Women's Rights as Human Rights: The Case of Pakistan

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Introduction

"Women's rights are human rights." These words have become the slogan of millions of women and men worldwide who actively work to claim rights for women. Holding not only states responsible, but private actors, women's rights activists have begun the process of transforming international law and their local communities. This process has been subject to debates and scrutiny. Questions about the validity and usefulness of the human rights framework have arisen, and this discussion has incorporated diverse voices. Feminists from around the world have contributed to this discussion asking how human rights are relevant to their lives. Some have decided that this is a worthwhile strategy for gaining redress in systems that subordinate women. Some have decided that it is not. The discussion in the first section of this paper outlines arguments made by several feminist theorists supporting and challenging the terms of international human rights. Their dialogue with supporters and opponents of women's human rights raises important questions about how human rights can be applied to transform international law and hold state governments responsible for protecting and promoting the rights of women.

The second half of the paper attempts to apply some of the theories and tensions in the discourse of women's international human rights to the case of Pakistan. To date there has not been a major movement for women's rights in Pakistan. Rather, the relationship of the Pakistani state with the majority of its women citizens has been mediated through a small group of elite women and men who have had access to state institutions. In fact, the majority of the voices of Pakistani women are never heard at the level of international or even national discourse on

human rights. Therefore, to discuss "women" as a group in Pakistan is problematic in itself because only a certain group of women have been represented by activists as well as by scholarship. In order to understand the situations of women in Pakistan, one must also factor in the sharp class distinctions as well as the religious and ethnic divisions that separate women into various groups with equally varied interests. It is misleading to state that the state treats "women" in one way in Pakistan; this assumes that all women share the same interests or have the same relationships to ruling institutions

The current legal status of women in Pakistan was shaped largely by the military regime of Zia ul-Haq, which began in 1977 and lasted until 1987. Under his regime a series of repressive and regressive laws were passed, which dealt specifically with the treatment of women—attempting to strengthen imaginary distinctions between the public and private spheres. These laws represented a diversion from the past commitment of the Pakistani state to "secular values." They included the Hudood Ordinance, which applies selected conservative interpretations of Islamic law in order to decide issues in the sphere of "family law" and sexual practices. Documentation on the status of women's rights includes information in reports made by local women's and human rights non-governmental organizations (NGOs) in Pakistan as well as United Nations reports, press coverage, and historical surveys—recognizing that these institutions too have their own economic and political agendas.

Section One

Women's Rights as Human Rights and the Limits of Representation

Male Bias in the Discourse of Human Rights

One of the major problems with current international human rights law is a history that has been characterized by male dominance. Because human rights thought is based on the liberal philosophical tradition, most of its earliest theorists were European men. Human rights concepts are premised largely on the principles of liberal humanism based largely on philosophers such as John Locke. Also, the framers of the international human rights documents were mostly men, save a few notable figures such as Eleanor Roosevelt. Therefore, women's rights activists must constantly grapple with the obvious and the hidden male biases of international law. Hilary Charlesworth traces the male bias throughout the three generations of human rights. Briefly, first generation rights are categorized as civil and political, valorized in the West (and especially in the United States); civil and political rights include the right to vote and freedom of speech. Second generation rights include economic, social and cultural rights; this set of rights includes the right to health care and unemployment benefits. The third most recently defined category is "people's rights" or group rights; this category of rights is developing largely in response to indigenous peoples whose rights as groups have historically been violated (Charlesworth, 58). Charlesworth says "From a women's perspective...the definition and development of the three generations of rights have much in common: they are built on typically male life experiences and in their current form do not respond to the most pressing risks women face"(59). Charlesworth argues that male bias as an underlying principle of all human rights discourse and one that must be subject to critique from a diverse group of feminists. Because of the lack of women's

participation in the formulation of rights and because the Western philosophical tradition has been largely premised on the ideas of a few European men, there are many reasons to be wary of universal human rights norms. Human rights must be constantly dissected and reconceptualized in order to clarify and remedy some of these biases.

Cynthia Romany sites the liberal foundations of human rights law and the false division between the public and private spheres as a major barrier in the realization of women's rights. Negative freedoms, such as the right to be left alone in one's home without the interference of the state, underlie the liberal state. This right sanctifies the private sphere and works to subordinate women within the walls of the home(Romany 93). Romany argues that there is a gender stratification built into the liberal state. Because women's rights in the private sphere are ignored in the foundations of liberalism, Romany argues that:

> Women are the paradigmatic alien subjects of international law. To be alien is to be *another*, to be an *outsider*. Women are *aliens* within their states, *aliens* within an international exclusive club that constitutes international society. (Romany 85)

Because international human rights law is premised on male models, women are in effect invisible from the formulation of rights. Romany argues for the dissolution of the public/private split within international human rights law. She cites Eleanor Roosevelt, one of the first advocates for an international human rights framework who said:

> Where after all, do human rights begin? In small places, close to home—so close and so small that they cannot be seen on any map of the world. Yet they *are* the world of the individual person: the neighborhood he lives in; the school or college he attends; the factory, farms or office where he works. Such are the places where every man, woman or child seeks justice, equal opportunity, equal dignity, without discrimination. Unless these rights have meaning there, they have little meaning anywhere. (Romany 90)

Roosevelt's conception of human rights therefore crossed the boundaries of public and private. She used the language of individualism taken from the tradition of liberal philosophical thought

without taking the public/private dichotomy that has been one of the major principles of Western thought. Romany says that women's civil and political rights are systematically denied in the private sphere as part of the "global structure of gender subordination"(Romany 90). She thus implicates the entire world, not only the West, in reinforcing the false boundaries between public and private. In fact, the dichotomy between public and private spheres has not only been a part of the Western liberal tradition; as we will later discuss in detail, it has also been a part of the rhetoric of Islamist groups as has been the case in Pakistan. Nira Yuval-Davis argues that this is a false dichotomy and says that "A sphere marked as 'private' at one stage of nation-building may reappear with the full trappings of the 'public' at another, their boundaries being fluid and subject to redefinition"(Kandiyoti 380). Therefore, the codification of the public/private split often ends up reinforcing reifications made by the state or other nationalizing forces for political purposes.

The danger of this dichotomy is most clear in the case of domestic violence. For those affected by domestic violence, the notion of a private sphere that cannot be affected by the law of the state provides no recourse for their violations and reinforces the horror of their abuse. Rhonda Copelon focuses on the problem of domestic (intimate) violence and says that this is not viewed as real violence by states and society. She says, "When stripped of privatization, sexism, and sentimentalism, gender-based violence is no less grave than other forms of inhumane and subordinating official violence, which have been prohibited by treaty and customary law and recognized by the international community as *jus cogens*, or peremptory norms that bind universally and can never be violated." (Copelon 117) Copelon compares what is recognized as official torture, or state-sponsored torture, with domestic violence against women. In shifting the language of domestic violence, she breaks the false separation between public and private

spheres. States must be held accountable for what occurs in the home as they are held accountable for state-sponsored torture. The walls of legal discourse have served to normalize and mask grave instances of torture that women face on a daily basis within the confines of the "private" sphere. In Pakistan the public/private distinction is used strategically by both state and non-state actors in the discourse on domestic violence. However, the women's lives do not always remain in the private sphere. In the case of the Hudood Ordinance, women's sexuality becomes an issue of public concern. Women in Pakistan are strategically made public and private by the state, usually to their detriment. I examine this problem more closely in the second part of the paper.

Most feminist thought around international human rights law has not breached the division of the two spheres, and this has left this division largely in tact in human rights treaties. This is because feminist critiques of law initially began as a branch of "liberal" feminism. This brand of feminism "identifies sexual equality with equal treatment, rejecting any notion that the law should tolerate or recognize intrinsic differences between women and men"(Charlesworth 63). Feminist critics have worked for women being treated "like men" in the public sphere while not identifying this division itself as a fundamental barrier towards the realization of women's rights. This has been the approach of current international human rights law, and this rationale underlies the majority of the United Nations treaties on human rights including the International Covenant on Civil Political Rights and the International Covenant on Economic, Social and Cultural Rights. These documents imply that women must conform to male models in order to fall under their protection (Charlesworth 64). However, this approach does not address systemic issues of the gender division of power. It reinforces the basic organization of society with male models imposed on women. Charleworth argues that "The promise of equality as 'sameness' as

men only gives women access to a world already constituted"(Charlesworth 64). This vision gives women no voice in reconceptualizing rights to reflect their own realities. Charlesworth argues that this is also true of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which privileges women in the public sphere while inadequately addressing the problems that women face within the home--often the site of their greatest oppression (Charlesworth 64). For example Article One of CEDAW states:

> Article 1. For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. (gopher://gopher.un.org:70/00/ga/cedaw/convention)

This article privileges the idea of equality of the sexes, but does not address the terms for this equality. According to Charlesworth, "The fundamental problem women face worldwide is not discriminatory treatment compared with men, although this is a manifestation of a larger problem" (Charlesworth 60). The discrimination women face is based on powerlessness in both the public and the private realms, and international human rights law instruments do nothing to remedy this state of powerlessness (Charlesworth 60). Feminist theorists including Charlesworth stress the importance of difference recognizing that equality as it has been previously formulated, relies on male models. However, arguing for difference creates the same kind of problems. One must ask the question: difference in whose image? Because all women are not different from men in the same way, and some are not very different at all, arguing for difference in international law is problematic and can end in an essentialist position that is potentially more damaging to women. This tension between equality and difference-based models remains within the discourse of women's rights, and it must continue to be explored by feminist theorists.

