IV WOMEN UNDER THE

NIZAM-I MUSTAFA
CHAPTER IV

Women under the Nizam-i Mustafa

Since the creation of Pakistan, women have been fighting a long and drawn-out struggle with the religious conservatives for their rights. Women's struggles have not been entirely in vain, and even as their gains have been modest, they are still quite significant. The Muslim family law ordinance banned polygamy. All constitutions of the republic have repeatedly affirmed complete equality of women. In fact all three constitutions advocated affirmative action to bring about complete equality, till the military regime of General Zia-ul-Haq brought the Hudood Ordinance with the Law of Evidence.

With the promulgation of Hudood Ordinances and Law of Evidence there was a sharp rise in the number of women incarcerated in Pakistani prisons.\(^1\) The majority of imprisoned women had been convicted under the Hudood Ordinance. It was not just the laws, last the litigants, the prosecutors and the presiding judicial review officials who used the law as a weapon against women and brought false

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\(^1\) Jilani and Ahmad, 'Violence Against Women', p.171
charges against them. In several reported instances, victims of rape were convicted of adultery. Under Colonial rule, rape was a crime for which men alone could be punished. The husband could file a case of adultery against his wife and also could recall it at any time but. Now under Hudood Laws, women can be accused and convicted for rape as well. Furthermore, marital rape is not an admissible crime, and a male accused of rape can claim it was consensual, thereby converting the accuser into accused, because women's accusation can be cited as evidence of illicit sexual intercourse and be turned against her.

The law of evidence claims women's evidence as being half of that of a man. It gives wide-ranging discretionary powers to the courts and endangered the rights of witnesses by allowing courts to determine the competence of a witness. Different interpretations by judges led to confusion and discrimination as the law endowed the courts with powers to decide the validity or admissibility of the evidence of women. These powers of the courts hampered the status of women who were working administrators, lawyers, judges and

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2 Rouse, *Shifting Body Politics*, p.106
3 Under the *zinā* charges
4 Rouse, *Shifting Body Politics* p.106

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banker, because for they often had to request their male subordinates or one another women to countersign the documents prepared by them.\(^6\)

According to the *Shari'at laws*, any child born out of a valid marriage, or within two years of the dissolution of marriage; with the mother remaining unmarried, shall be deemed a legitimate child. The period of two years is unrealistic and proven incorrect by the science of biology.\(^7\) Secondly the former husband can dispute the legitimacy of the child and consequently, a woman may find herself accused of *zînà*.\(^8\) This provision has thus made women more vulnerable and subject to the allegation of *zînà*. There have been incidents where women have been victims of these laws.

Like the *Zînà Hudood ordinances*, the proposed law of *Qisās* and *Diwâr*\(^9\) reduced the legal competence of women to half of that of a

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\(^6\) Ibid


\(^8\) Sex outside marriage

\(^9\) The Law of *Qisas* and *Diyat* was proposed in 1982 during the Zia period but implemented during Nawaz Sharif's first regime in 1991.
man.\textsuperscript{10} Qīsās cannot be enforced on a minor, under the prevailing law
of Qīsās and Diyāt. An adult is defined as ‘a person who has attained,
being a male, the age of 18 years or, being a female, the age of 16 years,
or has attained puberty, whichever is earlier’.\textsuperscript{11} This definition has
introduced an inequality of treatment between men and women in the
imposition of punishment. A female becomes liable to harsher
punishment at an earlier age than a male, as puberty varies among
regions and ethnic stocks, and married girls can become liable to the
same punishment as adults, at a young age of nine or ten years.\textsuperscript{12}
Women activists have argued that puberty does not determine mental
maturity, and is therefore, not acceptable as a measure for fixing
criminal liability. From this one could very well see that on one hand,
the evidence of women is not accepted for the imposition of Qīsās, but
on the other hand, she is held criminally liable at a younger age then
men for the same offence.

\textsuperscript{10} Shakir, ‘Impact of Discriminatory laws in Pakistani Minorities’
\textsuperscript{11} WAF, ‘Law of Qisas and Diyat as proposed by the Council of Islamic Ideology- Position’
paper of WAF(National), WAF, 1983
\textsuperscript{12} Patel, Islamization of Laws, p.5
Another objectionable point in this law pertains to the *Diyāt* payable to woman. The *Diyāt* for one finger has been fixed as one tenth of full *Diyāt*. In other words, when ten fingers of a woman are damaged, she is entitled to full *Diyāt*, but at the same time if she loses her life, the *Diyāt* will be half of what is paid to man. The *Diyāt* paid to man is double to woman's *Diyāt* on the grounds that a man supports the family. This is clearly a justification that ignores participation of women in economic activities. Above all, the law negates the constitution of Pakistan which says that all citizens are equal before the law and are entitled to equal protection of the law. In these laws women were discriminated against on the basis of their gender and are denied equal rights. The *Shari'at* clearly empowers men over women in the legal system, and place women at the mercy of men.

