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## **Gender, Religion and the Quest for Justice in Pakistan**

Farida Shaheed

Shirkat Gah – Women's Resource Centre, Lahore, Pakistan

Final Research Report  
prepared for the project  
Religion, Politics and Gender Equality

September 2009



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UNRISD, Palais des Nations, 1211 Geneva 10, Switzerland  
phone 41 (0)22 9173020; fax 41 (0)22 9170650; [info@unrisd.org](mailto:info@unrisd.org), [www.unrisd.org](http://www.unrisd.org)

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Heinrich-Böll-Stiftung e.V., Schumannstr. 8, 10117 Berlin, Germany  
phone 49 (0)30 285340; fax 49 (0)30 28534109; [info@boell.de](mailto:info@boell.de), [www.boell.de](http://www.boell.de)

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## Introduction

This paper explores how Islam in Pakistan metamorphosed from the religious identity of the majority population (the *raison d'être* of its existence as a nation for Muslim Indians), to become the central defining parameters for state and society. This privileging of religion as the yardstick for all activities from politics to judicial structures, from entertainment to women's rights in the 1977-88 decade seriously undermined women's already weak position in society and even today challenges the quest for gender equality. Frequently, the impact on women of fusing politics and religion is considered as a self-contained matrix. This paper starts from the premise that the ultimate aim of politico-religious elements is to capture state power in which disempowering women is only one effective tool in seeking legitimacy and asserting influence; women becoming markers of appropriated territory in wider power contestations. It is therefore not possible to understand the impact of fusing politics and religion on women, without understanding the context within which this takes place. The paper suggests that in culturally traditionalist societies like Pakistan, already subject to constrictive gender rules, women become easy victims of retrogressive socio-political religious projects but, at the same time, that women are not an undifferentiated unit. The usage of Islam by diverse regimes has not impacted women in like manner. Women were victims of gross negligence and paternalistic attitudes but rescinding women's rights was never a main objective until General Zia-ul-Haq (1977-1988). Under Zia the systematic and aggressive inscription of Islam into the body politic and social fabric had devastating consequences for the polity in general and women and non-Muslims in particular. His era thus marks a qualitative realignment of forces. Gender cross-sects other deeply entrenched social inequalities so that 'Islamization' measures have impacted diverse groups of women differently. Further, the pursuit of gender equality is greatly impeded by the vast chasm separating *de facto* from *de jure* rights in Pakistan thanks to which only a small minority of women knows of their rights. The fewer the people who enjoy rights, the more vulnerable they become. The state's failure to deliver on its promises of equal opportunities, benefits and justice has created a vacuum into which the religious right inserted itself and was able to project itself as the harbinger of justice in a visibly unjust world. In the final analysis, regardless of the claims to the moral high ground of authenticity, the paramount concern of religious political projects is power – not religion, or ethnicity, or culture.

Section 1 gives the political context: the political actors and forces involved in the fusing of religion and politics from 1947 to 1988. Section 2 provides an overview of women's disparate realities and goes to explore the implications of this interfacing for women's rights and gender inequality during the Zia years and subsequent developments. Section 3 problematizes the role of civil society in this process and questions some of the facile assumptions that are often made about the socially-progressive role of civil society actors. The final section provides some overarching conclusions.

## 1. Inserting the Islamic into the Republic of Pakistan (1947-1988)

### *A Homeland for Muslims*

Created as a homeland for Indian Muslims, Pakistan was still very much a nation-in-becoming at independence, August 14<sup>th</sup> 1947. It would have required a territorially-rooted nation-building to meld together the half dozen linguistic and many more ethnic populations. (Alavi 2004) Instead, successive elites in central power have "played upon

religious sentiment as an instrument of strengthening Pakistan's identity.”(Haqqani 2005:2) The contours and contents of Pakistan's 'Muslim nationhood' – with debates over 'womanhood' a recurrent motif – have been incessantly contested in the discourses verbalising political tussles for power.

