

Politics of Islamization and Women Rights in Pakistan

Saiqa Jabeen Shouket

M.Phil. Scholar, Department of Islamic and Religious Studies, Hazara University, Mansehra, KP, Pakistan.

Muhammad Shakeel Ahmad

Assistant Professor, Department of Humanities, COMSATS Institute of Information Technology, Abbottabad, KP, Pakistan/Post-Doctoral Fellow, School of Politics and International Relations, The University of Nottingham United Kingdom.
Email: shakeelahmad.awan@gmail.com

Abstract

Women empowerment and Islamization have critical relationship with each other in the political history of Pakistan. The domination of a single dogmatic thought process has affected the alternatives and has reduced the political space of almost half of the societal segment in the political sphere. The initiatives of women empowerment have been taken in Pakistan, but that empowerment could not trickle down to the masses. The slogans of empowerment further concentrate the power of the dominant elite in a same class. The process of Islamization started in Pakistan before its inception in 1947. Islamization got significant momentum during the Zia-ul-Haq regime in Pakistan in the 1980s. This paper is an attempt to explore the engagements of women with Islamization and how the process of Islamization influenced women's empowerment. The existing writings on Islamization largely focused on Islamic laws and their political manifestation in the polity of Pakistan. This study primarily focused on gendered dimensions and their linkages with Islamization. A qualitative approach has been used for exploring the core question, and it has been found that ideological state apparatuses are dominating both Islamization and women's political rights.

Key Words:

Islamization, Women, Empowerment, Pakistan, Politics.

Women Rights and Islam

Women's rights in Islam and their political participation is a challenging task for analysis. Some say it is compatible with varied contradictions and some others are not in favor of women's political participation. With the conflicting attitude of the constitution and society regarding women's political participation, one can find that social and constitutional favors related to women's issues do not co-exist. Commission on Status of Women highlighted issues related to the marginalized nature of women in Pakistan. Women are marginalized in respect of citizenship rights and the right to political participation. It is considered a sin to say that women and men (gender) are equal and equal rights in law. "It is the equality of a lamb and a lion. Considering all the decades of discrimination, subordination, and effacement from public life that women have been subjected to, even when entering into a competition is equally open, it remains for them a handicap race many times over". (Kaschitz, H. 1988). The Quran is silent regarding women's exclusion from politics. In early Islamic history, there was no compulsion on women to participate in the political decision-making process. One important example was regarding consent to the head of state in the form of Baya (Oath). The other point where Quran speaks for women is regarding the good governance of Queen Saba. Controversy over women's political participation arose on narration of Hadiths. Two conflicting views emerged, one on the spirit of equality based on Islamic traditions and the other regarding the confinement of women derived from Hadith literature. Later, in Islamic history, when totalitarianism emerged and then men and women lost their political participation. The women's political space and controversy over it are more political. Today, women's role in public life has been restricted by many Muslim countries like Kuwait and Saudi Arabia. In these countries, women were denied voting. The changing mode of business and regional democratic movements will ultimately affect all those regions where the ruling elite restricts women's political participation. (Tolley, J. H. B. 2010). There are some other Muslim countries like Pakistan, Turkey, Jordan, etc., where women have legal rights of political participation. The Constitution of the Islamic Republic of Pakistan provides significance regarding the importance of women in the public sphere. Article 34 of the 1973 constitution stated as:

"Steps shall be taken to ensure full participation of women in all spheres of national life." Further, article 32 of the constitution of Pakistan states, "The State shall encourage local government institutions composed of elected representatives of the areas concerned and, in such institutions, special representation shall be given to peasants, workers and women." (Constitution 1973, Article 32). Now it is the responsibility of the state to ensure women's political participation at a level as per the

constitutional spirit mentioned in these articles. Under the prevalent social conditions, the constitutional architects included special seats for women in Parliament. Article 51(4) states, "Until the expiration of a period of ten years from the holding of the third general election to the National Assembly, twenty seats shall be reserved for women." (Constitution 1973). Moreover, 5% of seats were also reserved in Provincial Assemblies. There was a special mechanism of elections called indirect elections for women on reserved seats. In 1990, the ten-year time span for women reserved seats lapsed, and further enhancement in women reserved seats were included in Musharraf legal framework order in 2002. The women share in provincial assemblies areas:

Table 1.