Violence against women is not new: rape, forced marriage and marital violence have existed since the country's inception, but the hudood laws have provided legal protection to the violence against women. The laws have institutionalized gender inequality based on

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13 Mumtaz and Shaheed, *Women of Pakistan*, p.111
the concept of district social roles for each gender.\textsuperscript{14} Women who wish to marry out of their own choice, against the wishes of their parents, often find their families' invoking the hudood laws to force them to fall in line. 'Disobedient' daughters can be charged with \textit{zīnā} and incarcerated. Likewise, the husbands use these laws in their favour, and invoke them to intimidate and subjugate their wives. The rape victim not only has to deal with the trauma of sexual violence but also the ramifications of Hudood Laws. Women who behave in an independent manner or those marry out of their own choice or divorce violent spouses often incur the wrath of men and, get accused of Hudood offenses as a means of controlling or intimidating them. In a sense these laws send the message that women, belong to their fathers, brothers and husbands, and cannot claim an autonomous and independent existence. Although the \textit{zīnā} laws affect the lives of all Pakistani women, the poor, lower class women are particularly adversely affected. This is not only because the law targets women but also because the women's circumstances make them more vulnerable to the law. Families with little means to cope with increasing inflation

\textsuperscript{14} Men's roles include both public and private dimensions while women's roles are priority at home.
and chronic unemployment often find that their daughter's sexuality is a valuable asset, a commodity commanding a high price. Marrying her to the highest bidder in exchange for a 'gift' frequently becomes one method of paying off debts. Many women are sold into marriage to sustain alcohol and drug habits of their male relatives. The discourse of prescribed dress code, demands of gender segregation, and campaigns to push women back into their homes had little impact in the rural areas. Rural women in more wealthy families were already secluded, and poor women had to continue their agricultural and livestock activities side by side with their men folk.15

The Hudood laws made women a mere chattel in the hands of men. None of this has been taken by Pakistani women passively; they have responded with anger, vigor and initiative.

It was the discriminatory nature of these laws which brought women out into the streets in the early 1980s and repeatedly afterwards in support of the protection of their rights, and pitted them

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15 Anuradha M. Chenoy, *Militarism And Women In South Asia*, (New Delhi, 2002), pp-95-96
against the state. The protests and demonstrations, which these laws generated, demonstrate the existence of considerable opposition to their contents and motivation, highlighting in particular the resistance among women to the political (mis)use of Islam. The discriminatory nature of these laws led to the creation of several women's organizations, documenting and reporting the implications of these laws for women, organizing continuous efforts to revoke them and restore the rights of women. The women's organizations are still in their infancy and have been, unable to transform their struggle into an effective pressure group. The Zia regime created conditions that forced women to take activism, but several women activists blamed the regime for trying to discredit them by circulating them as English-educated, westernized, upper-class women with imported ideas, having no links with grass root realities.

The government did respond to women’s pressure, and established in 1979 the women’s division in the government to look after the grievances of women.

The Women’s Division was a part of the Cabinet Secretariat under the direct supervision of President Zia. The division’s purpose was to determine women’s needs, and safeguard them in both government policy and everyday life. The division channeled money into research and development schemes for women and sponsored public forums for the discussion of women’s wishes. It worked closely with non-government women’s organizations and financially aided several projects, such as a working women’s hostel in Karachi sponsored by the business and professional women’s club. For all its modest achievements, the Women’s Division was neither bold nor very successful in its representation of women’s needs within the Zia government.

Funds were made available to carry out projects on education, health, family planning, and the establishment of polytechnic and technical training centre, and also for research on women’s issues. But the money was insufficient to allow women equal participation in
Pakistan’s economic life. Without adequate funds, the Division had no more than symbolic value and achievement little for the upliftment of women.

The government in response to its critics maintained that it was simply trying to get rid of anti-Islamic elements in the society. It claimed that the position of women had in fact improved. Mahbubul Haq, chairman of the Planning Commission responsible for the sixth Five-year Plan (1983-88), said that Islam was a great liberator of both men and women and should never be used for oppressing either, and that in fact a quiet revolution was occurring in Pakistan over the past twenty years with the enrollment of females in Primary Schools, colleges, and universities as well as the growing numbers of women competing in the job market. The formulation and the final shape of the Sixth Five Year Plan was an example of the limited help Division was been able to offer in funding for women’s projects and was criticized by Women Action Forum for not providing adequate funds and for failing to recognize women’s work and contributions to the national economy.

17 *The Muslim*, May 17, 1983.
Pakistan's women’s movement also challenged the system of military rule and its application of the *shari'at* laws. For example, women protested against public punishment, public whipping, discrimination in the Law of Evidence, and government policies calling for a dress code for women. To some extent the movement was successful as many of the measures taken by the military government to push women back into their homes did not meet the desired success.

The beginning of 1980s saw an unprecedented mass mobilization of women in Pakistan to challenge gender-discriminatory laws by Zia. Numerous women’s organizations came into existence such as APWA, Business and Professional women’s club, *Anjuman Jomhooriat Pasand Khawateen*, Behbood association and many others, but the most important among them was WAF (women Action Forum). WAF provides a significant platform to women, and launched a systematic countrywide struggle through advocacy programs, research, writing, pickets, lobbying, street agitation, and press campaigns. The founding of WAF is considered significant for feminism in Pakistan since it marks a change in elite women’s understanding of their relationship with the state. Until 1977 women of the urban educated middle classes looked to the modernizing state to implement women’s rights.
However, their faith in the modern state was shaken by Zia’s patriarchal policies. Thus after the introduction of state sponsored Islamization and the attendant moves to exclude women from social and political life women’s struggle for rights and freedom had to be waged against a confrontational rather than reformist state. As Mumtaz and Shaheed point out that this changed the terms and nature of the women’s movement in Pakistan. Formed by middle-class women as a reaction to the Islamization policy of Zia and with the stated aim of protecting women’s rights gained under the postcolonial state, the WAF struggled for a long time with the question of how to reframe modernist issues related to women’s rights and equality into a framework of modern Islam.