Initially, counter-posing a 'Muslim Pakistan' to a hostile 'Hindu India' was facilitated by the acrid legacy of partitioning the sub-continent: the two-sided butchery caused one million deaths and many more injured.(Nawaz 2008: xvii) Women, as the symbol of the 'other', became special victims: countless were raped, mutilated, forcibly captured and sold into prostitution, hundreds of thousands became untraceable.(Jillani 2007:xiv)<sup>1</sup> The trauma, especially severe in Punjab, left indelible scars in the psyche of state and society. Overnight, the largest recorded transmigration of some 14 million people, blanched Pakistan to a religiously monochromatic population. From comprising almost a fifth of the population (18.5%), non-Muslims were reduced to an insignificant 1.6%. Change was most dramatic in urban centres where almost half the residents had been non-Muslims.<sup>2</sup>

The resort to Islam was convenient for entirely secular reasons. For most of Pakistan's history the real power contestation has been between the military-dominated centre and the sub-national political elites. In this, the arithmetic of democracy did not suit those acceding to central power: the Punjabis and Urdu-speaking migrants or Mohajirs in West Pakistan who even together did not constitute the majority. In a typical post-colonial state with a relatively over-developed state structure, a weak political framework and a comparatively powerful military and civil bureaucracy, (Alavi 1973) a dominant presence in the civil and military bureaucracies enabled the Punjabi-Mohajir elite to wield power to the detriment of the severely under-represented Bengali-speaking majority. Democracy became 'unsuited to Pakistan,' and considerable time and effort was spent in devising ways to circumvent the logic of universal franchise. Religion provided a convenient cover. The invented parameters and imperatives of a 'Muslim nationhood' were regularly flourished to deny greater autonomy and share in power to the ethnically diverse units constituting Pakistan. As early as 1966 the federal law minister, a Punjabi, warned East Pakistanis that “demanding greater provincial autonomy” would be considered “a treasonous act;” protagonists “would be identified, hunted, crushed and destroyed.”<sup>3</sup> Discontent at Punjabi-Mohajir domination was expressed first by Bengali East Pakistan, and then by Sindhis, Pashtuns and Baloch<sup>4</sup>, that is by all those excluded from central power. Islam was also used to counter largely imaginary socialist threats, especially after the failed 1951 military conspiracy. Successive governments tasked intelligence agencies with infiltrating and disrupting socialist-leaning as well as sub-nationalist groups. Religiously defined groups were supported to attack “unIslamic and foreign-inspired” left-leaning groups. (Haqqani 2005, Abbas 2005, Hussain).

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<sup>1</sup> Some 33,000 Hindu and Sikh women were located and repatriated to India, some 50,000 Muslim women from India to Pakistan. (Jillani *Partition*, xiv). Pakistan continued to receive migrants well into the 1960s, by mid-1960, some 10 million people had relocated from India to, largely, West Pakistan. In the initial years 6.5 million of the migrants settled in West Pakistan compared with 0.7 million in East Pakistan.

<sup>2</sup> In Lahore, for example, only 1,000 of the 500,000 Hindus and 100,000 Sikhs remained.

<sup>3</sup> S. M. Zafar speaking in Dhaka on 15 December 1966 (Abbas: 58).

<sup>4</sup> Sindhi language riots erupted in the 1970s, the demand to rename the Pakhtun-dominated North West Frontier Province (NWFP) to Pakhtunkhwa remains an unresolved contentious issue; while the 1970s armed insurrection in Balochistan was crushed by brute military force, there is a movement for independence Balochistan today.

Without the consistent - often cavalier - use of Islam in the pursuit of power by more secular elements, politico-religious groups would not have been able to so steadily push their agenda, progressively inscribing religion into the body text of politics, state and society. Religiously defined political parties have been decisively rejected by the electorate.<sup>5</sup> Elections have been rare, however, and Pakistan has spent more time under military dispensations than civilian ones. Furthermore, independence saw the “uncertain liberalism” of those acceding to power immediately confronted by strong willed “religious orthodoxy.” (Rashid 1985) So that the question became: how ‘Islamic’ should the Islamic Republic of Pakistan be, and, of course, who would determine this? Political manoeuvring and manipulations seeking to concentrate centralised power and side-step the logic of democratic processes, have left the country osculating between a presidential and parliamentary form of government, between long periods of martial law and short bursts of unstable civilian rule; currently it is more presidential than parliamentary.<sup>6</sup> Pakistan’s third, extant, 1973 Constitution has been so frequently and radically amended as to raise the question of whether it can still reasonably be called the same constitution.