"I'm Every Woman"?: Cultural Relativism versus Universalism

"As a woman I have no country. As a woman my country is the whole world."—Virginia Woolf

One of the most widely discussed conflicts within the field of human rights has been between the promotion of universal human rights values versus cultural relativism. For women, this debate is particularly relevant. Often women are subordinated under the guise of "culture." At the same time women from the "Third World" have historically not had a voice in the formulation of international human rights. Rather, feminism and rights have been dictated by the realities of Western women. This debate continues today and some of its most vocal participants have been defenders of women's rights. In fact, there is no simple binary opposition between cultural relativist and universalist positions. The most effective method of applying human rights across cultures, while including the voices of women and men from all social and geographic positions, works through culture in order to enrich human rights discourse and allow for broad acceptance of these notions.

The first argument is between those who propose universal human rights for all people including women and those who think that women's rights cannot be decided by international law, but should be based on individual cultures. Feminists from the "Third World" have been the leaders in breaking down the myth of "culture" as a guise for women's subordination. Deniz Kandiyoti, a feminist theorist who focuses on gender and the Middle East, analyzes on the ways that national identity and cultural difference are used to exert control over women in nation-building projects (Kandiyoti 376). Emphasizing women's lack of rights as citizens, she says that dominant forces in the nation use cultural difference to mask women's subordination.

Abdullahi An-Na'im, a Muslim legal scholar and advocate, walks a line between abandoning notions of culture altogether and treating culture as a stable entity under which women can legitimately be subordinated. He argues for universal human rights without discarding the importance of gaining cultural legitimacy for these rights to be meaningful. An-Na'im discusses the problems of claiming that human rights are culturally illegitimate: "To claim that something is culturally legitimate or illegitimate presupposes a settled and well-defined set of standards and a fair and consistent process by which those standards are applied"(172). Culture itself is a problematic concept. There is no one culture that defines a group of people, and therefore, to use culture as a defense against the introduction of universal human rights values raises questions about who is defining the terms of the dominant culture. An-Na'im asks: "What about alternative or competing standards of cultural legitimacy? What is the nature and dynamics of power relations among the various holders of various views or positions, and how are their interests affected by the issues in question?"(An-Na'im 173). These questions are extremely important when discussing the cultural relevance of human rights especially in regards to women. Opponents of international standards for women often claim cultural illegitimacy as their basis as if culture were a static monolith on which all people agreed. Women are often not heard in discussions between the definers of national culture. Though there is validity in some claims of cultural imperialism especially in post-colonial contexts, it should not be presupposed that all claims of cultural illegitimacy are valid or have the interests of women in mind. In order for human rights to be effectively promoted An-Na'im suggests that "human rights advocates need to understand the process of cultural legitimacy and change, and utilize that process effectively in their efforts to enhance the implementation and enforcement of human rights standards throughout the world"(An-Na'im 173).

The dialogue about cultural relativism in human rights has affected larger human rights organizations in their practice. For example, Amnesty International's (AI) report on Violence against Women in Pakistan addresses some of the arguments against writing about "customary" practices as human rights abuses propagated by cultural relativists. The report states that Amnesty welcomes a rich variety of cultures and traditions and that the universality of human rights benefits from this diversity of voices,

> but cultures are not static. They are continually changing and evolving in response to interactions with other cultures, the needs of society and the demands of the modern age. 'Tradition' may have emphasized certain norms in the past, but this does not preclude tradition being shaped by new realities. (AI 3)

This reflects Amnesty's position on the use of culture as a defense of abuses against women. For Amnesty it is an unacceptable argument premised on a superficial understanding of culture. The influence of feminists in this dialogue has allowed organization like Amnesty International and Human Rights Watch to recognize the fluidity between the public sphere into the private sphere and deal with subjects such as domestic violence and honor killings, which had previously been shrouded in the protective shroud of "culture." Their report on honor killings in Pakistan has provided much of the material for this paper.

The questions raised within the context of universal women's rights also include: Are women a group? What does it mean to defend women's rights when women are such a varied group of people? Does this language falsely create unity by silencing some groups of women and privileging others? Or does the concept of "women's human rights" have grounding in the commonalities in women's lives across the globe? These questions must be constantly asked by activists and scholars of human rights. These questions arise from a history of Western feminism having a dominant voice in the international arena. Historically, poor women, women of color,

and women from the developing world have not had a voice in the formulation of the discourse on women's rights. Western feminists have interpreted the realities of women of the developing world for them. Therefore, not only does rights discourse have a male bias, the small number of women that have been represented are historically advantaged groups of women. To posit the notion of "women's human rights" then is dangerous, and without critical analysis and transformation, this discourse runs the risk of repeating historical wrongs that privilege the experience of certain women over others. For example, women's rights must also take into account the complex web of discrimination that most women face based not only on their gender, but also on their race and class.

Hilary Charlesworth addresses the critiques made by some women of color and "Third World" women of the tendency of white Western feminists to impose their own view of rights on other women by universalizing their claims. This has constituted a "feminist brand of colonialism." Charlesworth does not propose a cross-cultural solution to this problem within human rights discourse. She quotes Peggy Antrobus who says:

> Although we are divided by race, class, culture and geography, our hope lies in our commonalities. All women's unrenumerated household work is exploited, we all have conflicts in our multiple roles, our sexuality is exploited by men, media and the economy, we struggle for survival and dignity, and , rich or poor, we are vulnerable to violence. We share "otherness," our exclusion from decision-making at all levels. (Charlesworth 62)

This description of women's global condition glosses over some real discrepancies of power between women on a global level. Because there is a worldwide system of gender stratification, and those working to change this system base their work on principles of justice and equality, to be effective and honest, the discourse of women's international human rights must be based on the dialogue and contributions of the most diverse group of people possible. This discourse must

reflect structural inequalities of power based on color, geography, class, and sexuality. For women's human rights language to be effective and a transformative tool it is crucial that it address the historical inequalities of power not only between men and women but between women and women. A discourse that only speaks of women as a monolithic "Other" will simply not be adequate as will repeat the mistakes of human rights discourse in the past, creating more hierarchies of rights. Creating a rights discourse by ignoring differences between women will not be sufficient. When commonalities do not exist between for example a white woman in the United States employed by a multinational corporation and a Pakistani woman living in the NWFP and working for less-than-subsistence wages, the Pakistani woman's rights must still be voiced at the international level.

Several theorists on the subject of human rights support a process of a cross-cultural dialogue about women's human rights. Rebecca Cook stresses the importance of dialogue between women from different contexts:

> It is important in order to ensure that we are not divided as women—north and south—and that northern feminists are not missionary feminists but really global feminists who are listening and developing practical theories so that human rights really will benefit all women. (Cook 14)

Cook focuses on the need for privileged feminists to use their resources to empower women around the world, rather than becoming paralyzed by guilt or fear of reinforcing an unequal global power structure. This too runs the risk of recreating historical hierarchies of power. However, women from privileged positions must recognize their privilege and work in partnership with women from the developing world in order to move forward. Similarly Romany argues that, "A feminist critique of human rights law needs to engage in a dialogue which forces the anti-subordination thrust of feminism through the filter of cultural diversity"(106). This

dialogue would seek to transcend the "relativistic paralysis since in 'a world of radical inequality, relativist resignation reinforces the status quo'"(Romany 106). Romany does not want to ignore the problem of cultural difference, and envisions a continuing dialogue with the goal of creating real and lasting change. Cultural differences should not be ignored, but they should also not hinder the process of enforcing and protecting the rights of women.

An-Na'im elaborates on the process of cross-cultural exchange and internal dialogue on human rights. He stresses the importance of gaining cultural legitimacy for international human rights norms. An-Na'im recognizes the existing Eurocentric and androcentric bias of international human rights law (An-Na'im 171). However, cultural or feminist critiques should not cause a blanket abandonment of international human rights standards. This is why space for criticism and change must always remain open, and cases against rights that are deemed detrimental to women or culturally oppressive should be brought to the table and considered carefully. In order for international human rights standards to gain legitimacy in local contexts, the effort to promote and sustain rights must be perceived as a "reciprocal global collaborative effort"(An-Na'im 173). If there is no active discussion about international human rights in local communities, human rights will not gain validity in people's lives and they will not only not be accepted they will never be effective. An'Na-im calls this process "internal discourse," which he says must take place simultaneously with a process of cross-cultural dialogue in order to for human rights to gain meaning in local contexts (174). An effort to change religious or customary laws that are not a part of the formal state law, but are often the most powerfully restrictive forces in women's lives, should not be forced on people. Rather, the state has a responsibility to persuade people of the validity and benefit of changing customary laws in accordance with international human rights law (An-Na'im 177). This process can take place through public

education and state-supported dialogue. Without this kind of education and dialogue, human rights will have no meaning in the lives of the people they are meant to protect. They will also never be changed to reflect a wider group of voices, non-western and feminist. Without abandoning the project of creating a more just world for women, the questions of cultural legitimacy and relativism can serve to transform human rights and push the envelope of international law further.

The benefits of a heterogeneous worldwide movement for women's rights are numerous. Copelon argues that women can be treated as a group by international law and uses the case of violence as a binding principle between all women. She says that gender-based violence should be recognized not only as a domestic issue but also as an international human rights issue. Gender-based violence "violates the human rights of women as persons to integrity, security, and dignity, and...constitutes discrimination against women *as a group* in that its purpose is to maintain both the individual woman and women as a class in an inferior, subordinated position"[emphasis added](Copelon 130). This is one issue that many feminists have cited as a common experience among women across cultures in their arguments for universal human rights. Women across various cultures and classes face violence in the private sphere. Joining with women across the world to fight for international standards of protection adds strength to women in local communities struggling to gain protection of their rights within the private sphere. Of course, this is not saying that violence is experienced in the same way or at the same rate across the world, but it does occur in some form in the vast majority of places around the world. Domestic violence is one area where women's rights activists have managed to forge broad cross-cultural alliances in order to bring this issue into the purview of international law.