Women’s groups vehemently protested against the Law of Evidence, which many saw as ‘potentiality most damaging to women’s equity’ of all the Islamization measures. In the two years from October 1982 until October 1984, when the Law of Evidence was finally passed, it remained the primary issue for women’s organizations and the objective was not only to pressurize the government to annul it, but also to inform women about its implications. Several lectures and discussions were organized on this issue by WAF. The campaign
reached such a point that a protest rally was organized in Lahore to march to the High Court to present a memorandum to the Chief Justice of Punjab High Court, denouncing the proposed laws. Over 300 women including teachers, students and factory workers assembled on the mall road to march towards the High Court but the peaceful rally turned violent when over 500 policemen stopped the rally and baton charged and tear gassed the women. The protesters braved the street fight with the police, and despite being beaten, dragged on the road, torn clothes, several women managed to reach the High court where progressive male lawyers presented them with garlands to acknowledge their strong will. The impact of this demonstration was tremendous, and from then on, organized women’s political activity became a serious public issue for politicians, government, and other women. While one section appreciated it, the other group consisting of both men and women saw the march as violation of the role of women in Islam. The *Majlis-e-Khawatin-i-Pakistan*, another women’s group, had dismissed the validity of the U.N. Charter on the Elimination of Discrimination Against Women

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19 Ibid
(CEDAW) by calling it anti-Islamic document, and had supported the police *lathi*-charge of protesting women in Lahore in February 1983. Pakistani women's resistance against these laws had never been faltered. Even APVA which has a policy of not coming out in streets, declared its support for demonstrations. Several actions were taken against the Law of Evidence. WAF organized picketing in front of governor's house in Lahore. It also held seminars, lectures and discussions to highlight the implications of the law. Likewise a press conference of Women's organizations was organized in Lahore in January 1984 to protest against the Law of Evidence, *Qisās* and *Diyāt* and other issues. Another Seminar on "A woman is a whole person" was organized by WAF Karachi which highlighted the Discrimination in the Law. 12 February 1984 was observed as Pakistan's women's day and WAF along with other Women's Organizations organized a protest in Lahore which said "one Woman, one testimony, proposed Law of Evidence unacceptable." Other than Lahore and Karachi the demonstrations were organized in Islamabad, as well. Women's groups objected that the law stated that no financial obligations can be put in writing without the presence of a man and it is noteworthy that

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20 *Dawn*, February 18, 1983.
an educated women who can read the document is not reliable but an illiterate man who cannot read what he has signed is more reliable. Women’s Organizations said that the Law was just another attempt to reduce the status of woman to half that of man’s and to push her out from all public spaces. Again it was WAF which raised the issue of Law of Qisās and Diyāt at national level, and this Law was also rejected by the Women’s Organizations because it placed a price on human life but the biggest complaint of women was that it discriminated against women. The women’s activists pointed out that under the laws if a murder was committed in presence of women, the murders could get away unpunished. Thus the law denies the fundamental objective of any law that is justice. A joint march by the Women’s organization was held in Lahore in April 1984 and special lectures, press statement, resolutions, press conferences, talks, seminars and articles in media against the Shari’at laws were organized. The inherent discrimination in the laws became a public issue and was publicized widely. A number of arguments were put forward showing that the proposed Law of Evidence in fact was not only acceptable evidence law in Islam.

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21 For details see Women Action Forum’s position paper on the Law of Evidence(Appendix-3.2)
Members of the Women's Action Forum and the Pakistan Women Lawyers Association contested that there is only one instance in the Qur'an, Ayat 282 (Sura al-Baqr), in which two women are called to testify in the place of one man. This is in a specific financial arrangement, and the role of the second women was to remind the first on points she might have forgotten. In numerous other ayats, men and women are referred to as being equal in matters of witness. Critics also noted that the testimony of Hazrat Khadija, the Prophet's first wife, which asserted that Mohammad was the Prophet of God, made her the Prophet's first disciple. On the single testimony of Hazrat Aisha (another of the Prophet's wives), hundreds of hadith (sayings, actions, and states of the Prophet) have been verified. In addition, they point out that a rigid interpretation of the Qur'an such as would support the Law of Evidence (i.e., meaning 'male' whenever the generic word 'man' was used) would exclude women from being members of the religion.

The Media and press took up the women's issues and covered the women's point of view helping in spreading consciousness and awareness in the society about the laws and government.

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22 See Sura-i-Noor, verses 6, 7, 8 and 9.
Zia-ul Haq used Islam as an instrument for the legitimation of his illegal rule, and destroyed every sign of democracy and accountability that existed prior to his take over in a military coup. The most affected group by Zia's Islamisation policies were women, who were made the target of discriminatory laws based on his interpretation of Islam.

There were numerous reported cases where a complaint of rape was lodged, but the trial court punished either parties for zinā. The sentence of trial court was often upheld by the superior courts. Even worse are cases where accused is acquitted on benefit of doubt but the victim is punished for zinā following her medical examination. I reproduce below a few such judgement which blatantly violated all norms of equity and justice.

