

# **The War on Women:** **Terror, Tribes and Pakistan's ignored casualties**



**A Report by WAPPNA**

**(Women's Association of Pakistan Physicians of North America)**



### **Introduction and purpose of report**

This report seeks to highlight the impact of the war on terror on Pakistani women. According to statistics compiled by the Human Rights Commission of Pakistan, there has been a 237% increase in incidents of sexual violence in Pakistan in the past eight years. These years have also coincided with the War on Terror in Pakistan. This report seeks thus to draw attention to the failure of both the Pakistani Government and foreign donors to the plight of Pakistani women who in addition to the burdens of patriarchal tribal practices and growing religious fundamentalism now also face the brunt of displacement caused by ongoing operations in the North and north-west. The report is a call for further investigation on to the burden placed by the war on terror on Pakistani women and the prioritization of their welfare in American foreign policy toward the region. In this last regard, the report makes specific recommendations regarding future aid disbursements to Pakistan and the inclusion of Pakistan as a high priority in other aid legislation dealing with assisting women in conflict situations. Finally, this report seeks to draw lawmaker's attention to how military strategies employed by United States and NATO commanders in the region in collaboration with Pakistani security forces are affecting women in the area.

### **Direct casualties of the War on Terror: Pakistan's internally displaced women**

Sakina Bibi and Gul Begum had never been to the market before in their lives. The forty-year old Sakina and her daughter in law finally made it out of the tent that had been supplied to them in the camp outside Karachi when their seven children ran out of food. They had a hundred rupees between them and fifty were taken by the rickshaw driver who took them to the market. They had to rely on the shopkeeper for correct change because neither of them could read or write and had not dealt with currency before. The two women are among the hundreds of thousands of displaced who fled their villages in the north and made their way to camps in the South. In their case, the men had sent them ahead while choosing to stay to guard the family property, which they thought would be taken over if they were not thereto occupy it.

These women, part of the hundreds of thousands of displaced that have been seeking shelter in camps and relatives houses since the onset of fighting between security forces and Taliban militants in 2004, represent the most ignored constituency in the War on Terror. Not only is it nearly impossible to find statistical data on the number of women affected by the conflict that began in Afghanistan and has now bled over to the tribal areas of Pakistan, but few efforts have been made to provide systematic or targeted aid to them. According to piecemeal reports compiled by International Aid Agencies like UNIFEM and the UN Office for the Co-ordination for Humanitarian Affairs, nearly 60% of the approximate 2.5 million people displaced by the conflict are women. Like the women whose predicament is presented above, few have ever left their home villages or even their homes unaccompanied by men. Nearly 80% are illiterate and as a group they have the highest maternal mortality rate in all of South Asia. Because they have led such sequestered lives, very few are able to provide

for their families in camps and the death of the men in the family has left many without recourse. Many widows who left the tribal areas at the beginning of the conflict have been forced to take shelter and face abuse at the hands of relatives in big cities like Karachi and Lahore. Many have been forced into marriages and many also into beggary and prostitution.

The internally displaced women whose plight is described above ironically represent the most visible toll that the ongoing conflict has taken on Pakistani women. Since direct causal relations can be established between the women in the camps fleeing villages with burnt schools and off-limit bazaars these women, swathed in their burqas are the image of the female cost of the conflict. Even lesser attention is being paid to the more complex conglomeration of existing tribal customs, strategic choices made by Pakistani and NATO forced to defeat the Taliban and the failure of the Pakistani state to take seriously the ever deteriorating impact of a culture of violence on the most vulnerable of their population. Pakistani authorities both democratic and military have not only failed to pursue legal avenues of truly empowering women but have in some cases chosen to give public prominence and rewards to perpetrators of heinous crimes against women. Finally, the United States a key player in the region has failed in both the construction of its military strategies as well as the structure of its aid disbursements failed to prioritize or even consider their impact on Pakistani women. This report thus seeks to illustrate how all of these factors, an ongoing conflict with escalating levels of violence, a culture that is battling changes in traditional structures and finally military strategies that fail to assess their impact on women are all imposing a debilitating cost on women caught in the conflict.