The Rights of Muslim Women in Post-colonial Contexts

For women living in Muslim contexts, often in post-colonial states, there are several forces dictating the their position in society and their rights in the state and in the family. These forces manipulate religion and "culture" in order to assign roles to women. Often the forces of religious conservatism invoke Islam in order to further nationalist projects. In this process women become boundary markers of the group rather than human beings, and in this process rights are often granted and rescinded according to the needs of the nation. Several feminist theorists of the Arab world also place cultural resistance to women's emancipation within the context of relations with an imperialistic West (Kandiyoti 384). This relationship adds another layer of power relations for feminists to wade through in their search for local assertion of human rights. For women in Pakistan, the discussion of Muslim women in post-colonial contexts in particularly relevant.

Deniz Kandiyoti draws on feminist critiques of nationalism, arguing that the nation may be just as constraining to women as the systems it has supposedly replaced, primordial loyalties to lineage, tribe or kin, "the difference being that such demands are enforced by the state and its legal administrative apparatus rather than by individual patriarchs"(377). Women are marginalized even as their importance as part of nationalizing projects is being reaffirmed. Kandiyoti argues that this contradiction in nationalist rhetoric "is reaffirmed consciously...where the nation itself is represented as a woman to be protected or, less consciously, in an intense preoccupation with women's appropriate sexual conduct"(Kandiyoti 377). This preoccupation is evidenced in Pakistan by such repressive measures as the Hudood Ordinance, which will be examined more closely in the second part of this paper. Kandiyoti builds on the work of C.

Pateman who says that modern civil society remains a patriarchal category. The transition from a traditional to modern world is "'a change from traditional (paternal) form of patriarchy to a new specifically modern (or fraternal) form: patriarchal civil society'"(Kandiyoti 377). She also refers to B.S. Walby who says that patriarchy in modern society incorporates women within it, but at the same time, subordinates women. For Walby there are two kinds of patriarchy: private patriarchy, characterized by exclusion of women in all sectors of life—women must be confined to the home, and public patriarchy, where women are not excluded from the public arena but are subordinated within it (Kandiyoti 377). In post-colonial states this shift does not transfer more power into the hands of women. Rather, power is transferred from one group of men to another. Therefore, modern civil society does not necessarily mean an expansion of rights for women. In Pakistan women are doubly subordinated by private and public patriarchies. Their rights are constrained both by the family and community as well as formally by discriminatory state legislation.

Kandiyoti argues that women are interpellated as national actors: "mothers, educators, workers, and even fighters. On the other hand, they reaffirm the boundaries of culturally acceptable feminine conduct and exert pressure on women to articulate their gender interests within the terms of reference set by the nationalist discourse. Feminism is not autonomous, but bound to the dignifying network of the national context which produces it"(Kandiyoti 380). Feminists working within for gains in women's rights must couch their arguments in the terms set by nationalist discourse. In Muslim states, such as Pakistan, this translates into very limited discursive boundaries. For feminists in Muslim contexts there have been two main options for voicing their demands: A) denying that Islamic practices are necessarily oppressive or B) denying the fact that oppressive practices are necessarily Islamic. The first option compares

Muslim women to the commodified, exploited Other, the Western woman. This reifies Western women in order to assert the superiority of Islamic laws. The second option invokes the myth of a "golden age" in Islam in which women supposedly had more rights and freedoms. Current discrimination against women is then argued as "un-Islamic." Both of these options operate within the boundaries of accepted national discourse. "Changing the terms of this discourse exacts a heavy price: alienation from the shared meanings which constitute a language of identity, affiliation and loyalty"(Kandiyoti 380). Feminists in Muslim countries including Pakistan face severe limitations on the articulation of their demands. The walls of discourse are narrow and rigid, and this presents further obstacles on women's human rights activists.

Marie Helie-Lucas also addresses this fear of alienation from the community and the political arena. In the quest for the preservation of Muslim identity, Islamists speak mostly to an external threat to identity. However, women and the educated elite are often considered weak points in this defensive system as well as potential allies of the external enemy (Helie-Lucas 393). This greatly limits women activists' response to Islamist arguments within Pakistan. Helie-Lucas says that "at a political level, they fear being accused of betraying the whole; at a cultural level, traditions are defined as immutable; at a religious level, the end of interpretation of the Qur'an confines women into a model of society, way of life, dress, behavior as close as possible to the historical model born in the Middle East 14 centuries ago; and finally, at a legal level, the emphasis is on Personal Laws as a means to defend identity"(Helie-Lucas 393). Therefore, the fear of being labeled as traitors to the culture or nation is used to keep women's (and their supporters') voices and behavior within rigid boundaries. The basis of identity become fixed and narrow and women lose space for any kind of interpretation. A questioning of any social more or legal injunction with the label "Islam" preceding is equal to blasphemy.

Therefore, Helie-Lucas argues that "Muslim peoples and certainly women are made to believe that their local traditions are part and parcel of being Muslim and—in the final analysis—Islamic"(395).

One should not underestimate the impact of Islamist discourses on identity and the symbolic importance of women on the minds of women themselves. Women activists limit their criticism and often accept the notion that universal values of social justice exist in the public sphere, but to argue for universal rights in the private sphere is arguing for westernization: "Consequently, defending universal values of social justice becomes unacceptable when it comes to the woman question. This is why, instead of going straight to the point, women first try to demonstrate that they are alienated in non-indigenous ideologies, that they do not side with external enemies"(Helie-Lucas 399). They expend time and energy trying to distinguish themselves from Western feminists as Third World feminists, as if there were a binary opposition between the West and the developing world. In effect, they must take on an apologetic tone and a defensive stance in their arguments against blatant violation of their rights.

Kandiyoti says that in the post-colonial countries of the Middle East and South Asia, the process of nation-building is often brought about through citizenship, equality of all citizens before the law, and mass education to create a cohesive group. However this impulse towards unification has often not held true for women in the realm of personal or family law. The legal equality granted to women under the constitutions of modern states is more often than not circumscribed by family legislation, privileging men in the areas of divorce, child custody, maintenance and inheritance rights.(Kandiyoti 383). Women and men are invested with different roles in these nationalizing projects. Women are encouraged to be "modern-yet-modest" (Kandiyoti 379). They are often fed with contradictory messages depending on the regime in

power as well as their social status. The identification of women as privileged bearers of corporate identities and boundary markers of their communities has had a deleterious effect on their emergence as full-fledged citizens of modern nation-states. This is nowhere more evident than in the fact that women's hard-won civil-rights become the most immediate casualty of the breakdown of secularist projects (Kandiyoti 388). She cites R. Jahan who says "With growing popular discontent and endemic legitimacy crises, governments may make the tactical choice of relinquishing the control of women to their immediate communities and families, thereby depriving their female citizens of legal protection (Kandiyoti 387). The instability of women's rights in Pakistan was made evident during the regime of Zia-ul Haq, as he questioned all the rights women had won since Partition during his program of Islamisation.

Helie-Lucas points out that though "Fundamentalists"[i] have diverse movements around the world, their discourses offer a consensus on two issues; these two issues are the quest for identity and "the woman question." In a wide range of contexts, Islamists promote the idea that Islam is in danger. "Islam as both a religion and a cultural identity is always in danger, whether it is threatened by colonialism, imperialism, capitalism, socialism, foreign ideologies or other dominant religions"(Helie-Lucas 391). Islamists have succeeded in identifying one area as the essence of Islamic identity and this is the private sphere. "They therefore concentrate their efforts on Personal Law and on the family, which become the epitome of Islamic politics, a condensation of all other identities, and a place of refuge. Whoever challenges this refuge threatens all the multiple identities at once, as well as the essence of identity." Within the ideology of Islamists, such as the Jamaat-I-Islami in Pakistan, both religion and history are viewed as fixed and static. They speak of getting back to traditions, roots, and values held in this

glorified and ossified past (Helie-Lucas 392). Muslim laws are in fact grounded in history and culture and are used at different times for different *political* purposes (Helie-Lucas 395).

An-Na'im focuses specifically on the use of Shar'ia (law based on Islamic precepts including, but not limited to, the Qur'an) in restricting human rights and especially the rights of women. He states that "Shari'a family law is fundamentally premised on the notion of male guardianship over women (*qawama*), and is consequently characterized by many features of inequality between men and women in marriage, divorce, and related matters"(An-Na'im 181). Shari'a in many ways reinforces women's submission and dependency on men. An-Na'im stresses the historical context of Shari'a laws. These laws formulated by early male Muslim jurists. These jurists were not engaged in constructing a divine or eternal system of laws (as many Islamists now claim). Therefore, An-Na'im believes that it is imperative for modern Muslim scholars and jurists to reinterpret Shari'a for their own historical contexts. This process of reinterpretation should be supported again by internal discourse across genders and classes and by cross-cultural dialogue (An-Na'im 183). This position is extremely controversial in the eyes of most Islamists. In their view neither the Qur'an nor the Hadith of the Prophet can be historically interpreted. For advocates of human rights in Muslim contexts, the conservative interpretation of Islamic jurisprudence leaves no space for argument. If this reinterpretation occurs, An-Na'im is hopeful that Shar'ia can stop being repressive and can be brought in line by local actors with international human rights norms and standards. An'Na'im gives advocates for women's rights and human rights in Muslim contexts a strategy for change and the positive evolution of local contexts. Though he believes in universal human rights norms, he also recognizes that they are meaningless without the sanction of local cultures and the critical dialogue of diverse groups of people. By working within cultural norms, while realizing that

"culture" is not fixed, An-Na'im provides a practical model for incorporating human rights in local communities. Human rights norms imposed by the state are usually met with resistance; this top-down strategy also goes against the principles of equality, and justifiably opens human rights norms and defenders to criticisms on the basis of cultural irrelevance.