23 (a) 1983, Supreme Court Monthly Review 33.
(b) Pakistan Legal Decisions (PLD) 1983, Federal Shariat Court (FSC) 183
(c) Pakistan Law Journal 1983, FSC 124
(d) PLD 1982 FSC 248
(e) National Law Report Criminal FSC 348
(g) National Law Report Criminal FSC 311
(h) 1983 Supreme Court Monthly Review 866
1. An orphan abandoned child of 13 years was raped by her uncle and his son. This child, Jehan Mina was doing domestic work for her ailing aunt. After a few days of the crime Jehan Mina narrated the incident to her family members. No one believed her initially. They physically thrashed her and threatened to kill her. However, she maintained her story and one of her uncle’s who now believed her, filed a complaint of rape. The accused were acquitted for want of evidence. Jehan Mina was punished with the following remarks:

"The present case against Jehan Mina is, therefore, not a case where merely her statement can be regarded as the basis of conviction but in fact the basis of the conviction is her unexplained pregnancy coupled with the fact that she is not a married girl......we sentence her to 3 years rigorous imprisonment, plus 10 stripes in view of her tender age and also on account of the fact that her father was dead and her mother had contracted another marriage and she was, therefore, a girl who lacked the benefit of parental affection, the stripes should be inflicted in accordance with the provisions of section 5 of execution of punishment of whipping ordinance 1979. Since the appellant has given birth to a child and the rearing of the child is of utmost necessity, therefore, following the precedent of the Holy Prophet (P.B.U.H.) we have decided to suspend the execution of punishment of whipping and imprisonment till the child attains the age of two.... and thereafter it will be carried out when the child has attained the age of two years."^24

2. In a reported case (PLD 1982, FSC 174) a young girl Taslim Bibi gave birth to a child and filed a complaint of rape. The trial court

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convicted both the complainant and the accused of *zina*. The accused man appealed to the Federal Shariat Court and got acquittal. Taslim Bibi got 5 years of sentence. Her child died after 2 months in the jail.25

3. Two fifteen year old girls complained of rape. The trial court convicted the accused but the Shariat Court found it a case of consent and altered the sentence of *zina*. On appeal filed by the accused man the Supreme Court observed that the view of the Federal Shariat Court was without any cogent reason. But since Supreme Court was not competent to either enhance the sentence or overturn the conviction the case remained one of *zina*.26

4. An 18 years old virtually blind girl, Safia Bibi was raped first by the landlord’s son and subsequently by the landlord himself in Sahiwal, eighty kilometers away from the Punjab capital of Lahore in 1983. She became pregnant, and finally gave birth to an illegitimate child who later died. Her father registered a case of rape after the death of the child. The session’s judge acquitted both the son and father of the crime, as there was not enough evidence to prove rape under the Hudood ordinance. Safia Bibi’s consequent pregnancy was treated as

25 Ibid. Shabbir Ahmed versus the State.
26 Jehangir, ‘How far are Penal Laws Effective’
evidence of fornication (as if pregnancy can only result from consensual sex) and therefore she was sentenced to three years in prison, fifteen lashes, and a fine of 1,000 rupees. The judge said the sentence was light because she was young and disabled.27

The above case studies illustrate the pitfalls for a woman seeking justice in a rape case, and expose the oppressive nature of Hudood Ordinance and the Law of Evidence for women.

The Human Development Report on South Asia 2000 report notes that before the promulgation of the Zinā Hudood Ordinance, when only men could be punished for adultery, there were only two reported cases. But after the promulgation of the law, it became a tool for subjugating women, and more than half of the women in Pakistani jails awaiting trial have been falsely accused under the Zinā Hudood Ordinance.28 The report elaborates further:

"Apart from the fact that the law is used to penalize rape victims as those who have indulged in extra marital sex, it has also been used by men to control and punish women in their own families giving them a

27 For details see Mumtaz, and Shaheed, Women of Pakistan, p. 103.

28 "From victim to the Accused- The Zinā Ordinance in Pakistan". Human Development in South Asia: The Gender Question, Report prepared by the Mahbubul Haq, Human Development Centre, Islamabad, Pakistan, Oxford University Press, Karachi, Pakistan, 2000, p. 99
tool to enforce their own nations of women's conduct and to punish any devotions. Thus, a large proportion of women in jail on zinā charges have been put there by their own fathers, brothers and husbands. These include girls who refuse to marry according to parental wishes, wives who wish to separate or terminate their marriages, women who leave their homes because of abuse, and women who refuse to go into prostitution.  

Human rights group in Pakistan report that a rape occurs approximately every two hours in Pakistan, half of all rape victims are juveniles, and seventy-two percent of all women in police custody are physically and sexually abused by jail staff and police. Most of those women are in prison on charges of zinā. After the Zinā Hudood Ordinance (1979), cases of reported fornication or adultery increased immensely. In 1980, seventy women were in prison in the Punjab province alone and by 1988 the figures jumped to 6,000. From 1980 to 1987 the Federal Shariat Court alone heard 3399 appeals of zinā.

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29 Ibid., p. 99.
Furthermore, the laws in Pakistan do not include any separate provisions for marital rape because the Shari'at laws do not recognize a women's unwillingness to have sex with her husband. On the contrary, the laws make it obligatory for women to be subservient to their husbands' sexual desires. Therefore, cases of marital rape are almost never reported, and when a case of this nature is reported and tried, it is done under the umbrella of the Zinā Hudood Ordinance as the following case study illustrates. 32

In a case which came to light in November 1987 a court in Karachi sentenced a woman, Shahida Parveen, twenty five years of age, and a man, Mohammed Sarwar to death by stoning. The crime for which they were charged met such harsh punishment was that of zinā-bil-jabr. The case was not however that simple. The woman had been divorced by her first husband. Divorce papers had been signed in front of a magistrate. The document however had not been registered in the local council office by the husband as required by law, and was therefore not legally binding. Unaware of this Shahida sat out her

period of *iddat* with parents in Lahore, then, subsequently remarried Muhammad Usman, Shahida had an affidavit attested by a magistrate in Lahore to confirm her status as an adult free to marry who so ever she wished. As far as she was concerned she was on safe ground. Her first husband, rebounding from a failed attempt at a second marriage, decided he wanted his first wife, Shahida back. Given that he had not had the divorce documents registered, his marriage to her was still legally binding. Hence, her second marriage to Sarwar was by definition *zinā/zinā-bil-jabr*. And, hence the outrageous order!