The assertiveness of religious orthodox political parties (as opposed to today’s armed militants) has never been directed against the military per se. The military has alternatively countered religious groups and parties by force and re-configured them as allies as suited its purpose at a particular moment. The emphasis throughout has been on keeping society under control through a strong militarised state, with every military ruler making use of Islam. It is important to clarify that if, until General Zia-ul-Haq (1977-1988), the Pakistani army never assumed the role of ‘defender of the faith,’ unlike its counterpart in Turkey, it also never played the role of the ‘upholders of secularism’ even though the officer corps tended to have a secular outlook. The Turkish army’s defence of secularism derives from its Kemalist roots and Ataturk’s radical, systematic, and wide-ranging measures to eliminate religion from state and society. This has never been the agenda of the Pakistani armed forces.

Finally, the hasty division of assets between Pakistan and India, that gave Pakistan 30% of the British Indian army but only 17.5% of the total assets and liabilities of undivided India (Jalal 1991: 42, 47) had serious repercussions. The perceived imperative to fill this financial deficit, an obsession of each successive military commander, became a driver of both foreign and internal policy. (An early dispute with India over Kashmir guaranteed public support for a strong military.) Fuelled by a primordial and antagonistic relationship with a far larger and militarily better equipped India, and a desire to achieve ‘strategic depth’ by exerting influence over neighbouring Afghanistan, the quest for military funds led Pakistan’s military rulers to peddle the idea of an “Islamic barrier” against communism and the USSR, especially to the US. (Jalal 1991) Ayub was to go so far as to tell the US “[o]ur army can be your army if you want us.”<sup>7</sup> Of course, the defense against India plea partly functioned as a defense against internal threats to central authority (Jalal 1991: 49). The conflation and intricate interweaving of Pakistani nationhood with Islam facilitated the condemnation of any questioning of official doctrine as subversive, even treacherous, and quite possibly sinful. The perceived

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<sup>5</sup> Exceptionally, religiously defined political parties won substantial seats in the 2002 elections. But this victory has to be seen as one fall out of the US-led bombardment of Afghanistan and the supportive role of Pakistan’s military-run government in late 2001.

<sup>6</sup> The first 1956 constitution provided for a parliamentary system but empowered the president to dissolve the National Assembly and to appoint the prime minister at will (Article 50) – a feature which kept resurfacing in Pakistan’s chequered history.

<sup>7</sup> General Ayub Khan cited in Abbas 2005, p26.

funding deficit is also credited for the later development of a conscious strategy to train and use non-regular combatants, justified as the religious duty of *jihad* (holy war) (Abbas 2005, Haqqani 2005, Z. Hussain 2007). The net result is that “rulers have attempted to ‘manage’ militant Islamism, trying to calibrate it to serve nation-building without destabilizing internal politics or relations with the Western countries,” (Haqqani 2005: 2-3) a task that has proved to be impossible.

If Pakistan’s genesis ensured Islam’s early inscription into politics, Islam’s shift from merely being the religious identity of its majority population to becoming the reference point for all political discourse came later. The mostly politically motivated use of Islam peaked under General Zia-ul-Haq (1977-88): legislative changes negated state promises of an equal footing for female and non-Muslim citizens and simultaneously encouraged the most bigoted sections of society. But, the ground had been prepared by others who, using Islam instrumentally, paved the way for politico-religious forces to assert hegemonic control over the political discourse.