Reconceptualizing Human Rights in a Feminist Framework

The discourse of rights must always acknowledge the indivisibility of all human rights in relation to each other and to the public and private spheres. Romany connects all of the "spheres" of human rights together. She says that violence against women fits in a "continuum of subordination" that affects all aspects of women's lives: "Women are deprived of participation since they 'cannot lend [their] labor or creative ideas to fully when [they] are burdened with the physical and psychological scars of violence"(Romany 108). A violation in one area of life, be it economic, social or political, affects every other part of life. Ideally, a feminist vision of human rights breaks down the dangerous barriers between public and private and also breaks down the walls between economic, social, cultural, civil and political rights. A feminist understanding of human rights promotes radical indivisibility of all rights and fluidity between boundaries of public and private realizing that these walls and distinctions do not reflect the lives of real women and men and only work to hinder the realization of rights by all people. A feminist understanding reflects differences between women and men and women and women across the globe, remaining sensitive to historically voiceless groups and actively working to remedy this inequality. A feminist vision seeks not to erase these differences by promoting liberal equality. Rather, it encourages people in different contexts to imagine difference and justice simultaneously without imposing one version of equality on diverse groups of people.

The second half of this paper looks more closely at women's rights issues in Pakistan and the problems of discourse and advocacy that arise in this context.

Section Two

Women's Human Rights: the Case of Pakistan

Historical Background

"It is a crime against humanity that our women are shut up within the four walls of houses as prisoners. There is no sanction anywhere for the deplorable conditions in which our women have to live. You should take your women along with you in as comrades in every sphere of life." –Muhammad Ali Jinnah, 1944

The year 1947 saw the independence of the subcontinent from the rule of the British, and the emergence of the independent nations, India and Pakistan. During this period, lines between nations were drawn almost arbitrarily by leaders and two distinct processes of nation-building were officially initiated. Discussion of women's rights preceded the Partition of India and Pakistan. For Muslims it had been a documented subject of debate for years. The above quotation is taken from a speech made by Muhammad Ali Jinnah, known as the founder of Pakistan, in a pre-Partition address to Aligarh University (Malik 143). His words are indicative of the changing attitudes (at least at a rhetorical level) towards women's participation in the public sphere during the time of early-nation formation. Women's rights advocates emerged before Partition lobbying for such acceptable changes as increased education and a ban on early child marriages. Women's voices were present from the time of the first articulation of the desire for a separate state by the All-India Muslim League in 1940 (Jalal 84). Notable figures such as Fatimah Jinnah (Muhammad Ali Jinnah's sister) emerged as strong political leaders in the decade after Partition. Ayesha Jalal follows the discourse on women's rights in Pakistan in the period

leading up to and since Partition (Jalal 77). Historically women's rights have been subject to the needs of the nation as interpreted by its leaders. Shahnaz Rouse says that even when the state was supportive of women's incorporation in the public realm in the case of women's education, it was only under the pretext that educated women made better wives and mothers (55). Therefore, as Kandiyoti points out women's rights were constructed to fit the needs of the nation. Despite the large amount of rhetoric on the issue of women's rights, little actual progress has been made, especially for the vast majority of Pakistani women (Jalal 77).Though there were notable women leaders in the short history of Pakistan, there has yet to be a strong movement across classes for change in women's status, a point I will return to later. It is important to note that the founders of the Pakistani state (including Jinnah) did not express any intentions of translating their Islamic rhetoric, employed primarily for political purposes, into actual policy (Jalal 86). Their intentions as to the role of Islam in the state were in fact unclear. Jinnah was known as a secularist, though his secular leanings have intentionally been obscured by religious conservatives.[ii]

Before Zia-ul-Haq's military government, Pakistan was ruled by the Pakistan People's Party (PPP) under the leadership of Zulfiqar Ali Bhutto. During Bhutto's regime, women made little legal progress though the rhetoric of the time was for women's promotion in the public sphere. This state's official support for women's rights did allow for some positive developments. For example, Pakistan was one of the cosponsors of CEDAW in 1975 (though it would not become a signatory until over 20 years later)(Weiss 417). During this time the Pakistani state was pushed one step closer to Islamisation and the support of the military through the widespread belief promulgated by the opposition to Bhutto and the PPP who said that it was the state's lack of Islamic morality that caused the disintegration of Pakistan (after the independence of Bangladesh) (Jalal 97). Bhutto was perceived as a secular leader whose

government had failed to build a stronger Pakistan. Zubaida argues that the failure of nation-formation resides not on some essential property of political culture or ethnic composition, but on the lack of economic and political achievements, which gives citizens a stake in the national entity and promotes national stability. The failure of states to create and distribute resources adequately intensifies conflicts and cleavages expressed in religious, ethnic and regional terms (Kandiyoti 387). Kandiyoti suggests that the extremely unequal distribution of wealth and resources mark a failure of the nation. Because of this perceived failure, citizens of the nation must look for scapegoats and alternate systems of organization for what they see as a failed state. This perception of Bhutto as a failed leader and his association with secular values opened a space in the political arena for a military dictator such as Zia to wrest power. The movement that eventually brought down Bhutto's government, *Nizam-e-Mustafa* (the system of the Prophet), was based on the idea that the Pakistani state lacked Islamic morality, and this was the cause of the state's weakness. This movement included within its demands that women be returned to the *chardivari* (the four walls) of their homes (Jalal 100), an idea that Zia-ul-Haq would later build into his Islamisation program.[iii] This building of Islamic fervor was happening concurrently in the 70s as more and more women were entering the public domain. Jalal does not attribute the growing atmosphere of freedom for women to Bhutto's policies; she says rather that Bhutto's "populist" policies were based primarily on class rather than gender, though many women did benefit (Jalal 98). Bhutto's populist ideals encompassed women in the project of nation building and his rhetoric in support of women's rights was part of his larger populist strategy.

This paper focuses on some of the major women's rights issues that have sparked considerable local activism since 1977. This was the year that Zia-ul Haq overthrew the elected government of Zulfiqar Ali Bhutto and started a process of increased Islamisation in Pakistan.

How did this emphasis on conservative Islam, so detrimental to women's rights, emerge? Shahnaz Rouse points out the contradictions that have been present within the Pakistani state since its inception:

> Within Pakistan, constitutional debates, religious lobbying, and judicial and political pressuring have all sought over and over again to address the issue of whether Pakistan was intended as merely a country 'of Muslims' or a country 'for Muslims.(Rouse 54)

The founders of Pakistan were faced with a contradiction: on the one hand the justification for Pakistan was based on Islam, and on the other, the early leaders of Pakistan had strong secular leanings. This confusion left gaps within the founding ideology of the nation, gaps that could be filled by various ideologies, shifting state policies according to the whims of its leaders. This initial contradiction has remained unresolved throughout the political history of the nation, and has left open the possibility of the legislation of retrogressive laws passed in the name of conservative Islam. Shahnaz Rouse suggests that it is misleading to divide Pakistan's history into two time periods, pre- and post-Zia and his policies of Islamisation.[iv] In fact, religion and the state have had a long and complex relationship within Pakistan well before 1977. However, though Zia's policies should be placed in historical context, 1977 *did* mark a shift in the nation's recent history. This ideological shift has left deep wounds on the few rights women in Pakistan had managed to gain since Partition.

Islamisation under Zia: The Hudood Ordinance

On July 5, 1977 General Zia-ul Haq overthrew the democratically elected government of Bhutto through a military coup. Anita Weiss says, "In its search for a basis of legitimacy...the government implemented a religiously based legal code unparalleled in the modern history of South Asia"(Weiss 417). Though he promised swift elections and a return to democratic rule,

Pakistan would not see a new leader until 1988. Zia did not embark on his intense program of Islamisation until 1979 with the passage of a series of regressive laws targeting women and minorities. When Zia replaced Bhutto as the leader of the nation, he argued that Islam, Pakistan and the military were all linked. He appropriated the call for *Nizam-e-Mustafa* from Bhutto's opposition. He also included women in his program of Islamisation, promising to protect the *chador* (veil) and the *chardivari* as symbols of women's honor and the sanctity of the family.

Shahnaz Rouse is critical of those who claim that Zia's regime began with a direct assault on women's rights. Rather, she says that Zia began his regime by launching an assault on all Pakistani democratic institutions, thus quelling any possibility for opposition (Rouse 59). Zia's regime formed its policies to emphasize difference, not only of women, but also of Shias, Ahmadiyyas, Christians, and ethnic minorities from the "hegemonic ideal of the individual (read: male) Pakistani, a Sunni Muslim committed to protecting the entire geographic territory of Pakistan against encroachment from its threatening others, be they internal or external"[v](Rouse 59). Therefore, all boundaries between groups became more rigid after 1977. The Islamisation program that was so detrimental to women's rights, also affected the rights of minority men and women. The current blasphemy laws as well as the organized attacks on Ahmadiyyas are proof of the state's anti-minority stance. For poor minority women, there have been multiple levels of repression by the state. Women's oppression should be viewed as a part--a very important part--of a broader framework of state control of "threatening" groups. Jalal suggests that these values of separation struck a chord with broad sectors of the society, including the members of the upper class. She says, "With memories of 'populism' still fresh in their minds, specifically the glimpses it had given them of the very real potential for anarchy among a poor and illiterate populace, even upper-class liberals were not about to challenge a return to moral decency if it

meant more security and protection for women"(Jalal 101). This suggests that it was in the interests of members of the upper class to support a more controlled and rigid social order. Zia's military government held the promise of stability for those who saw a threat from the disenfranchised classes during the period of increased populism under Bhutto. The control of women was part of this rigid social order.