Province	General Mandates	Women's Mandates	Minorities Mandates	Total
Baluchistan	51	11	3	65
KPK	99	22	3	124
Punjab	297	66	8	371
Sindh	130	29	9	168

Source: Constitution (Eighteenth Amendment) Act 2010, point 36.

The women reserved seats are filled by indirect elections after general elections. The 1990s period was a very stressful period for women, and in this period, there were no constitutional provisions for women's representation due to the lapse of 10 years period mentioned in the 1973 constitution. After 2000, the demand for women's representation increased, and proposals for women's representation were incorporated in the Musharraf period. Later in 2010, under the 18th constitutional amendment, a constitutional shelter was given to women's representation. Presently, women's share in the National Assembly of Pakistan is reflected in the following table.

Table 2.

Composition of National Assembly				
Area/ Province	General Seats	women	Non-Muslims	Total
Federal capital	2	-	10	2
Punjab	148	35		183
Sindh	61	14		75
NWFP	35	8		43
Balochistan	14	3		17
FATAs	12	-		12
Total	272	60	10	342

Source: www.Facebook.com/Siyasi.Mohalla

Apart from constitutional provisions regarding women's representation, there are some other socio-economic and political aspects which have an effect on women representation. Women's visibility in public life depends on the political culture of society. If political culture remained under the influence of the patriarch, then legal and constitutional provisions would not work. To strengthen women's participation in political affairs, there is a need to connect women with political parties. This process can help the political parties to award tickets to women candidates for elections. An instrumental and substantive approach is required to strengthen women's representation for policy formulations. (Shaheed, F., & Equality, G. 2009). The leading political parties in Pakistan are trying to incorporate women's representations, but these parties only provide an opportunity to those women who are close relatives of party leaders. At the provincial level, women's share is indicated in the following table.

Table 3.

Province/Territory	General Seats	Technocrats/Ulema	Women	Non-Muslim	Total
Baluchistan	14	4	4	1	23
Khyber Pakhtunkhwa	14	4	4	1	23
Sindh	14	4	4	1	23
Punjab	14	4	4	1	23
Islamabad Capital Territory	2	1	1	-	4
FATA	8	-	-	-	8
Total	66	17	17	4	104

Source: Constitution of Pakistan 1973 (amended under 18th amendment)

The women reserved seats is a temporary way towards women's political empowerment. The social space is not conducive to women direct elections; therefore, the reserved seats were allocated to women's representation to create a political space for direct elections in the near future. There are some evidences where influential women contested elections. In the 1965 presidential election, Ms. Fatima Jinnah, a sister of the founder of Pakistan Quaid-e-Azam Muhammad Ali Jinnah, contested presidential elections against Ayub Khan. She was the only single woman who fought elections but lost these elections. (Awan, S, 2015). In 1970, the first general elections on one man one vote were held for and first time, and an opportunity was given to women in political participation. During these elections, Dr. Kaneez Fatima was the only women who contested elections. Begum Nasim Wali Khan, an influential political leader from NWFP, contested the 1977 controversial election. (Ali, S. S. 2000). After that, Subsequent elections were held in the country in 1985, 1988, 1990, and 1993 showed similar results regarding women participation. It was the 1988 elections, whose results brought Benazir Bhutto as the first youngest women Prime Minister and also first women Prime Minister in the history of the Muslim world. The other landmark decision regarding women's direct contestation was the 1997 general elections in Pakistan. In these elections, both leading political parties of Pakistan, including Pakistan Muslim League-Nawaz (PML-N) and Pakistan People Party (PPP) fielded their women candidates for elections. PPP offered nine tickets out of 161 to women candidates for National Assembly and similarly PML-N six out of 177 candidates (Syed A.H. 1998). The above-mentioned facts show the commitment of political parties regarding women's political representation. The contesting parties in elections want to win the elections, and fielding women as an election candidate reduced their chances of electoral victory. Therefore, parties prefer to allocate electoral tickets only to men due to male dominated political culture. The invisibility of women in the public sphere and the lack of interest of political parties in articulating women's representation through direct elections are contradicting the fundamental human rights section of the constitution and its principle of state policy as mentioned in the constitution of Pakistan. This political behaviour is also in contradiction to other statutory laws in Pakistan where both the gender, men and women, are presented equally. It is an 'operative law' based on a patriarchal culture that has been used to exclude women from the political sphere. The patriarchal political structure reflects its duality regarding women's political space, it restricts women's leadership role, but on the other side, due to the crucial nature of the electoral contest, the system dragged female voters to the polling stations to cast a vote. Apparently, the patriarchal forces propagate that women's participation in the electoral process in a representation of democracy, but women's participation as voters further increased the power of the patriarchal electoral system. This system provides political parties and space to create and launch 'women wings' for election campaigns to male candidates. These women wings have an easy access to the homes of voters in their constituencies. Women's wings are used for door-to-door campaigns and perform the duties of polling agents on behalf of a male candidate. In some other parts of Pakistan, like tribal belts, the contesting parties in elections do not allow women to exercise their right to vote through gentleman agreements. (Ali, S. S. 2000).