### **Pakistan and the United States Have the Duty to Uphold and Defend the Rights of Women**

The rights of women to be equally and justly treated under national law and practice are fundamental norms under international and domestic legal systems. The Universal Declaration of Human Rights (UDHR) highlights the duty of all Member States of the United Nations to uphold and protect these rights and affirms that the international community recognizes the “dignity and worth of the human person and in the equal rights of men and women.”<sup>1</sup> The UDHR states that no Member State shall make any distinction of persons on the basis of sex or nationality.<sup>2</sup> The UDHR further states that, under the premise of equality of men and women, no person shall be subject to torture or cruel, inhuman, or degrading treatment or punishment and all persons are entitled to equal protection under the law.<sup>3</sup> Significantly, the UDHR points out that, although the principles of sovereign, racial, and national equality are to be upheld, these principles do *not* provide the right for any state or group to act in destruction of the rights or freedoms set out in the UDHR.<sup>4</sup> Although not itself a legally binding instrument, the UDHR is widely considered to have established the peremptory norms, or norms that carry such moral and legal weight that they automatically apply to all states, of human rights law, including women’s rights.

The Convention on the Elimination of Discrimination Against Women (CEDAW) provides specific legal mandates for the principles set out in the UDHR regarding the rights of women. Ratified by 185 states, CEDAW is the most comprehensive and authoritative international agreement on the fundamental rights of women. Unlike the UDHR, CEDAW is a treaty and is therefore a legally binding instrument on all parties. Pakistan has acceded to the treaty and is therefore legally bound to its provisions.<sup>5</sup> The United States is a signatory but has not ratified the treaty. The European Court of Human Rights and the Constitutional Court of South Africa have relied on CEDAW for adjudication on issues regarding women’s rights.<sup>6</sup>

Under Article 2 of CEDAW, State parties have the overall duty of undertaking all appropriate policy measures to eliminate discriminatory practices against women in all forms and without any delay. Article 2 mandates key provisions for the purpose of eliminating discrimination against women. First, states must include in their national constitutions and through legislation both anti-discriminatory and affirmative laws that promote equality between men and women and *ensure that these laws are carried out*. Second, states must adopt appropriate

<sup>1</sup> Universal Declaration of Human Rights, G.A. Res. 217A, at 72, U.N. GAOR, 3d Sess., 1<sup>st</sup> plen. mtg., U.N. Doc. A/810 (Dec. 12, 1948).

<sup>2</sup> *Id.* at 72.

<sup>3</sup> *Id.* at 73.

<sup>4</sup> *Id.* at 77.

<sup>5</sup> Vienna Convention on the Law of Treaties art. 15, May 23, 1969, 1155 U.N.T.S. 331.

<sup>6</sup> *See, e.g., Opuz v. Turkey* (No. 3), 27 BHRC 159 (2009); *Bhe & Others v. Magistrate, Khayelitsha, & Others* 2004 (18) BHRC 52 (CC) (S. Afr.).



laws to eliminate discrimination against women. Third, states have the duty to establish equal legal protection of women's rights and establish adequate public institutions to enforce these protections. Fourth, states have a duty to refrain from affirmatively discriminating against women, such as through laws or official practice, and a duty to ensure that public officials do not do so. Fifth, states are bound to take all measures to prevent discrimination of women by any *organization or enterprise*, such as religious or resistance groups. Sixth, states must abolish all *laws, customs, and practices* that constitute discrimination against women. Finally, states must repeal all discriminatory penal provisions. Article 10 imposes on states the duty to provide equal access and opportunities for education, which includes fair and equal standards of quality of education. Women also have the right

to equal employment opportunities and conditions (Article 11), health care access (Article 12), and overall economic well-being (Article 13). In particular, states must modify their practices for the special hardships that women in rural areas undergo in regards to employment and economic survival.

Although certain rights may be derogated in times of armed conflict, the rights against cruel and degrading treatment, which apply to the violations outlined in this report, are non-derogable for two reasons. First, as reflected in the UDHR and reinforced in the International Covenant on Civil and Political Rights (ICCPR) Article 7, they are of such fundamental character as to be considered peremptory norms. Second, although the UDHR does not specify these norms, Article 3 the Fourth Geneva Convention protects civilians in time of non-international armed conflict. Specifically, cruel treatment, murder, and outrages on personal dignity against noncombatants are prohibited. Rape and enforced prostitution, acts that are targeted mostly at women during conflict, are included among the prohibited acts in Article III under Optional Protocol III to the Geneva Conventions. Although a Party in violation of the Convention does not have to be a High Contracting Party, High Contracting Parties have the duty to *ensure* respect of the Convention under Article I. Both Pakistan and the United States are signatories to and have ratified the Fourth Geneva Convention. Although neither party has ratified Optional Protocol III, both are signatories and are awaiting ratification.