In another instance, a 35 year old women, Lal Mai, in Liaquatpur (Bahawalpur district), became on September 30, 1983, the first women to be publicly whipped for adultery. Eight thousand people are said to have watched her receiving fifteen lashes. The men in both cases were acquitted. The Women’s Action Forum and the Pakistan Women Layers Association protested the floggings as “degrading, unnecessary, brutal and a direct violation of the International Declaration of Human Rights.”

33 The traditional period of ninety six days before which a woman cannot remarry following a divorce, as laid down in the *Quran*.

34 *The Muslim*, October 4, 1983.
What these instances reveal is that the Hudood Laws not only deprived women of their rights and entitlements, but also provided spaces for their manipulation by the state, the judiciary and the men in the state. These laws rendered women properties of men, and allowed their complete subjugation by their fathers, brothers and husbands. At the same time, these laws were stiffly resisted by women's groups, and their struggles against the state have, indeed, widened the awareness and consciousness of women's rights in Pakistan.
APPENDIX IV.1
HUDOOD LAWS IN ACTIVITY: NARRATIVES OF WOMEN VICTIMS

These interviews were conducted in the years 1999/2000 at two sites. The first site was Kot Lakpat Jail where women were incarcerated for zinā related offenses. The second site was Darul-Aman, a shelter run by the Anjuman - Hayat - Islam. Both places are in Lahore (Pakistan).

The narratives of the women identify their struggles. Although the zinā laws affect the lives of all Pakistanis, impoverished women are particularly adversely affected. This is not because the law targets these women but because the women's circumstances make them more vulnerable to the law. Families with little means to cope with increasing inflation and chronic unemployment often find that their daughters' sexuality is a valuable asset, a commodity commanding a high price. Marrying her to the highest bidder in exchange for a "gift" frequently becomes one method of paying off debts. Many women are sold into marriage to sustain alcohol and drug habits of their male relatives.
Gulbaden Bibi, age 17, from Peshawar. She was in Darul Aman for 22
Days:

"My father sold me in marriage for 20,000 rupees when I was fifteen
to Akram who is fifty years old and a zamindar (landlord). He used to beat
me and yell at me. So my father helped me obtain a divorce and paid back
the 20,000 to Akram. Then I married my cousin and father consented.
Father drinks alcohol and gambles and takes opium and has a lot of debt.
So he now wants me to divorce my cousin and marry a man in Karachi
who is willing to pay for me. This way father can pay off his debt. I
refused; I want to stay with my husband Qamar. Father said that there is
no marriage between my cousin and myself as I no longer have his
permission to be married to Qamar. So he charged me with zinā. I want to
stay married to Qamar. I came to Darul Aman voluntarily. I was afraid of
what my father would do to me."

Gul Bano, Age 15. She was studying in tenth class and was in Darul-
Aman for 6 Months:

"My father married me to a man who I like and am happy with and
he is close in age to me he is twenty-two years old. Father and mother
used to fight. He left the family and the country. I don’t know where he
is. No one knows where he is. Now mother wants me to divorce my husband. She says that I am only fifteen and a minor and that she has authority over me. She wants me to marry someone who has promised her money. So my mother has charged us with zinā and my husband with abduction. My marriage has been registered and my husband has the nikāhnamā. I am happy with my husband and I do not want to leave him. Twice I have been to court. In the court I was told that I am a minor and should go and live with my mother and do as she says. But I refused. Finally I came to Darul Aman, I am afraid.”

Salima Age 20, no formal schooling. She was at Darul-Aman for 6 months:

“My step father was thrown out of house by my mother and brothers. They also used to beat me and emotionally and verbally abused me. They wanted to marry me to a man who already had two children. But they owed money to him and so they wanted me to marry him so he would forgive their debt. But I refused. And they beat me more. So I ran away and stayed with a friend for four days. I hid in her balcony and her parents did not know I was in the house. In those days I had no food only what my friend was able to sneak in, mostly tea and some bread. My
friend was afraid of her family finding out. Then I went and stayed with some cousins. They did not keep me either. They are afraid of my mother and brothers and did not want to get involved. But they did give me five hundred rupees and sent me here to Darul Aman. I don’t want to go home. I want to live with my aunt and she says that she will take me. My mother and brothers have told me that if I don’t come home, they will charge me with theft and zinā. Mother has already made comments about the brother of my friend who sheltered me. She says that maybe I did zinā with him. As yet they have not formally charged him, but I won’t be surprised if they do that. My mother says that maybe I also did zinā with my step father and zinā with my cousin. I have no lawyer and I have no money. If I go home they will kill me. I am happy here and I will live out my life in Darul Aman if I have to. I will show my family that I can survive.”

Nausheen, age 20, completed ninth class. She was at Kot Lakpat and was expecting her first child, when she gave the interview:

“I married against my parents will and they accused my husband of abducting me. And both of us are in jail. My husband is my cousin [son of mother’s brother]. I had asked my parents for permission to marry him
but they said no. I got married anyway. And my parents registered a case of zinā against me. My husband and I worked for a zamindār (landlord). The person who got us the job collected thirty thousand rupees for our labour which the zamindār said was one year's salary in advance. We got nothing. We had worked for nine months when we were arrested. The zamindār has our nikāhnamā (marriage certificate) and we need it to prove that we are married. He wants some of his money back before he will give over our nikāhnamā. We don't have the money to give him.