During Zia's regime, women's roles in civil society were scrutinized by the most conservative Islamist groups such as Jamaat-I-Islami. Iftikar Malik says, "Debates on topics such as whether women should be able to drive a car, attend co-educational institutions or simply go shopping became major issues for the government and its apologists (Malik 147). These debates represented a relapse in public attitudes toward women's rights, but it was the actual codified laws that were the most damaging to women. Zia passed his first series of Islamic laws on February 10, 1979. Included in this package of laws was the Hudood Ordinance.[vi] The Hudood Ordinance emphasizes the aspects of Islam that are focused on punishment rather than justice. This Ordinance contains a variety of criminal acts including the infamous practice of amputating the hands of those accused of theft and public lashings for various crimes (Jalal 101). What is of most importance for this discussion is its treatment of women's issues. The Offense of Zina Act[vii] issued during the February 1979 Islamisation program, stated that a *hadd* (literally "limit" as in the most severe punishment for the most severe crime allowed) punishment could be prescribed if "'a [sane] adult man and a [sane] adult woman...willfully have sexual intercourse without being validly married to each other'"(Ordinance Number 7 of 1979, Part 4). However, as problematic as this law is as a whole, the major problems for women come from the lack of sufficient distinction within the law between *zina-bil-jabr* and *zina*. The Offense of Zina Act sets the same requirements for the conviction of rape as for adultery. This makes rape practically

impossible to prove without the confession of the rapist. Also, the Hudood Ordinance allows a woman impregnated as the consequence of a rape to be tried for adultery (Jalal 102). Weiss asks, "Without a man's verbal confession, it was nearly impossible to prove his guilt, for what four *salah* men would stand by and let a woman be raped?"(418) The Ordinance states that women and men convicted of *zina* shall face death by stoning or the reception of 100 lashes.

Shahnaz Rouse cites Afya Zia who points out that there is not even a term for "rape" in the customary languages of Pakistan. References to rape are made through euphemisms such as *"izzat khona"* (losing one's virtue/honor) or *"bay-izzat karna"*(causing one to lose their virtue/honor). Rouse notes that these terms do not point to rape as the violation of a woman's body, but as the loss of honor to her male guardian or her family (64).[viii] Rhonda Copelon argues that the "defense of honor" excuses men for their vindictive behavior. The same logic applies to marital rape exemption laws. Since the passage of the Hudood Ordinance, a woman cannot charge her husband with rape. Men are in this way given full possession of women's bodies after marriage. This gives every man the space to commit such crimes against their female family members as rape and murder ("honor killings") with impunity. These terms indicate women's status as the bearers of honor for their families. Women in Pakistan do not stand as individuals, but rather they stand as symbols of communal virtue. The control of women's bodies and sexuality is given legal sanction by the Hudood Ordinance.

The laws themselves are not only discriminatory; the way "crimes" under the Hudood Ordinance are tried is also discriminatory. Asma Jahangir and Hina Jilani, prominent human rights activists and lawyers in Pakistan, point out that in Hudood cases, the courts trying the cases must be under a male Muslim judge. At the subordinate level a non-Muslim can have a non-Muslim judge. At the federal level however, all judges and lawyers must be Muslims (Rouse

62). This exemplifies the state's focus on both gender and non-Muslim status as a marker of difference. These laws have been followed by a sharp increase in women's incarceration with the state and private individuals using this ordinance to their advantage as a weapon against women (Rouse 62). The Hudood Ordinance marks a regression, in many instances, from the status women had in relation to the state under colonial laws. For example, under colonial laws, marital rape was a recognizable offence. Rouse states that:

> Under contemporary laws, however, marital rape, is not an admissible crime, and a male accused of rape can claim it was consensual, thereby converting the accuser into the accused (under Zina charges), because the women's accusation can be cited as evidence of illicit sexual intercourse and can be turned against her. (Rouse 63)

Therefore, women are discouraged from reporting a rape because of their vulnerability not only to the legal system but to the whims and personal biases of the police.[ix] Many of Asma Jahangir's cases are women incarcerated under charges of *zina*. She says:

> Today women will not file rape because they know that once they file rape, they have to have a foolproof case. I am a lawyer and I deal with the law everyday, and I can say quite confidently that if I got raped tomorrow, I would never take the risk of filing a case because I don't think that within *this* legal system I would get any justice or that I could sweep away the risk of being charged with *zina* myself. (Jahangir, interview)

A month before the passage of the Hudood Ordinance, Zia made a surprising move and set up a Women's Division as a part of the Cabinet Secretariat with the purpose of safeguarding the needs of women in the government and non-governmental policies. However, the impact of this group has been nominal. In fact, Jalal points out that many of the most repressive laws relating to women were passed after the formation of this group. The *Qisas* (retaliation) and *Diyat* (blood-money) Ordinance was proposed in 1980. This proposed law stated that the monetary compensation accorded to the victim's family should only be half for women as compared to the compensation for the murder of a man. Fortunately, widespread protest from

women's activists prevented this law from making it to the books. These laws point to the hostile political climate for women during this period. Women's rights had regressed to their lowest point in Pakistan's short history.

The Cases of Safia Bibi and Lal Mai

Since the passage of the Hudood Ordinance, hundreds of women have been charged with the crime of *zina*. Most of the women affected by these laws are poor women. In Pakistan, class cleavages are extremely sharp. Under formal state laws, all women are subject to repression. However, in practice, women of upper classes are able to escape trial or punishment because of their class position. For middle and upper class women these laws are less threatening as the state is more willing to turn a blind eye to their "sexual transgressions"(Jalal 102). Zia's Islamisation program did not question the honor of middle and upper-class women: "To do so would have meant eroding the very basis of the social accommodations which for so long had underpinned relations the state and middle- and upper-class families in Pakistani society (Jalal 103). Poor women, however, have no protection from their male family members or from the state. They have no place in the power structure, and therefore, the state has no stake in providing them with any protection from human rights violations.

Human Rights NGOs have recently begun to document the cases of people charged under this repressive law. In 1993 Human rights groups reported that 75-80% of women in prison were charged with offenses under the Hudood Ordinance, and many of these women were assaulted while in police custody (Rouse 61). Radhika Coomeraswamy describes one of the most famous cases that came under the Hudood Ordinance: Safia Bibi was a blind girl who alleged that she was raped. Two days before delivering the child that was the result of this rape, her father filed

an official complaint about the rape with the police. The report was not made earlier because of the shame and humiliation felt by her parents as a result of the rape. The accused rapist claimed that Safia was of "loose virtue." Safia was convicted of *zina* under the Hudood Ordinance and was sentenced to 15 lashes, three years imprisonment and a fine of 1000 rupees because she could not produce the required four male witnesses of the crime (Jalal 102). When news of this particular case was made known, there was a national and international outcry. The Federal Shariat Court dismissed the case as a result. However, the alleged rapist never spent one day in prison because of "insufficient evidence"(Coomeraswamy 50). The Safia Bibi case was both a victory and a loss. It seems absurd to call this case a victory, but in the Pakistani context where women are not protected against crimes such as rape, the fact that Safia did not have to spend time in jail could be considered a small victory for the NGOs that mobilized against this double violation. Not all women have been so lucky. For example, on 30th September 1983, Lal Mai from Liaquatpur became the first women to be publicly whipped for the offense of *zina*. An estimated 8000 men watched her receive 15 lashes (Malik 148). Hundreds of cases like Safia Bibi's and Lal Mai's have bee filed since the passage of the Hudood Ordinance and in fact, more than half of the women in prison in Pakistan have been convicted of "crimes" under the repressive and regressive Hudood Ordinance.

Private Torture, Public Irresponsibility

"'Among the most lethal forces which impact women's [on] dignity and security are customary practices which aim at preserving female subjugation. Often defended and sanctified as cultural traditions, they are usually fiercely defended by those who practice them, shrugged off by society and condoned by law-enforcing agencies and the courts. As a result, most of these inhuman practices continue unabated.'"—Report of the Commission of Inquiry for Women, August 1997 (AI 1)

Violence against women is endemic in Pakistan.[x] Women are faced with violence in all spheres of life. The Human Rights Commission of Pakistan states in their 1997 report that women of the poor and middle classes were the most vulnerable to violations: "Their resourcelessness [sic] not only made them the primary target of the police and the criminals; it also rendered them more vulnerable to oppressive customs and mores inside homes and outside"(184). Studies have shown that between 20 and 67 percent of women worldwide have faced violence in intimate heterosexual relationships at the hands of their male partners (Copelon 120). In Pakistan the rate of domestic violence is much higher with estimates ranging from 70 to 95 percent (Human Rights Watch (HRW), Conclusion). This violence not only takes place between heterosexual partners but is also inflicted on women by their fathers, brothers, and in-laws. Because gender inequality is closely connected to domestic violence, the high rate of violence against women in Pakistan points to the severe cultural and social biases against women. It is also an indication of the government's incompetence in dealing with violence against women in the legal system. An understanding of domestic violence as torture brings to light the systematic nature of these assaults on women. This torture is not only inflicted on women by their family members, but also by the Pakistani state in its lack of response to these crimes.

"The methods of intimate violence resemble the common methods of torture, and include beating with hands or objects, biting spitting, punching, kicking, slashing, stabbing, strangling, scalding, burning, and attempted drowning"(Copelon 123). Like victims of state-sponsored torture, victims of domestic violence endure constant dread and fear of violence for long periods of time--often over the course of their entire lives. This private torture causes psychological and physical pain. The psychological torture endured by victims of domestic violence at the hands of their male relatives is heightened by the lack of societal response to their suffering. Because the Pakistani government does not take measures to prevent domestic violence, they are partially responsible for the psychological trauma experienced by victims of private torture. The complete lack of recourse for women leaves them completely alienated and thus increases their suffering. In this way the private torture of women is compounded by public irresponsibility. The First Conference of European Ministers on Physical and Sexual Violence held in 1991 recommended that states take concrete measures to prevent and respond to violence against women including legislation, law enforcement, prevention, and social services (98). So far, Pakistan has failed to meet any of these recommendations and there seems to be no indication that this will change. Romany says that "by systematically failing to provide protections for women from 'private' actors who deprive women of their rights to life, liberty, and security, the state become complicit in the violation....The state thus functions as an accomplice to the human rights violations and can be held responsible for them"(Romany 99).