In tribal areas of Pakistan, the right to vote was extended in 1997, but the local Jirgas denied women to vote. Announcements through loudspeakers and public gatherings were made against women voting and were declared it un-Islamic. Other threats include the burning of houses if women come to exercise their right to vote. Under these severe local restrictions, only 37 women out of 6600 registered voters voted. The state could not ensure its constitutional writ in these tribal areas with regards to the protection of women's constitutional right to vote. Similarly, women's representation is also very poor in local government elections (T. Moharram Khan, 1996). The Constitution of Pakistan Article 32 stated, "shall encourage local government institutions, composed of elected representatives of the area concerned, and in such institutions, the special representation will be given to peasants, workers, and women." (Article 32). In 1979, the province of Punjab and province NWFP (KP) passed their ordinances regarding local government. In 1980, the Baluchistan government also promulgated local government ordinance. Only Punjab has provided reserved seats to women in the provincial assembly and other tier of representation at the local level. The other three provinces were reluctant to clear it in ordinances but agreed to decide this matter by provincial governments through notification. (Ali, S. S. 2000). The local government system is one of the significant tier and organ of governance in which people at the grass-roots level can effectively contribute in national life. These grass-root-level democracies always work in the military's government but remain an unsuccessful model in civilian governments in Pakistan. The Commission of Inquiry Report views this system as one the accessible system for women. Women can participate in public affairs through the local government system. Moreover, Saba Khattak's identified different perspectives of women's low representation in Local government. (S. Khattak, 1996). According to Saba Khattak, women's representation is linked with socio-political context. It is socio-political aspects that determine women's political participation and representation. This argument is based on a class question that it is always a dominant elite class that shows their representation in public appearance. In Pakistan's politics, some women are projected as a role models. Fatima Jinnah, Begum Nasim Wali Khan, and Benazir Bhutto are some of the important figures that are presented as role models. According to utility argument, the representation of few women in politics is an encouragement to engage other women to enter in politics. It is

not only a women's representation but a representation of socio-economic circumstances. The women who are involved in politics belong to the elite club of the society, and they are representatives of upper class. These women achieved this position due to their belonging to the upper strata of society, and their participation in politics is acceptable. In large constituencies, elite women reside in elite residential areas and keep a safe distance from the masses and influence them politically. This is a strategy to control the class sensibilities amongst the masses. On the other side, women who participate in local politics sensitize class questions at the local level to get political support. Therefore, it becomes difficult for elite segments to place their women in local politics, and they collaborate with those forces who do not accept women's role in public affairs. For elite clubs, top-down approach for women's political representation is the best approach as it protects elite interests. This strategy is helpful to maximize elite political influence over general masses in level national elections. The problem with weak position of women at the local level is a method of elections in which male councilors dominate women councilors. There are a number of theoretical issues regarding operative Islamic law regarding women's politics and their political participation in the public sphere. The first important component is related to women's acceptability in public life. Considering women space in the world and particularly in the Muslim world, the situation of women's representation is not favourable. The position of religious, political parties is also revolving like a pendulum on the issue of women politics. Their swinging position is based on their political interest rather than a well-informed understanding of Islamic Laws. The right-wing religious political party Jamaat e Islami supported a women presidential candidate Fatima Jinnah in 1965 presidential election. The same religious party did not allow its own women member, Nisar Fatima, to sit in in 1985 General Zia parliament. Similarly, the party invoked religious traditions against women's representation and opposed Benazir Bhutto in the 1988 election by declaring that Islam forbids a woman to become a head of state. Due to the popularity of Benazir Bhutto during this time and her struggle against military dictatorship, such religious calls could not get serious attention attention by the public. Apart from party politics, there are some other social factors, including customs and traditions, that cause to marginalize women from the political domain. In such social conditioning, women of politically influential dynasties also follow traditional lineage-oriented leadership. A class divided between the rulers and ruled is also a major factor that affects women's active participation. It has been observed that cultural values are an expression of power. Therefore upper-class women have no such barriers to entering in the political domain. The norms which are unacceptable on religious grounds become acceptable as per the desire of power.