Husbands also find that these laws work in their favour. They can use them to intimidate and subjugate their wives. Otherwise they can always charge them with zinā.”

Rashida Bibi, age 18, no formal education, living at Darul-Aman:

Father owed money to an old man. And he married me again to the old man. My new “husband” not only slept with me but also made me commit zinā with six other men in exchange for money which he kept. And he also beat me and broke my arm. He had a first wife who was also involved in prostituting me and she also beat me. I registered case of rape against old man and his wife with the police. I am in Darul Aman because
the old man's son-in-law has threatened me. My father also used to beat me.

Poor women with little resources also provide ideal victims for the police who want a tidy conclusion to cases. Hina Jilani argues that once a case has been initiated and a First Investigative Report [FIR] launched, police are “under pressure to tie up the investigation and send the case for prosecution.” Police performance is evaluated annually. And unresolved cases she points out reflect on poor police performance, so often they are looking for a victim.

Naseem Jehan, age 49, wife of Asif, no formal education, imprisoned at the Lahore prison, Kot Lakpat:

“My neighbour (who is also my relative), well, her daughter in law ran away. And I was accused of helping her run away. I was accused by the mother-in-law of the girl for being an accomplice. She wanted money from me. I have been accused of a crime that I have not committed. They [the courts] are asking three lakhs for bail. I have sold everything even my jewelry to support my case. My eldest daughter is sixteen and she is alone at home with my husband. My husband has a bad temper and I am afraid
for her. My bail has been raised three times and is now three lakhs. Because the judge also wants money. I am against judges.

Naheed, age 25, from Okara District, no formal education, serving sentence in prison:

"I had a fruit shop in Lahore. I had employed a boy to work for me. He abducted his cousin and I got charged with helping in the abduction. There is no one to bail me as my husband has also been charged and is also in jail. The police said that he gave the couple a ride in his vehicle. I have been told that the abducted girl testified against my husband and me. I do not know what was said in the police station. I do not understand. I have no lawyer. I have four children, their ages are four years, six years, and nine years. They are with my uncle right now. Sometimes I write letters to them. And sometimes I get letters from them."

Saima Parveen, age 20. She had never been to school but knew how to read and write Urdu. She was married and had seven year old son when she gave the interview from the Lahore prison, Kot Lakpat.
“My brother Mustafa is married to Razia and Razia has a sister, Rukaya. Now Rukaya and her husband fought a lot. He used to bring home other women and when Rukaya complained he beat her. At one time Rukaya jumped into the river with her daughter and attempted suicide. A man who was passing by saw them and pulled them out. When her husband beat her Rukaya went home to her parents and sometimes she went to her sister Razia’s house.

When Rukaya finally ran away, she came to Razia’s house. And Razia told her that “Although others close their doors against you I will always keep my door open for you.” We were afraid, my parents were afraid and I was afraid. And [we] suggested to Mustafa that he leave Rukaya with her parents. We were afraid that there would be trouble. But he refused and allowed Rukaya to stay in their home. Rukaya was also afraid that her husband would come looking for her to Razia’s house so she ran away from there [as well]. And her husband did come looking for her. He said that Razia her husband and his family had abducted his wife. So now the whole family is charged with abduction and helping Rukaya run away. They are all in jail, my father, and my three brothers. I am in jail. Razia is also in jail. Rukaya has disappeared and Razia fears that her in-laws have abducted her, otherwise she would be in touch with Razia.
Rukaya’s brother and husband say that they will kill her if she turns up. We are poor and they are rich. Razia’s husband does not want to blame his wife. But the rest of the family blames her. I blame her for bringing so much misfortune to our family. Rukaya disappeared a year ago, she is either dead or in hiding. Razia thinks she is dead or she would have been in touch.

This case was registered two months ago and I have been in jail nineteen days. The police took my brothers and myself into the lock up and beat us up. They beat us a lot and I have a lot of bruises. They took money from us. I have no one to bail me out, all my three brothers are in jail, my father is jail. I don’t know where my husband is. My son is with my mother and I have left everything to Allah.”

Saiida, age 40, no formal education. She had four children, and was serving sentence at a prison in Lahore:

“A lady doctor lived near us who did abortions. She said to me if you bring me clients I will do free treatment for you and give free medicine [to you]. I have kidney and asthma problems and do not have the money for medical treatment. So I brought her clients. I brought her an unmarried girl who was pregnant and who wanted an abortion. She
ran away after the abortion and her family registered a FIR and blamed me as an accomplice. Now the police have accused me of abducting the girl."

I did not have access to women and my analysis of their comments are based on common themes that emerged from the interviews. *Zinā* laws attempt to regulate who can have sex with whom. Yet sex is not the issue in the women's accounts. Even in this limited sample of nine women, there is a disparity between on the one hand the emphasis on the moral/sexual issue contested in the legal accounts and the narratives of struggles in the lives of the women interviewed. Although the *zinā* laws affect the lives of all Pakistanis, impoverished women are particularly adversely affected. This is not because the law targets these women but because the women's circumstances make them more vulnerable to the law. Families with little means to cope with increasing inflation and chronic unemployment often find that their daughters' sexuality is a valuable asset, a commodity commanding a high price. Marrying her to the highest bidder in exchange for a "gift" frequently becomes one method of paying off debts. Many women are sold into marriage to sustain alcohol and drug habits of their male relatives.

