice of forced marriages enacted the Prevention of Anti-Women Practices (Criminal Law Amendment) Act, 2011. In January 2023, UN experts issued a statement expressing alarm at the reported rise in abductions, forced marriages and conversions of underage girls and young women from religious minorities in Pakistan²⁵. The experts noted that “the court system enables these offenses by accepting, without critical examination, fraudulent evidence from perpetrators regarding victims’ adulthood, voluntary marriage, and conversion.” They enjoined upon the GoP to adopt and enforce legislation prohibiting forced conversions, forced and child marriages, kidnapping, and trafficking.

According to UNICEF, Pakistan has nearly 19 million child brides.²⁶ The UN children’s agency estimates that around 4.6 million were married before the age of 15 and 18.9 million before they turned 18.²⁷ Pakistan’s Child Marriage Restraint Act, 1929 sets the legal age of marriage for boys to 18 and 16 for girls. In April 2014, the Sindh Assembly adopted the Sindh Child Marriage Restraint Act, which changed the minimum age to 18 for

²⁰ NCHR. Policy Brief: Domestic Violence. 2023. Available at: <https://www.nchr.gov.pk/wp-content/uploads/2023/03/Domestic-Violence-Policy-Brief.pdf>

²¹ Lawher.pk. The State of Women’s Representation in Law: 2020-2021. 2021. Available at: https://gdpakistan.org/wp-content/uploads/2021/07/Baseline-Report-Lawyer.pk_.pdf

²² UN Women. Women’s Human Rights Defenders are Agents of Change. 2016. URL: <https://asiapacific.unwomen.org/en/news-and-events/stories/2016/12/women-human-rights-defenders-are-agents-of-change>

²³ Media Matters for Democracy launches a new study examining the impact of online harassment on women journalists. 2021. Available at: <https://mediamatters.pk/media-matters-for-democracy-launches-a-new-study-examining-the-impact-of-online-harassment-on-women-journalists/>

²⁴ Id.

²⁵ Pakistan: UN experts urge action on coerced religious conversions, forced and child marriage. 16 Jan 2023. Available at: <https://www.ohchr.org/en/press-releases/2023/01/pakistan-un-experts-urge-action-coerced-religious-conversions-forced-and>

²⁶ UNICEF. Pakistan: Current Levels of Child Marriage. Available at: <https://www.unicef.org/pakistan/media/4151/file/Child%20Marriage%20Country%20Profile.pdf>

²⁷ Id.

both girls and boys and made underage marriage punishable by law. In February 2017, in an effort to crack down on child marriage, the GoP amended the Penal Code and toughened penalties for those found guilty of the crime.

RECOMMENDATIONS

In light of the above, the GoP needs to take the following steps to ensure compliance with its women right's obligations under the GSP+ scheme:

- Adopt a national plan of action to combat all forms of gender-based violence against women, with a particular focus on domestic violence.
- Introduce systematic capacity-building for judges, prosecutors, police officers and other law enforcement officials on the strict application of criminal law provisions for gender-based violence against women and on gender-sensitive investigation procedures, and introduce mandatory training for medical personnel.
- Ensure that the National Commission on the Status of Women (NCSW) has adequate human, technical and financial resources to fulfil its mandate.
- Accelerate the process for the appointment of the Chair of the Punjab Commission on the Status of Women (PCSW)
- Promulgate rules for the implementation of the Provincial Domestic Violence laws
- Enact the Federal Domestic Violence (Prevention and Protection) Bill, 2021
- Amend the Child Marriage Restraint Act to set the minimum age of marriage at 18 years for both sexes without exceptions throughout the country
- Expedite the adoption of a bill to amend the Christian Marriage Act and the Christian Divorce Act and of the marriage bill for Sikhs.
- Increase minimum quotas for the representation of women in the National Assembly, the provincial assemblies and the Senate to at least 30 per cent, in accordance with international standards.
- Establish a procedure for women to file complaints about forced disenfranchisement and adopt the draft bill submitted by the Election Commission of Pakistan, requiring re-polling in elections in which women's votes account for less than 10 per cent of all votes cast
- Take targeted measures, including temporary special measures, such as the preferential recruitment of women in cases of equal qualifications, to increase the number of women judges in the higher courts and ensure the appointment of women to the Supreme Court.

CONCLUSION

The GSP+ scheme has served a key role in effecting legislative and institutional progress to improve the situation of women in Pakistan. However, lack of political will (particularly at the provincial levels) and normative constraints have meant that the impact of the measures in many areas has failed to translate into significant improvements on key gender indexes. The GoP needs to follow through on implementing legislative and policy measures to bridge the gap between its international women's rights obligations and the ground situation.



Justice Project Pakistan (JPP), is an award winning legal action non-government organization dedicated to representing the most vulnerable Pakistani prisoners facing the harshest punishments at home and abroad. Our work combines strategic litigation, fierce domestic and international public and policy advocacy campaigns, and building the capacity of stakeholders to bring systemic reform to the criminal justice system in Pakistan.

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