Islamisation of Constitution

Constitution provides a legal structure to the society, and finally, this legal framework shapes a political tone to the society at large. In aftermath of Tehriq Nizam Mustafa in 1977, General Zia ul Haq assumed a charge of Chief Martial Law Administrator (CMLA). He started a process of Islamization as per the ground set in *Tehriq Nizam Mustafa*. He projected that his main mission was to Islamize a state and introduce Islamic law in the country. (Burki, S. J. 1988). The concept of privacy, locally known as *Chadar our Chardiwar* (veiling of female courtyards) was his main objective to maintain sanctity in a society. However, the supports for women's equal rights are shown in the following table.

Table 4.

Support for Equal Rights in General, Less so on Specifics				
	Women Should have Equal rights as men	Men have more rights to Jobs when Scarce	Men make better Political Leaders	Family should have say over women's husbands
	%	%	%	%
Lebnon	93	50	32	51
Turkey	84	67	52	35
Pakistan	76	81	62	87
Tunisia	74	86	75	14
Egypt	58	79	42	--
Jordan	63	66	50	73

*Percentage include those who say the family should decide who a women will marry and those who say the woman and her family should both decide.
 For Q102, data for Egypt not shown due to administrative error.
 PEW RESEARCH CENTER Q85, Q86B, Q101 & Q102.

He used Islamization to confront resistance from within a society and also connected religion with culture to strengthen male dominance in the political sphere. (Mullally, S. 1995). During this period, there were other parallel processes of Islamization in Afghanistan and Iran. The broader purpose of all these Islamist processes was to keep masculinity in politics by constructing conflict between modernity and traditions. This was a global political strategy of Islamization to build a buffered wall against Russian influence in the region. (Moghadam, V. M. 1992). Women are considered as heritage bearers; they are the expression of local culture and identities. They symbolize the whole face of society. In the General Zia period, the restrictions imposed on women meant the restrictions over the humanistic face of Pakistan society; this restriction was a political strategy to construct an habitus to recruit jihadis from Pakistan. The soft face of society turned to a hard face due to the Islamization process. The existing social control moved towards a new transition laminated by religiosity. The women's rights included in the constitution has not yet translated into social change and development, but these articles further deteriorate women's conditions in Pakistan. There are some verses in the Quran that have some evidence regarding women's collaboration with others in terms of financial affairs. In the British period law of evidence was introduced in 1872. according to this law of evidence, there was no difference on the basis of gender; men and women both were equal. The process of Islamization in Pakistan has reduced this position of women. The process of Islamization from the 1970s onwards has skewed women's status as equal witness. During the Zia period, the presidential order known as Qanoon Shahadat order 1884 was promulgated. As per section 17 of Qanoon Shahadat, one man or two women witnesses is required as evidence. In terms of financial affairs, only written evidence was considered sufficient. In some cases, the court can decide the gendered nature of evidence. There was huge criticism on section 17 regarding its misunderstanding of the Quran verse. Verse 2:282. This argued the condition of the witness. Witness of financial affairs is related to writing, its recommendatory, not mandatory. In writing, Qanoon Shahadat is simple but its practice, there are many complications during the judicial process.