Although respect of sovereignty and culture are important under international law, severe violations of women's rights, as outlined in this report, are explicitly prohibited regardless of interests of culture. CEDAW Article 5 imposes on states the duty to take appropriate measures to change cultural patterns of behavior that are discriminatory against women. Also, although Article 27 of the ICCPR protects the rights of minorities to practice their own culture and religion, Article 5 states that "There shall be no restriction upon or derogation from any of the fundamental rights recognized or existing in any State party to the present Covenant pursuant to law, conventions, regulations, or custom *on the pretext that the present Covenant does not recognize such rights or recognizes them to a lesser extent*" (italics added). This means that, despite the fact that women's rights are not specifically mentioned in the ICCPR but minority rights are mentioned, interests of preserving minority culture do not allow members of a minority group to violate fundamental women's rights, such as the right to be free from cruel and degrading treatment. This same provision is present in regards to cultural rights of minorities in Article 5 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR).





### **Conflict and the most unprotected: Pakistan's women attacked from all sides**

#### **a) Escalating use of violence against women as a means to settle scores and vendettas**

Violence against women has historically been and continues to be a debilitating problem in Pakistan. However, unlike previous years, the escalation of the conflict and the consequential pressure on existing structures of social and tribal organization have left women, the most unprotected group in Pakistani society after religious minorities, even more vulnerable than before. According to reports compiled by the Human Rights Commission of Pakistan, in the last eighteen months alone 808 gang rapes were reported in the country. The majority of victims were raped by groups of three or more men and then killed by immediate relatives. This astounding number becomes even more chilling when one considers the fact that the numbers compiled by the HRCP are based on newspaper clippings of reported cases; which statistically make up only a third of actual cases. The reason why the number of gang rapes is significant is because it shows a communal component to the brutalization of women that is proximately, if not directly, related to the ongoing civil war on the country. While there is no data available on whether these gang rapes are directly related to groups participating in the conflict, their known use as weapons of revenge and retaliation unrelated to the women themselves demonstrate how a conflict ridden society is increasingly using women's bodies as sites of warfare. This pattern is recognizably similar to the rapes of women in conflict zones in Africa and Eastern Europe. Its prevalence and increase in the years since 2004 suggests that civil conflict and violence against women are interrelated in complex and disturbing ways.

#### **b) Failure of both military and democratic regimes to change laws that discriminate against women and the cost pursuing strategies of appeasement against the Taliban**

Changing regimes whether democratic or military have neither paid attention to the ignored plight of women caught in a conflict ridden society but have instead promoted what are termed as "pragmatic" or strategic objectives as a justification for their deliberate ignorance. During his tenure, President Musharraf was the first to sign a peace deal with militant leader Azad Khan in an effort to put an end to the fighting in the region. The fact that the militant groups that were being appeased routinely terrorized women did not configure

even remotely into the political and strategic calculations that went into engineering the deal. More recently, the democratically elected Government headed by President Asif Ali Zardari made similar concessions in their peace deal with the Tehreek-e-Taliban Pakistan enacted in April of this year. Despite having seen lurid representations of public floggings of women, destruction of schools and frightening threats forbidding women from leaving their homes, both military and civilian regimes have failed to consider the tremendous onslaught on the rights of Pakistani women.

Peace deals with the Taliban have not been the only problems. Both military and civilian governments have failed to repeal overtly discriminatory laws that continue to hold women hostage under the threat of being accused of fornication or adultery by disgruntled spouses or relatives. The much touted Women's Protection Bill passed in 2006 gave only lip service and failed to repeal the Zina and Hudood Ordinances. Furthermore, in changing evidentiary requirements it put the onus on the woman saying that she would have to produce four witnesses to the act in bringing a charge of rape against a person. Tribal customs like vani (a form of honor killing) continued to remain in place even after the Bill's passage. Indeed according to the Human Rights Commission of Pakistan nearly 1100 women were killed in 2008. Of these 183 were axed to death, 30 were brutally tortured. Nearly a quarter of the women belonged to minority groups and was particularly targeted for this reason and about 80 of them were minors. Despite these figures, which would undoubtedly be higher if data on unreported cases was also collected, honor killing is not prosecuted by the Pakistani state and perpetrators of the crime are permitted to go free. In one lurid display of the widespread institutional and social acceptance of such treatment of women, the brother of a provincial minister who was accused of burying three of his female relatives alive was never prosecuted. In House and Senate hearings on the issue, some Senators actually defended the practice as being part of Pakistani culture.