Copelon also points to the gender discrimination in murder cases where men often receive a lighter sentence for the murder of their female partners. She says, "In some systems a 'defense of honor'—recognized by law or custom—allows the husband's jealousy or rage over the real or imagined offenses by the wife to excuse even homicide"(Copelon 128). In Pakistan

despite the overwhelming evidence of domestic violence and the reports of honor killings, the state refuses to formally acknowledge this problem. In fact, state officials denied the existence of domestic violence in Pakistan when interviewed by members of Human Rights Watch (HRW Conclusion). Amnesty International reports that state institutions have done extremely little about these crimes, and the law often provides loopholes for murderers thus keeping the practice in tact (AI 5). In these cases governments often do not have the motivation or the political will to act. States rarely have the interest in protecting women's physical and psychological health. If there is political will to enforce protection of women's rights, state's do not speak with a unified voice or act with a unified will (An-Na'im 170). Therefore, in the case of honor killings the Pakistani state does not have the will or interest in protecting and prosecuting cases of honor killings, especially when the majority of women affected do not have any political power due to their class positions. Honor killings are the most severe form of intimate torture. This issue has recently come to the forefront as a result of the reporting of local and international human rights organizations.

In Pakistan hundreds of women and men are killed yearly in the name of honor, though the majority of victims are women. As the number of incidents appears to be rising, the reasons given for honor killings also seem to be widening. Honor killings are grounded on a range of perceived transgressions and have been based on such absurd claims as a wife not serving her husband's meal quickly enough (AI 5). Honor killings were originally only reported in Balochistan, but are now reported as well in North West Frontier Province (NWFP), Upper Sindh, and Punjab. Though they usually occur in rural areas, honor killings have also been reported in urban areas. The nature of the killings varies between regions. In Sindh *kari* (literally a "black woman") and *karo* ('black man'), the names given to perceived sexual

transgressors, "are more ritualistically killed and hacked to pieces, often in view of and with implicit or explicit sanction of the community"(AI 6). In Punjab honor killings usually take place by shooting, and seem to be more individual decisions than outright community-sanctioned murder. According to the Human Rights Commission of Pakistan, 888 women were reported killed in 1998. Of these 595 were at the hands of relatives and 286 were reported as honor killings. The Sindh Graduates Association said that in the first three months of 1999, 132 honor killings had been reported in Sindh (AI 6) (a region where supposedly honor killings are less prevalent than in other parts of the country). Most observers within Pakistan report that these estimates are far lower than actual incidents of honor killings. Because of the nature of the crime, its association with the shame of the family as well as the reluctance to view such incidents as actual crimes, the numbers of cases reported is very likely only a small part of the actual number of deaths.

Some cases of honor killings are sanctioned by tribal councils called *jirgas* who send out men to carry out the death warrant. A *jirga* of the Afridi tribe living in Karachi ordered the death of Riffat Afridi and Kunwar Ahsan because the couple got married against the wishes of Riffat Afridi's parents. Her husband, Kunwar Ahsan, was shot at by his wife's relatives after the *jirga* ruled on the case. Ahsan is permanently injured, and the couple is seeking resettlement in another country (AI 6-7). This case demonstrates several important points. The couple was targeted because the honor of the woman's family was threatened by her independence. Also, it is an example of both a woman and a man being targeted for an honor killings. Men are not exempt from this system of honor, though they are implicated less often and only when they are accomplices in defiling a woman's (and therefore her family's) honor. The threat of *karo-kari* (a specific kind of honor killing) keeps women in s a perpetual state of fear (AI 7). This constant

fear is a form of psychological torture inflicted on all women in Pakistan. The poet Attiya Dawood quotes a young girl from a Sindhi village who said:

> What is there to my body?...Is it studded with diamonds and pearls? My brother's eyes forever follow me. My father's gaze guards me all the time, stern, angry...Then why do they make me labour in the fields? Why don't they do all the work by themselves? We, the women, work in the fields all day long, bear the heat and the sun, sweat and toil and we tremble all day long, not knowing who may cast a look upon us. We stand accused and condemned to be declared *kari* and murdered. (AI 7-8)

This girl's words exemplify the contradictory nature of a system that does not value women's humanity, while investing their bodies with symbolic importance. For this reason standards of honor differ between women and men. Theoretically, they apply to both genders, but women face harsher punishments for their perceived transgressions. Men are often excused of illicit behavior where a woman's life is in danger at the hint of her 'impropriety'(AI 8).

Amnesty International's report states that the two main factors that contribute to this practice are "women's commodification and conceptions of honour"(9). Dr. Tahira Shahid Khan of Shirkat Gah, an NGO working for women's rights, says that "'Women are considered the property of males in their family irrespective of their class, ethnic or religious groups. The owner of the property has the right to decide its fate. The concept of ownership has turned women into a commodity which can be exchanged, bought and sold"(AI 9). Women's commodification occurs in cultures across the world. In Pakistan this commodification takes on deadly proportions. The honor of the family resides in the body, and more specifically, the woman's body. The Amnesty report states: "Women are seen to embody the honour of the men to whom they belong and through them of the family and tribe whose right over them they must respect...Women have no honour of their own"(AI 11). Therefore, women must constantly guard their virginity and their chastity. For a woman to enter into an adulterous relationship

subverts the social order and undermines the ownership rights to her body. Tribal tradition supports the notion that a man can regain his honor by killing the woman who has transgressed. He is supported in this at legally (by customary law) and morally by others in the community (AI 11). The law of the nation-state does not apply to women in many parts of Pakistan. The primary justice system in tribal areas of Pakistan is based on traditions and custom that preexist the nation. However, the laws of the nation, such as the Hudood Ordinance, also do not protect women and often reinforce women's status as the property of men.

The Case of Samia Sarwar

There have been several reported cases of fathers bringing charges of *zina* against their daughters for marrying of their own accord. In one such case a woman, Sher Bano had eloped with a man who she had willfully married and was apprehended and arrested under the Zina Ordinance. On August 6, 1997 she was shot dead by her brother as she emerged from the court room in Peshawar (AI 15). In this way the Hudood Ordinance reinforces the practice of honor killing by legally formalizing the social control of women and their status as bearers of honor. One of the most widely publicized recent cases was that of Samia Sarwar (also referred to as Samia Imran).

Samia Sarwar married her cousin in 1989 in Peshawar. During the time of her marriage she was subjected to years of severe physical abuse at the hands of her husband. In April of 1995, she returned to her family's home to escape her abusive husband because he had thrown her down the stairs while she was pregnant with her second child. Though she was allowed to live with her parents, they would not allow her to get a divorce. When Sarwar expressed her

intention to get a divorce, her parents threatened to kill her. Hina Jilani, Sarwar's lawyer said, "Samia was a frightened, unhappy woman who felt very alone in a predicament that she couldn't deal with confidently." On March 26, 1999, Samia took the opportunity of her parents' absence for a pilgrimage to Mecca to flee to Lahore and seek help at the AGHS (a law firm that works on women's issues) and refuge in the AGHS-run shelter, Dastak. Because her life had been threatened, Sarwar refused to meet with any of her male relatives. However, because she needed her marriage papers in order to get a divorce, Sarwar agreed to meet with her mother. Their meeting was set for April 6, 1999, in the office of Hina Jilani. Samia's mother came accompanied by her uncle Yunus Sarwar and a driver, Habibur Rehman. When Jilani asked the men to leave the room, Samia'a mother said that she needed the driver's help in order to walk. At that point Habibur Rehman pulled out a gun and shot Samia in the head, killing her instantly. Jilani was also fired at, but the bullet missed. Shortly after Samia was killed, the gun-man, Rehman was shot as a result of his having threatened a security guard. Yunus Sarwar who was waiting in the antechamber, took hold of the AGHS paralegal Shahtaj Qisalbash and escaped with Samia's mother. Qisalbash was taken with them and she claims to have heard the father ask the two if "the job was done." Qisalbash was released unharmed (AI 20)(HRW Summary).

Though this crime was committed in full public view with several witnesses, nothing has been done to prosecute Sarwar's family. On April 20, police officers went to Sarwar's village to issue warrants for the family's arrest, but they were "shooed away" according to human rights organizations. Several reports were filed thereafter. The media reported that the response in NWFP overwhelmingly sided with the murderers. This attitude also surfaced in the Pakistani Senate. When Pakistan People's Party Senator Iqbal Haider presented a resolution condemning the killing, Senator Ilyas Bilour said in reference to Asma Jahangir and Hina Jilani: "'We have

fought for human rights and civil liberties all our lives but wonder what sort of human rights are being claimed by these girls in jeans'"(AI 21). This exhibits the complete disregard for women's rights even at the most superficial level of rhetoric by some Pakistani political leaders. The fact that a cold-blooded murder was argued in such a fashion, even when there was such wide international media coverage, speaks to the absence of any public support for women in Pakistan. The Sarhad Chamber of Commerce of which Samia's father was the president issued a statement on April 8 and 9, demanding that Jahangir and Jilani be dealt with in accordance with "tribal and Islamic law" and be arrested for "misleading women in Pakistan and contributing to the country's bad image abroad." Several *fatwas*[xi] were also issued against both activists with reward money stipulated for their murderers. Finally, in April of 1999 Jahangir issued a First Information Report (FIR) with the police against 16 people for threatening the lives of her and her sister. She also called on the government to investigate over 300 cases of honor killings reported in 1998. At the time of Amnesty's report, the state had taken no action (AI 21). The case of Samia Sarwar is one of many such cases reported in the last year. I have focused on this one specifically because it received wide international attention especially through the networks of women's human rights organizations. However, even with the international outcry against this injustice, the state did not act. This case also exemplifies the dangerous nature of organizing for women's rights in Pakistan. Even at risk of their own lives, Jilani and Jahangir continue to speak out about injustices in Pakistan.