Literal interpretation of verse 2:282 goes against the spirit and purpose behind it". Mumtaz and Shaheed's described it as:

"Seen in the context of seventh-century Arabia, the verse is an indication of the inclusion of women in matters of economic communication where women may not have been so active. Satirically, the same verse is being used in 20th century Pakistan to exclude them." (Mumtaz, K., & Shaheed, F. 1987). The discretionary powers of the court were maintained under Qanoon Shahadat order 1984, section 17. This article confined to writings, wordings, and financial transactions, and the court will determine the other evidence as per Islam. This led to different interpretations (Government of Pakistan, 1987). Khalid Ahmad, a lawyer in Abbottabad described paradoxes of law as:

"One example of this lies in the Criminal Law Amendment Act 1997 where one form of proof of homicide is by evidence as provided by section 17 of the Qanoon-i-Shahadat, 1984. In other words, a large margin of approval is given to the judiciary, who may or may not share the same opinion on the interpretation of the Islamic law of evidence. One judge may, for instance, hold a woman's testimony equal to that of man's, another may hold the repeal view. It is interesting to note, however, that in the 13 years of its existence on the statute books, section 17 of the Qanoon-i-Shahadat has not been invoked in a court of law even once. This speaks volumes for the 'operative' Islamic law evolved over the years. (Khalid Ahmad, 2014)"
In Mumtaz and Shaheen words.

"....At the same time, the very detail of its nonstop existence on the statute books makes the Qanoon-i-Shahadat similar to the proverbial sword of Damocles hanging over the heads of the millions of women in Pakistan. That the law has never been invoked to devalue the evidence of a woman is no assurance that it never will in the future be put to such use, leaving women in a very unsure and definitely exposed position with regard to their legal personhood." (Mumtaz, K., & Shaheed, F. 1987)

In the area of criminal laws, General Zia ul Haq introduced six major laws known as *Haddoo* Laws 1979. Before these criminal laws were embedded in colonial codified laws. (Mughal, J. R. D., & Ahmad, M. 2014). The Islamic law in some cases contradicts personal status law but under *haddoo* laws. In the preamble of *haddoo* laws it was declared that all existing laws will be modified as per the requirement of Islam. This law divided punishment into *hadd* and *tazir*. In *hadd*, punishment is well-defined in Quran and in *tazir* punishment will be interpreted by court. The Hudood Ordinances, however, depart from general Islamic jurisprudence by making provisions both for the form and evaluate of punishment. According to Haddoo ordinance 1979 has the following forms, "(a) the accused pleads guilty of the commission of theft liable to Hadd, or (b) at least two Muslim adult male witnesses other than the sufferer of the theft, about whom the Court is satisfied, having consider to the requirements of *tazkia al shuhood*, that they are truthful persons and refrain from major sins (Kabair), giving evidence as eyewitnesses of the occurrence; Likewise, section 8 of The Offence of Zina (Enforcement of Hudood) Ordinance 1979, proof of zina or *zina biljabr* liable to Hadd may be submitted in one of the two forms, namely, that (a) the accused makes before a Court of expert jurisdiction a confession of the offence; or (b) at least four

Muslim adult male witnesses, about whom the Court is satisfied, having regard to the necessities of *tazkia al-shuhood*, that they are truthful persons and refrain from major sins (Kabair), giving evidence as eye witnesses of the act of dissemination necessary to the offence." (Imran, R. 2005). Moreover as per section 8(b) regarding *zina* or *zina biljabr hadd* is as, " at least four Muslim male adult witnesses about whom the Court is satisfied having consider to the requirements of *tazkiyyah al-shuhood* that they are truthful persons and abstain from major sins (kabair), given proof as eye witnesses of the act of penetration compulsory to the offence: Provided that, if the accused is a non-Muslim the eye-witnesses may be non-Muslims. (Hadi, S. 2003)."