If women marry it must be with parental consent and the *zinā* laws are a powerful means to secure that consent. If a woman does not have
her parents' blessings when she marries she can be intimidated with the threat of *zinā*. And if that won’t bring her in line with parent’s wishes she can be charged and incarcerated under the *zinā* laws. Use of *zinā* laws to prosecute and intimidate daughters who have married without their permission, suggests that parental right overrides men’s right /claim to their wives. Often young men are as powerless as young women in deciding their destiny.


(A)

Case cannot be registered only for walking with stranger: - Shariat Court.

No punishment can be given for lack of evidence. Court suspended the punishment given by Session Court to Sakina Bibi @Shehnaz of 'Mian Chunno'. After separation Shehnaz's husband 'Ghulam Ali' filed Hudood case against her and her witness Ejaz. Trial Court convicted her on the basis of police witnesses: Appellant. The Hon'ble Federal Shariat Court observed that Hudood case could not be filed simply on the basis of accompanying a stranger and acquitted her for lack of evidence. Punishment in Hudood cases can be given only when adultery is proved. These remarks were given by Mr. Justice Sardar M. Dogar of the Hon'ble Court while allowing appeal of Ms. Shehnaz. The Hon'ble Court also suspended office hearer of Additional Session Judge of 'Mian Chunno' who has given punishment of 5 years imprisonment, 15 whippings and Rs. 50,000/- fine -to appellant.

The Hon'ble Court reduced the punishment of co-accused from 5 to 2 years. Appeal was filed though Zafer Iqbal Chohan advocate, in which it was stated that she got separation from her husband and a decree of divorce, was filed at the trial court but her husband registered a Hudood
case against her. The trial Court convicted her. The Hon’ble Court remarked that no woman can be a party to the conspiracy of her own kidnapping, nor can be convicted for walking with any person. The defendant’s point of view was that the trial Court had convicted her simply on the basis of witnesses/ evidences and had ignored the real facts.
Hudood laws protect women, says Shahida

By Hadaraj Ali

ISLAMABAD, Dec 8 Federal Law

Minister Shahida Jalal has said that

Hudood laws are not against women

and the principle of four women

witnesses equal to two male witnesses

has so far protected women from

violence.

Talking to Dunya News, the

law minister said that women behind

the Hudood laws are protected.

She said that there was no harm in

improving the Hudood law, but it did

not mean that the laws themselves

were against women.

She said that the ministerial committee

was not against the Hudood laws but

because of poor public support and

misconception of the existing laws,

she said that she had taken

measures to bring about meaningful

changes.

The government had also attempted to

improve the law through consultations

with the provincial governments and

the media.

The ministerial committee had

suggested that the law should be

revised to ensure that it was

understood by the public.

The minister said that she had

not been able to implement the

law because of public resistance.

She said that the government was

working on improving the

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Facts about Hudood laws

ORDINARILY I would refrain from joining issue with a colleague lawyer but since Ms Shahida Jamil holds a responsible ministry of law, justice and human rights, as such her letter to the editor dated 23.12.2000 must be responded to.

The Honourable Minister admits that the reporting of her interview published on 9.12.2000 was correct but the caption was misleading. She presumes that every person reads by reading headlines alone. Let me assure her that I am a serious news reader and do not simply glance through the paper as a pastime.

Ms Jamil's contention that the Hudood laws are not discriminatory and their implementation makes them so, is not correct. This controversy gives her an excellent opportunity to clarify her position. For example, does the law minister consider that the evidence of four male Muslim witnesses for applying Hudood punishment for rape and rape are fair and not discriminatory? I know that the Hudood punishment has so far not been executed but as long as the law remains operative, it can be implemented. Does she support this provision which makes the evidence of women inadmissible?

The law minister is rightly shocked at the number of accused who are released because of lack of evidence in karro kurat cases. The root cause is systematic discrimination of women in law and society. She must also be satisfied that many accused have been convicted but given very light sentences. Our courts have ruled that killing of ‘immortal’ women, is an act of ‘honour’, because of provocations offered by such women. The law allows the victor's heir to forgive the accused. In almost 50% of karro kurat cases, it is the family themselves who kill women. Is this law gender sensitive?

I am advised by the law minister to read Shariat closely. No one practising in Pakistan can avoid doing so. Nikah according to Shariat is fundamental and in common knowledge. However, the reality is that the ground remains that in a number of cases ‘Nikah’ takes place but ‘Rukhisai’ is postponed. Under the law, a husband may rape his wife before ‘Rukhisai’. This is not liable for punishment. Is this correct or not? If this is the position as law, then does the law minister consider this act of rape as a crime or a right of the husband? The law minister, I presume, is also aware of cases where after the rape had been committed a Nikahnama was manufactured as a defence and the accused acquitted. This would not have been possible if the law recognised marital rape as an offence.

The letter has amazed me, as the law minister defends the provision in the Quranic Shabhad. Where the testimony of women is not at par with that of one man. She has done so on the assumption that this is a form of protectivism legislation. She, however, failed to elucidate how are women afforded protection by this provision and from whom? I fail to see how equating the testimony of two women to that of one man in matters relating to future and financial obligations helps women. Giving evidence, is not a matter of privilege but a necessity. Women cannot be deprived of their right to do so under the garb of protectivism. Incidentally the Shabhad incident is misguided as it had no nexus with the evidence of women. The law minister may check her facts.

I do hope, the law minister will respond to her position on these issues in further clarification.

ASMA JAHANGIR
Editor

Readers are requested to restrict their comments to a maximum of 400 words. We reserve the right to edit letters for reasons of clarity and space. Letters, including those by e-mail, should carry complete postal address—Editor


Women demand repeal of discriminatory laws

ISLAMABAD: Women's rights organisations on Thursday vowed to continue their struggle against the country's gender-discriminatory laws.