The state envisaged by Pakistan’s founder Mohammad Ali Jinnah, popularly known as Quaid-e-Azam (Great Leader) was a secular not a theocratic one. This he elaborated in his presidential address to the Constituent Assembly on 11 August 1947, the full text of which was subsequently suppressed:

You may belong to any religion or caste or creed that has nothing to do with the business of the state... there is no discrimination, no distinction between one caste or creed and another...[The] fundamental principle [is] that we are all citizens and equal citizens of one state... in course of time Hindus would cease to be Hindus and Muslims would cease to be Muslims, not in the religious sense, because that is the personal faith of each individual, but in the political sense as citizens of the State.<sup>8</sup>

The difference between an Islamic state and one for Muslims may have been self-evident to Jinnah, but the inevitable connection between Muslims and their religion enabled politico-religious groups to subsequently elide ‘the creation of a state for Muslims’ into the creation of an “Islamic” society and state with some semblance of credibility. (Rashid 1985, Shaheed 2002) Significantly, this eliding was managed despite the fact that, in the early years, most politically active *ulema* (religious scholars) having opposed the creation of Pakistan, enjoyed little credibility.

Maulana Abul A’la Maududi, the founder of the Jamaat-i-Islami (JI), was a key protagonist. His political acumen and intellectual abilities,<sup>9</sup> combined with the organisational strength of the JI and a dedicated cadre enabled Maududi to play a key power-broker role.(Abbas 2005:30) Having disparaged Jinnah as the Qafir-e-Azam (leader of the infidels), bare months before independence, Maududi reversed his opposition to Pakistan as against the interests of Indian Muslims. He redefined his objective as making the *shariah* which “Muslims consider to be divine” the foundation of the state’s constitution and laws, and set out to occupy “a significant position in the effort to provide the specifics of an Islamic state.”<sup>10</sup>

Over the years, the JI and other religiously defined actors created sufficient confusion over the *raison d’être* of Pakistan to enable minority elements to override majority views. The adoption, soon after Jinnah’s death, of the Objectives Resolution as a

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<sup>8</sup> Quaid-e-Azam’s Presidential Address to the Constituent Assembly of Pakistan in Abbas Rashid (ed) *Pakistan: Perspectives on State and Society*, 79-84

<sup>9</sup> Maududi laid out his ‘religious’ ideological agenda in political terms in his 1960 book: *First Principles of the Islamic State*, still required reading in many *madrassahs*.

<sup>10</sup> Maududi quoted in Abbas Rashid “Pakistan: the Ideological Dimension” page 83

preamble to the 1949 Constitution marks a crucial first victory of politico-religious actors. The resolution affirms that “sovereignty belongs to God Almighty alone” with authority delegated to the State of Pakistan to be exercised through chosen representatives. Stipulating that “Muslims shall be enabled to order their lives in the individual and collective spheres in accord with the teachings and requirements of Islam as set out in the Holy Quran and Sunnah,” it stipulates “adequate provision...for the minorities freely to profess and practice their religions and develop their cultures”<sup>11</sup> and safeguarding the “legitimate rights of minorities and backward and depressed classes.” (Inserting the qualifier “legitimate” automatically limits the scope of such rights.) Adopted despite opposition by all non-Muslim members (and a solitary Muslim parliamentarian), the preamble was retained in all subsequent constitutions. It became a substantive part of the Constitution in 1985.<sup>12</sup> The Resolution’s adoption is not reflective of the *ulema*’s power, which was negligible at the time. Rather it suggests the inability – or unwillingness – of “uncertain liberalism” to directly confront and question the authority of religion in the political sphere. In any case, as was to become evident, political leaders were far from averse to using religion to further their own non-religious ends as illustrated in the following examples.

Behind the first religious riots in 1952-1953, for instance, lay the political ambition of the western-educated Punjab Chief Minister, who helped to convert the entirely secular issue of food scarcity into a religious crisis. Seizing the opportunity to flex political muscle, the JI vociferously supported the demand that a minority sect, the Ahmadi, be declared non-Muslims. Riots led to the imposition of the first-ever martial law. The initial problems were hardly insurmountable: similar protests in Karachi in the Sindh province had been quickly curtailed. The report of the court of inquiry established to investigate the causes and consequences (commonly referred to as the Munir Commission after the presiding judge) makes excellent, if sobering, reading. Riots, it concludes were “encouraged by the Chief Minister’s public utterances supporting the view that the Ahmadis were not Muslims.” (Government of Pakistan 1953: 386) Of deep concern was that the Objectives Resolution, intended in the court’s view to guarantee equality, was being used by the *ulema* to argue that non-Muslims were not equal citizens. Further, no *ulema* accepted the framework of a modern nation-state which, in the view of the Jama’at-i-Islami “is the creature of the devil... [and no] *ulama* can tolerate a State which is based on nationalism and all that it implies.” (page 249) Neither the incumbent nor subsequent governments paid heed to the Court’s urgent warning that nothing short of a “bold reorientation of Islam to separate the vital from the lifeless can preserve it as a world idea and convert the Mussalman into a citizen of the present and future world from the archaic incongruity that he is today.” The Chief Minister had to resign, but no attempts were made to even censure the *ulema* for inciting people to violence in the name of Islam.