### **c) Failure of U.S strategy to consider the welfare of Pakistani women in aid disbursements and strategic initiatives**

In addition to the impact of the ongoing conflict, the weight of patriarchal tradition and the lack of political will at the hands of both civilian and military governments, Pakistan's women have also been ignored in the strategizing of United States and NATO forces in the region. One overt example of this has been the prominence given to the use of tribal lashkars or militias in the effort to fighting the Taliban. The organization of these lashkars has followed a model similar to that used in Iraq which empowers local tribes and even arms them against the Taliban. While the success of this venture has been difficult to evaluate, it remains nevertheless a core tactic in both NATO and Pakistani arsenal against the Taliban. Long term strategy in the region also focuses on the strengthening of the capacity of local tribes to resist and fight the Taliban in a model similar to the one used to fight the Sunni insurgency in many Iraqi provinces.

What is left unaddressed is the reality that empowering local tribal structures, many of whom have been promoting the sequestering of females as well as the exchange of women to settle debts and disputes in a brutal blow to efforts to empower them. Empowering tribal laws and customs, which have been subjugating these women for centuries refuses to allow them opportunities for education, the chance to choose their life partner, to prevent unwanted pregnancies and leaves them caught in an endless cycle of birthing children often at the cost of their own lives. As per estimates women in Pakistan, especially in the tribal region have the highest illiteracy and maternal mortality rate in the whole region. Add to this estimated rate of sexual assault and you have a macabre reality of hundreds of women dying in childbirth or being raped every day.

Finally, U.S aid disbursements to Pakistan, increasingly such an integral part of Pakistan's economy have failed to make any particular provision to assist Pakistani women caught in the conflict and left without recourse. The "Enhanced Partnership with Pakistan Act 2009" which set disbursement amounts of 750 million dollars a year for various economic and development projects in Pakistan made no mention of women's issues in the Act itself. Despite the escalating rate of sexual violence faced by Pakistani women caught in a conflict torn region, the Act allowed for no construction of shelters, women's health centers and created no basis requiring the Pakistani Government to take any development, legal or public education efforts to curb the onslaught against Pakistani women. In failing to do so, it reiterated once again the position that the welfare of Pakistani women suffering silently under the cumulative weight of suicide bombings, honor killings and concerted efforts to render them invisible is simply not an issue worthy of attention.

## Recommendations:



Based on the above, the Women's Association of Pakistani Physicians of North America would recommend the following"

- a. Special Aid Disbursements that are directed to be used for women affected by the conflict and not part of development or military aid. One avenue for this would be to fund special projects through the International Violence Against Women Act currently in Congress.
- b. A 24/7 National Crisis Helpline for Pakistani women: Nearly 70% of Pakistani female victims of sexual assault commit suicide because they have no recourse to any sort of assistance, this is particularly problematic in the case of female IDPs who have been displaced and have no access to legal, health or shelter assistance. A national hotline that could be publicized via local media and provide one stop access to women in crisis
- c. WAPPNA would be happy to collaborate with partners in the U.S Government to provide assistance to women who because of cultural mores cannot avail health resources that are not women centered. Our parent organization has already provided this assistance on a piecemeal basis but we are committed to initiating programs that institutionalize such assistance and can be concretely used to assist women in conflict.

### Directions for U.S Policy:

1. U.S. lawmakers should be strongly critical of any military strategy that seeks to empower the local tribal and feudal structure without checks on the power of tribal chieftains and without an evaluation of the consequence of such policies to tribal women. As this report details, much of the increase in violence against women in rural and tribal areas has been because empowering these structures has been a key instrument of the fight against the Taliban and other fundamentalist groups. However, empowering these tribal and feudal structures without placing any checks on their power has meant that women have been denigrated to chattel, are routinely exchanged and sold to settle debts, are killed for minor infractions and are even sold into slavery to appease tribal leaders. Unless, this aspect of this strategy is highlighted Pakistani women will continue to suffer without any recourse and U.S. taxpayer dollars will be complicit in their suffering.
2. Pending legislation directed toward empowering women should provide special disbursements to the women of Pakistan: Currently the International Violence Against Women Act sponsored by Senators Kerry and Lugar is set to be reintroduced in the House and Senate. The Bill seeks to make women's empowerment a facet of the United States diplomatic agenda. As Pakistani-American women, we proudly support this Bill and hope that it becomes law. However, we hope that U.S lawmakers will want to include Pakistan as one of the initial pilot projects proposed by the Bill with special funds directed toward the building of shelters and training of security forces in Pakistan on violence against women issues. This inclusion in IVAWA is of crucial importance because the women of Pakistan are the unseen casualties of the War on Terror and are paying the price of living in a conflict ridden society with their lives.

For further Information please contact Dr. Humaira Qamar, President WAPPNA