"We want discriminatory laws against women to be repealed and ensure they are given protection against the rising influence of extremist groups," said Shireen Behard, president of the Pakistan Progressive Women Association.

The call came as several non-governmental organisations held seminars and staged marches across the country to mark International Women's Day.

A group of over 100 women activists held a torch-lit rally in the capital late Thursday to press their demands for protection against discriminatory laws. "We want the government to make laws to end discriminate violence against women and gender discrimination," Behard said. The support of women of the country continues to rural areas, regions that need more attention on role discrimination and oppressive cultures. Human rights activists say more than 1,000 women were murdered last year in the name of honour killing, a practice that is increasing despite claims by the government it is trying to stamp out. Such murders are supposed to redeem a family's honour in cases such as adultery, divorce or even if a woman chooses to marry against her parents wishes. Women also face difficulty in obtaining access to justice and face discrimination in the workplace.

"We want the government not to bow before the extremists who in the past have thwarted attempts at reforms," said speakers at a seminar organised by Human Rights Commission of Pakistan (HRCP) in Lahore.

Meanwhile, Minister for Women Development and Social Welfare Dr Ameena Riaz Shabaz on Thursday said the government will make laws relating to women in light of teachings of the Holy Qur'an and Sunnah.

Talking to reporters at a candle-light walk, the minister said current laws relating to women are being studied and recommendations would be prepared for necessary amendments. Representatives of around 10 non-governmental organisations (NGOs) participated in the walk organised by the Joint Action Committee for Citizens' Rights in connection with International Women's Day. "We want to frame better laws to ensure safety and security of women," the minister said. Pakistan Law Commission, Commission on Status of Women and Ministry for Women Development and Social Welfare would prepare recommendations in this regard, she said. These recommendations, she added, will be made public for comments from media, Human Rights associations and the masses.

She hinted at fully exploiting the local governments to ensure justice for women, involvement of more lady lawyers and judges at the grassroots level will be ensured under the Local Government Plan.

Minister for Education, Zubaida Jalal, who was also leading the walk, said sincere efforts were being made to ensure women rights and quoted the example of declaring honor killings as murder by the government. "This is a positive step towards providing women more security," she said. "We will have to do a lot for our disadvantaged segments, especially women and children so they also observe a better life.

Earlier the representatives of NGOs, under the umbrella of Joint Action Committee for Citizens Rights, started the walk from the Iqbal Town to Parliament House carrying placards and banners inscribed with slogans for better rights for women. —APP


NCSW to protect women rights

ISLAMABAD (PPI) – The National Commission on the Status of Women (NCSW) in less than a year has made serious strides in addressing critical areas of concern for women in the country.

According to a Press release of NCSW, the Chief Executive General Pervez Musharaf announced the setting up of an independent and permanent commission on the status of women on the International Women’s Day (March 8, 2000), while on July 17, 2000 an Ordinance was promulgated in this regard.

The NCSW formally inaugurated on September 1, 2000, comprising of a Chairperson and 20 members representing each of the provinces, Azad Jammu and Kashmir, Northern Areas, minorities, scholars and experts.

The setting up of an independent and permanent commission presented a number of challenges and expectations.

Recognising the expanded scope and nature of work and the growing expectations from the Commission both at national and international levels, the Commission under the leadership of Dr Shaheen Sardar Ali immediately set out to business taking up the most critical areas of concern. In less than seven months the Commission has accomplished tedious job of developing rules of business and setting up of an independent secretariat for the Commission as well as undertaken legal reform pertaining to the Hudoor Ordinance, honour killing and the women inheritance rights.

It has established and strengthened linkages with the civil society organisation, concerned citizens and support organisations.

It has also developed a concept and terms of reference for reviewing the implementation of quota system for women in the federal and provincial governments.

Additionally as a result of the extensive outreach the Commission is receiving concern and issues faced by women in everyday life. These include issues faced by working women in the work place, domestic violence health and legal aid etc.

Despite a small secretariat and numerous snags associated with a new set-up, the Commission has tried to address these concerns in a timely manner. In most cases linkages and follow-ups with the relevant departments have been made to ensure that the concerns communicated by the women are addressed effectively.

Recently a concerned woman who did not have a Mahr to accompany her to Haj but wanted to fulfill her religious obligation requested the Commission for advice. The Commission recognising that this is a problem faced by many women in the country referred it to the Council of Islamic Ideology for comment and advice.

The Council clarified the role of a Mahr as primarily to ensure safety and security of women during Haj and therefore, women without a Mahr may travel with a group where the leader of the group could assume responsibility of looking after the women. Thus, ensuring that women without Mahr are not barred from observing their sacred obligation and have access to adequate safety and security during Haj.

Further, on a recent visit to a women’s jail in Karachi the Commission members accompanied by other civil society members met with a number of foreign women who were forced to remain in the jail despite completing their jail sentence because they did not have the money to go home.

The Commission after reviewing the situation made an appeal to local philanthropists and civil society organisation to arrange for one-way tickets for these women so that they could be free to go home.

(H)


159
5 held for obscenity

STAR REPORT

TPX police arrested four men and a woman from a house near Lyari railway station for their alleged involvement in immoral activities.

A police mobile on a patrol when reached near Lyari railway station got information that some persons are involved in immoral activities. Police raided the house and arrested them red-handed in the nude.

Police registered a case under Hadood Ordinance and are investigating.

(I)