Inferences drawn from the above discussion, the major question is regarding the division between *Zina* and *Zina biljabr*. There is very thin line between these acts. Moreover, the conditions of four pious witnesses are required as a proof for punishing a rapist under *hadd*. If such condition has not been met, then it will be treated under *tazir* and court will decide punishment. It is impossible to collect proof for *Zina* and *Zina biljabr* cases, therefore, trial of such cases are carried out under *tazir*. The other major problem with the *Zina* ordinance is related to victim of zina. If a victim who is facing a rape tried to register it as crime report, the victim he or she considered as criminal under *Zina* ordinance. If a woman becomes pregnant under sexual victimization, then she will be considered a crime. Under *haddoo* laws, mostly women become victims and they are charged as criminal. There are some flaws in *Haddoo* Ordinance. Some Ulema also pointed out them, but due to lack of interest subsequent governments the process of Islamization of laws were discontinued. The criminal laws were not updated in consultation with constitutional institutions and Muslim jurists and experts. The breakdown of violence against women is shown in the following table.

Table 5.

Breakdown of Violence		
Categories of crime	No. of incidents	% of total
Abduction/kidnapping	1607	21
Murder	1745	23
Domestic Voilence	989	13
Suicide	575	8
Honor killing	432	6
Rape/gang rape	822	11
Sexual assault	58	1

Source: Aurat Foundation. 2013. Report on violence against women

According to rape prosecution, male could not be prosecuted on evidence. The *haddoo* laws are used to utilize and victimize a woman. (Commission of Inquiry Report, 1999). *Zina* ordinance is used as a political tool but not to improve the morality of society. From 1980 to 1987, there were many cases in which women got acquittal from Federal Shariat Court. Here it is pertinent to point out Qazaf Law related to fake accusation. This law never worked in Pakistan. There are some constitutional measures regarding women protection. Article 27 is regarding prohibition of decimation in services on the basis of gender. The biggest constitutional challenges regarding women are conflicting constitutional provisions and constitutional amendments. This constitutional distortion affect women political role in a society. The constitution of Pakistan is under the influence of three major streams; one is International agreements/commitments, second is Islamic/ religious influence and third its secular orientation. These are the constitutional paradoxes in the Pakistani constitution, the misbalancing situation i.e Islamic provision got prominence by weakening other secular provisions. This situation has created ambiguity in the constitutional setup of society. Islamic laws do not discriminate women rights, but there many issues related to women rights when constitutional provisions interact with societal norms and values as social values does not place women in mainstream of politics.

Haddoo ordinance was propagated as justified by saying to modify it with existing laws and to align them with Islam as prescribed in Quran and Sunnah. The ordinance define had as "hadd means punishment ordained by the Holy Qur'an or Sunnah". This definition is in contradiction with the preamble which reflect Quran and Sunnah, where definition considered only one source. The recommendation by the Council of Islamic Ideology also pointed out flaws in definitions. "It is quite obvious that the concept of hadd has its origins in the discussion of Fuqaha in early Islam and its definitions developed as a consequence of the differences among these fuqaha about the concept of crime and punishment and about how far the state should or not interfere in Shari'a". (Masud, M. K. 2015).

Conclusion

This study attempted to explore Islamisation and women rights along with constitutional provisions. The study

shows that there is a challenging relationship between Islamization and women rights. It appears that despite formal provision for complete equality between men and women under these laws, women are absent from the debate in the public sphere, an arena that is essentially assumed to be non-gendered. One reason for this absence in the opinion of Halliday is due to institutional inertia. Even where some headway in gender issues is perceived within government policy-making and implementing bodies, these issues are placed at relatively less important positions. This is compounded by the fact that the domain of practice, e.g., government ministries, is itself a male dominated arena. Thus, the gender blindness of various debates is seldom perceived. Even where this is perceived, it is done in a very elementary manner so that it leads to co-optation rather than a positive move. For instance, in Pakistan, politicians and policy-makers, conscious of women's absence, as well as responding to women's demands, inserted a number of provisions in the constitution and other laws as affirmative action measures. These include the fields of education, health, employment and political participation. Gallup Public survey indicates that, "public sector employment, educational institutions, Parliament and in local government. The few reserved seats make women's presence insignificant while policy-makers can point to their gender sensitivity and support for women's issues. That other competing sets of regulatory norms play a more effective role in holding women back from being accepted in the public sphere is ignored".

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