Are Pakistani Women a Group?: Challenges within the Women's Rights Movement

Seventy-five percent of women on Pakistan live in rural areas and many of these women live in abject poverty. The majority of these women are illiterate and have little knowledge either

of doctrinal Islam (on which much of their relationship with state institutions in based) or of their rights both within and outside of Islam (Jalal 77). As I noted earlier, these women are the most vulnerable to the repressive legal system. The report of the Commission on the Status of Women released in 1986 states that:

> The prevailing milieu being still feudal and anachronistic, illiteracy, ill-health, poverty and an iniquitous social dispensation continue to cause a deterioration of the condition of deprived and vulnerable sectors, particularly women in the rural areas and urban slums. Seclusion, segregation and confinement which have limited women's educational and economic opportunities, coupled with early marriages and large families continue to preclude the mass of women from all avenues of advancement. (Malik 151)

The report adds that "'the average rural women [sic] of Pakistan is born in near slavery, leads a life of drudgery and dies invariably in oblivion'"(Jalal 77). Sixteen percent of Pakistani women qualify as literate, and Pakistan has one of the lowest rates of female participation in the paid labor force in the world (Jalal 77). The Commission's report cited above also found that women's participation in the labor force declined 3% between 1977-1983 (109)—probably due to the official discouragement of female paid work during the Zia regime. However, it is important to note here that statistics on the "official" labor force do not adequately represent women's lives. In 1997, women's participation in the paid labor force was less than a third of men's. However, in practice this was not the case:

> In the villages some 15 million women worked at a variety of agricultural chores, including some of the most arduous ones. In many places they spent half the daylight hours fetching water from long distances for cattle and the family, the other half tending to the cattle and the crops, and the evenings devoted to household chores. (HRCP 190)

Therefore, it is extremely misleading to state that women in Pakistan do not participate in the labor force. Their labor in different areas accounts for the sustenance of their families and their communities.

Jalal is careful to note the differences between women in Pakistan as in other parts of the world. She says:

> As in other parts of the world, rural-urban differences, not to mention social, economic and regional disparities divide women quite as much as the weight of religious precepts and local customs separate them from men. Indeed to speak of Pakistani women without qualification is to lump them in a category defined by legal aggregation rather than sociological fact. (Jalal 78)

Therefore, it is important to understand that one cannot speak of all Pakistani women as having the same interests or the same relationship to the state or power. Rights for women in Pakistan are always mediated by a web of social factors including, but not limited to, their gender. For poor women Jalal points out that there is little or no choice but subservience to societal dictates. Placed at the bottom of the power structure, poor women are bound by their class position to follow strict gender roles.

For women in the upper classes, submission to subordination can to a limited extent be rewarding. "So long as they not transgress social norms, women from the middle and upper strata in the rural and urban areas alike are accorded respect as well as a modicum of privileges within the sphere of the family and, depending upon their generational and marital status, also in wider social networks"(Jalal 78). Most women from upper social strata do not transgress social boundaries because they do not want to challenge their social standing. The retrogressive Islamic legislation has left this group of women largely unaffected (Jalal 78). The state turns a blind eye to the "transgressions" of the privileged classes because of their connections to state power. Jalal says that women from privileged positions in society often participate in the reproduction of gender biases; this fact must be acknowledged, and those women must be held responsible for their actions (or inaction) (78).

The articulation of women's rights in Pakistan has largely come from the educated, urban middle and upper classes. This strata's discourse has been limited by their positions:

> As beneficiaries of social accommodations worked out over long periods of history, middle and upper class women everywhere have a stake in preserving the existing structures of authority, and with it the convenience of a subservience that denies them equality in the public realm but also affords privileges not available to women lower down the rungs of the social hierarchy. (Jalal 79)

As the leaders of the struggle for women's rights in Pakistan, this group has worked toward limited change. In order to work for real social change, women's groups in Pakistan must actively recognize the plight of poor women as the most vulnerable sector of society. They must also take measures to incorporate the views of poor women in the rhetoric of the women's rights movement.

Rhetorical contradictions in the ideology of the state have allowed the Pakistani government to protect the liberal citizens of Pakistan in their deviations from the literal interpretations of Islam. Jalal argues that "the state would tolerate all variants of Muslims, even the occasional emancipated women, only so long as its own Islamic credentials—intrinsic to its claims to be legitimate—were not put to the test"(89). This has allowed a handful of upper-class women in Pakistan's history to take active roles in the Pakistani political sphere. The first women's organization, the All-Pakistan Women's Association (APWA), was founded by one such woman, the wife of the former prime minister, Rana Liaquat Ali Khan, in 1949. This organization was given formal approval by the state as an example of its "progressive" attitude toward women's emancipation. However, Jalal attributes this state support to the elite origins of the leadership of the group as well as its largely apolitical concerns. The state chose APWA over the prospect of working-class dominated groups, which would force the state to be held

accountable for the economic deprivation of the vast majority of Pakistani women (Jalal 90). Therefore, women's rights in Pakistan have historically only reflected a small group of women's voices. The vast majority of women in Pakistan remain invisible to both the state and to women's rights organizations. However, the class stratification of the women's rights movement is changing.

Conclusions: The Way Forward

Zia's Islamisation program, apart from creating a more restrictive society for women, pushed women's rights activists to organize. However, the seeds of this activity had existed since the 70s. Malik says, "While APWA and other organizations received their membership largely from the upper classes, women's organizations in the cities like the Women's Front, Shirkat Gah and Aurat presented a new generation of urban, middle-class professional women"(146). Zia's policies infuriated a small, vocal group of middle and upper class women and put them face-to-face with the regime. In 1981, Shirkat Gah reemerged with the name Women's Action Forum (WAF) (Malik 146). This group was at the forefront of women's rights organizing during the 1980s. The direct impetus for the formation of this group was the sentencing under the Hudood Ordinance of a 15-year old girl to flogging after she married a man against her parent's wishes (Jalal 103). On February 12th 1983, hundreds of women led by the WAF and other women's groups protested the proposed Law of Evidence (*Qanun-e-Shahadat*) in Lahore. These protesters were met with tear-gas and baton charges by the police. Within a month of this incident, the *Majlis-I-Shura*, Zia's Islamic Parliament, passed the Law of Evidence. Zia waited one year before signing the bill, and restricted it only to financial transactions (Jalal 106). However, the bill served its symbolic purpose of devaluing women as citizens and the

passage and signature of the bill displayed the disrespect of the women's groups by the state apparatus.

Jalal states that women's groups such WAF failed to place the use of Islam for political purposes by the state under scrutiny. The Pakistani state, since the Zia regime, has used Islam as its legitimating factor because of the lack of actual popular support. Jalal says:

> By failing to exploit the contradictions between the state's use of Islam as ideology and the uncertain advantages of Islam as politics in Pakistani society, women's organizations such as APWA and WAF have left unscathed some of the more contrived affinities between Islam and the Pakistani state"(Jalal107).

The demands of women's groups and female political figures have historically been couched within the terms of Islam. Deniz Kandiyoti mentions this discursive restriction for women's advocates. She says that feminists in Muslim contexts must stay within the boundaries of Islam in order to remain effective in the political arena (Kandiyoti 380). To advocate secularism is to risk societal alienation. Jalal says, "With the Islamic dagger lying so close to the heart of women's case for a better and fairer deal, it is not surprising that so few of their self-professed representatives could argue for rights without first asserting their religious convictions"(91-92). Therefore, women's groups have often taken an apologetic tone in their arguments for human rights. These women often expressed the notion that Islam accords women ample rights, and the problem lies with the faulty execution of these rights by the state (Jalal 92). Where this position is partially true in that the Qur'an does call for equality between the sexes, it also limits the critique of injunctions in the Qur'an and the Hadith that reinforce women's status as the property of men. This discursive limitation also affects the defense of victims of human rights violations. Shahnaz Rouse notes that many activists begin their discussions of crimes against women by citing the individual woman's history of "virtue" and morality before denouncing the violations

she has suffered (Rouse 64). Activists end up reinforcing notions of honor and virtue that are so detrimental to women's rights in their individual arguments.

In order to correct some of the class biases exhibited by women's groups in the past, Jalal suggests that women's organizations attempt to organize across classes. She suggests that NGOs follow the lead of groups such as the Karachi chapter of the WAF, which has forged links with the rural group, *Sindhiani Tehrik*, and base their actions on coalitions with socially disadvantaged groups (Jalal 107). The lack of coalitions between women's groups and other groups who are marginalized politically has weakened the potential of broad-based changed in the system. It is because of this weakness that Benazir Bhutto did not make women's issues a priority during her terms as prime-minister (Jalal 107). Though the PPP under Bhutto stated that they would repeal discriminatory laws such as the Law of Evidence and the Hudood Ordinance, they never did. Jalal says that "For the vast majority of Pakistani women, little is likely to change, so long as their urban sisters continue to tolerate a modicum of subservience in public affairs in return for state policies that leave their not inconsiderable privileges untouched"(108). She focuses her argument on the need for change in the entire social structure in Pakistan. Jalal argues that women will never achieve gender equity until they address the class contradictions of the system as well the gender imbalances. Gender equity must be connected to the various levels of social stratification in Pakistan.

The discourse of human rights is quickly becoming more prominent on a global scale as well as in Pakistan. Pakistani human rights organizations have been successful in bringing national and international attention to women's rights in Pakistan. Working within a complex system of power relations within a post-colonial state, Pakistani women's rights NGOs are contributing to international discussions of women's rights. Due to the constant shifts of

leadership in Pakistan, it is extremely difficult to work for change especially in legal changes. The regime of Zia-ul Haq revealed the precariousness of women's rights in Pakistan. The nation has not yet recovered from the regressive policies that he enacted. Powerful groups of conservative elites have slowed the progress of women's human rights in every realm. Rashida Patel says, "Vested interests find that illiteracy, ignorance, superstition, fatalism and blind faith in the clergy (*Maulanas)* are great allies in the maintenance of the *status quo*"(36). The pairing of extreme poverty with religious conservatism allows parts of the population to be manipulated into the support of repressive beliefs and official policies in the name of Islam. Because the literacy rate in so low, most people are not able to study the religious texts for themselves, and therefore, they must rely on the opinions of *maulvis*[xii] for the interpretations of their faith. For women, this equation has been extremely negative.