Assuming power in 1958, the socially liberal General Ayub Khan (1958-1968) who briefly removed “Islamic” from the official state name still used Islam when it suited his purpose. Having promulgated the 1961 Muslim Family Laws Ordinance that gave women key rights in marriage, he responded to the vociferous protests of religious elements by banning their parties, freezing their funds, closing their offices and publications and unceremoniously throwing leaders into jail. Social liberalism evaporated,

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<sup>11</sup> Under General Zia-ul-Haq the “freely” was deleted.

<sup>12</sup> Hassan Abbas considers that Maududi astutely settled for inserted the ‘Islamic nature,’ ‘Islamic Republic’ and ‘nothing repugnant to Islam’ rather than risk his suggestions being completely rejected and replaced by constitution drafted by the Law Minister, Ismail Ibrahim Chundrigarh, assisted by the British parliamentary consultant, John Rowlatt (Abbas: 31).

however, when it came to basic issues of power as evidenced in the 1965 Presidential elections. Opposing Ayub was a coalition led by politico-religious parties that, on the sudden death of their candidate, fielded a woman: Fatima Jinnah, the sister of Pakistan's founder, commonly referred to as the *madre-e-millat*, or 'mother of the nation.' Overturning their previous censure of women in public spaces, let alone politics, politico-religious parties issued post-haste *fatwas* (religion opinions) to the effect that, in exceptional circumstances, a woman could become head of state. Ayub responded by mobilizing his own *fatwa*, promptly declaring it unIslamic for a woman to be head of state.

In the 1970s, Islam's presence started to be institutionalised. Z.A. Bhutto's rule in a truncated Pakistan (1971-1977) heralded a time of progress for women, but in the name of 'Islamic socialism'. A 1976 Declaration on the Rights of Women of Pakistan launched in 1976 averred in its first article that "Discrimination against women is contrary to the injunctions of Islam, violates Constitutional guarantees and constitutes an offence against human dignity." Z.A. Bhutto was the last politician able to casually brush aside accusations of not being a good Muslim, famously retorted in a massive public rally, "they say I drink, but I only drink alcohol; not the blood of the people." But, the 1973 Constitution privileges Muslims: Islam is the state religion (Article 2); the presidency reserved for Muslims (Article 41); the state required to ensure that Muslims are able to live according to Islam (Article 31).

Moreover, for reasons that remain unfathomable, what the religious right failed to achieve through the 1953 riots, i.e. declaring Ahmedis non-Muslims, was instigated by the popularly elected government through its first constitutional amendment in 1975. Equally inexplicably, Bhutto instituted a Ministry for Religious Affairs. Separately, seeing in the petrodollar power a means of diversifying Pakistan's financial support base, Bhutto acted to forge an alternative Muslim axis of international alliances through stronger linkages with the oil-rich Middle-East.<sup>13</sup> Within Pakistan this unhelpfully created space for people to refashion a collective identity in the likeness of those with oil power. Avoiding direct confrontation with the military establishment, Bhutto by-passed several senior generals to appoint Zia-ul-Haq as his chief of army staff, perhaps believing that with a more modest class background, Zia was less likely to conspire against him. It was a mistake Bhutto paid for with his life; and Pakistan's women and minorities paid for in rights.

Convinced of his popularity, Bhutto held early elections in 1977 only to be confronted with allegations of rigging followed by mass agitation under the banner of the Pakistan National Alliance (PNA). The PNA was a motley collection of political parties; some defined as secular, others in religious terms, with most defying such a clear classification. Despite diversity, it was the politico-religious parties that supplied the

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