Support for women's rights in Pakistan is quickly crushed by the religious right. In 1992, Mr. Kachkal Ali, a member of the Baluchistan Assembly, argued on the floor that the Law of Evidence, the Hudood Ordinance, and the allowance for men to have four wives was "suppression of women." The Islamist supporters quickly accused Mr. Ali of desecrating Islamic tenets and of breaking his oath as a member of the Assembly. Mr. Ali was forced to make a formal apology for his "blasphemous" comments (Patel 37). This is clear evidence of the limits of discourse in Pakistani society. Even for a powerful man to voice his opposition to what is clearly discriminatory toward women in a setting that is supposedly democratic is unacceptable. Islam is used and abused by the powerful in order to quell free expression and free thought by women and men in Pakistan. This limitation also affected Benazir Bhutto, the first female prime minister of Pakistan who failed to correct some of the legislative wrongs instigated by the Zia regime, despite her promises to do so. It is unclear whether she ever had genuine intentions of

promoting the status of women. Her stays in power have been short and tumultuous, and therefore, even if she had wanted to repeal such laws as the Hudood Ordinance, it can be argued that she did not have time to do this. Many of her apologists have taken this position in her defense. Nawaz Sharif followed in the footsteps of Zia and increasingly aligned himself with Islamist forces in Pakistan advocating such legislation as the *Shari'at Bill*, which would put even more power in the hands of conservative Islamists. Currently, Nawaz Sharif has been ousted and Pakistan is again ruled by a military government. General Pervez Musharraf is the new head of the government and it is yet unclear how he will handle the issues of women's human rights. One can only hope that his regime will not follow in the footsteps of the previous military government.

Because of this constant political turmoil, human rights NGOs must become even more organized. The Pakistani state has a responsibility to bring their domestic laws in line with international human rights norms, especially since they are signatories of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). This applies not only to formal laws, but also to customary or religious laws (which may or may not be written into the state legislation or Constitution). An-Na'im argues that "every state has the responsibility to remove any inconsistency between international human rights law binding on it, on the one had, and religious and customary laws operating within the territory of the state, on the other"(An-Na'im 168). Using international human rights in their local contexts, Pakistani NGOs must advocate for the Pakistani state to abide by international laws. Because Pakistan did sign CEDAW in 1996 and is also a signatory of the Convention against the Torture, women's rights organizations can use these documents to hold the government accountable for its lack of attention to women's human rights. An-Na'im also discusses the problems of making

governments responsible for women's rights protections using the examples of land tenure reform and female genital mutilation. His analogy can also be applied to the practice of honor killings in Pakistan. He says that because many repressive practices come from religious or customary sanction, efforts to change these practices should also come from the same sources (An-Na'im 178). In the Pakistani context it may be most effective to continue to argue from within the framework of Islam. Because Islam is such an integral part of the identity of the nation, abandoning Islam risks the loss of support among the majority of the population. However, this does not mean that Islamic precepts cannot be reinterpreted and placed in historical context by women's rights advocates:

> The need for cultural sensitivity and discretion in providing external support is underscored by the fact that those acting as internal agents of change are liable to be regarded by local religious or political forces as subversive elements acting on behalf of imperial interests or alien powers and cultures. (An-Na'im 179-180)

It is strategically advantageous to continue argue within the boundaries of Islam in order to be convincing and to subvert the risk of being labeled "outside agents."

Many groups have been successfully working within Islam in order to push for the protection of human rights. The Commission on the Status of Women, for example, used the Qur'an and Islamic jurisprudence to argue for family planning and against child marriage. Its members also tried to present "a more rational view on polygamy, divorce, *khula* (a woman's right to seek separation), alimony and remarriage of divorcees and widows (Malik 157). They made these recommendations during the regime of Zia-ul Haq, understanding that these views were a direct affront to the conservative view of Islam advocated by the regime. Though those who argue from within Islam should be supported at the national and international levels, the space for secular discourse must be reopened in Pakistan. Those who do not wish to remain

within Islam should not have to do so. Those who see Islam as a limitation to the realization of women's rights are entitled to their position, and this too must be respected and supported by human rights organizations and the state. The Pakistani state and human rights organizations must actively work for the practice of truly democratic principles in the political arena. As long as such weapons of the political right as the blasphemy laws remain codified legally and culturally, the space for discussion and application of human rights principles will remain limited.

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Notes

[i] "Fundamentalism" is a term that has more recently been replaced in scholarship by "Islamism" This is the term preferred by most Muslim scholars including An-Na'im.

[ii] I focus specifically on the ideas of the leaders of Pakistan at the time of Partition in order to point specifically to the ideologies of the nation at its inception. This focus points to the contradictions and gaps in the founding ideology of the nation that allowed for Islamism to emerge in a legitimate space within the state's discourse during Zia's regime.

[iii] For a more detailed account of Islamist groups in Pakistan and women's voluntary participation in these groups see Khawar Mumtaz's "Identity Politics and Women" 'Fundamentalism' and Women in Pakistan" in *Identity Politics and Women* ed. V. Moghadam.

[iv] Rouse says that throughout Pakistan modernizing history, women's roles in the public sphere have been separate from those of men. Women's limited insertion into the public sphere during Bhutto's rule did not change their private status either. Women's work was either doubled or they were cast out of their previous roles and replaced by men. Rouse says that women's separation from men in both spheres may have been more emphasized during the Zia period (since 1977), but this separation pre-existed this time period (Rouse 56).

[v] Here, the danger of difference becomes clear. The preservation of difference, as theorists such as Charlesworth argue, can quickly be turned against women. Clearly, in the case of Pakistan under Zia, women were considered different from men, but this conception of difference worked to oppress women rather than promote any notion of human rights.

[vi] "The word 'hudood' is the plural of 'hadd,' a term denoting the Islamic legal categorization of crimes for which the definition and punishment is set by God." from "Her Honor: An Islamic Critique of the Rape Laws of Pakistan from a Woman-Sensitive Perspective" by Asifa Quraishi

[vii] Section 4 and 5 of the " Offence of Zina (Enforcement of Hudood) Ordinance ":" (4) Zina : A man and a woman are said to commit 'Zina' if they willfully have sexual intercourse without being validly married to each other. (5) - 1) 'Zina' is liable to 'Hadd' if- a) it is committed by a man who is an adult and is not insane with a woman to whom he is not, and does not suspect himself to be married ; or b) it is committed by a woman who is an adult and is not insane with a man to whom she is not, and does not suspect herself to be married. - 2) Whoever is guilty of 'Zina' liable to 'Hadd' shall, subject to the provisions of this Ordinance- a) if he or she is a 'Muhsan', be stoned to death at a public place ; or b) if he or she is not a 'Muhsan', be punished, at a public place, with whipping numbering one hundred stripes. - 3) No punishment under sub-section (2) shall be executed until it has been confirmed by the Court to which an appeal from the order of conviction lies ; and if the punishment be of whipping, until it is confirmed and executed, the convict shall be dealt with in the same manner as if sentenced to simple imprisonment. " 'Enticing or taking away or detaining with criminal intent a woman', Section 16 of the " Offence of Zina (Enforcement of Hudood) Ordinance " : " Whoever takes or entices away any woman with intent that she may have illicit intercourse with any person, or conceals or

detains with that intent any woman, shall be punished with imprisonment of either description for a term which may extend to seven years and with whipping not exceeding thirty stripes, and shall also be liable to a fine. "
(from http://www.interpol.int/Public/Children/SexualAbuse/NationalLaws/csaPakistan.asp)

[viii] Shahnaz Rouse says that there has been a breakdown in the public/private split in Pakistan in the treatment of women. This has evidenced itself in the increase and increasing acceptability of public harassment of women. This loss of respect (also termed as *izzat)* of women in public has led to a call by some activists for a return to the previous "respect" women were given in society. Rouse says that this runs the risk of ignoring the private abuses endured by women throughout history. She says that rather than argue for an older version of private patriarchy, the rhetoric of *izzat* must be overturned completely, so that women are not considered the bearers of honor in any sphere, public or private (Rouse 68).

[ix] The Human Rights Commission of Pakistan reports that the police used the threat of the Hudood Ordinance in order to assault women with impunity. In one case a police sub-inspector, Manzoor Shah, was accused of taking a 14 year old girl out of detention and keeping her in his home for a week in order to rape her. The police threatened the girl's father with violence if he did not withdraw his complaint. The police are given virtual impunity and are often among the worst violators of the rights of women and girls. Not only do they not provide protection, women and girls must be protected against violations at the hands of the police. "The cases of assault in custody, for obvious reasons, almost never got reported but the informed assumption was that rarely a woman or a girl who fell in police hands went unassaulted"(HRCP 185).

[x] Rouse cites some of the recent statistics about violence against women in Pakistan. In 1993, NGOs also reported that a woman is raped every three hours. Fifty percent of these were minors and twenty-five percent of the total were gang raped. Public humiliations occurred at the rate of four every month on the province of Punjab alone. This entails stripping a woman and parading her in public. Domestic violence was also reported on the rise. Death by stove burning also occurred at the rate of one every other day. (Rouse 61)

[xi] A *fatwa* is a legal opinion or decree handed down by an Islamic religious leader.

[xii]The Urdu word for an Islamic religious leader. Often, and in this context, it refers to an obscurantist Islamic leader.