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**Gender, Religion, Sexuality and the State:
MEDIATING THE *HADOOD* LAWS
IN PAKISTAN**

by

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A B S T R A C T

The *Haddood* Ordinance of Pakistan, promulgated in 1979 under the regime of President Zia-ul-Haq, provides an example of legislation that allows greater control of women within state sanctioned interpretations of the sacred. In order to secure broader based support, Zia initiated *Nizam-e-Mustafa* (the system of the Prophet Mohammed), and began a process of Islamization of laws and social fabric of Pakistan. The stated intent was to define and reinforce the notion of a “pure and chaste” Pakistani citizen. The reality is quite different in a society where police corruption and violence often go unpunished, male violence against women has no legal sanction, and the majority of the population is increasingly impoverished. Although the *Haddood* laws affect the lives of all Pakistanis, women, especially those of the lower class, are particularly adversely affected. In addition, Islamization further strengthened the ties between Islam, the Pakistani State, and the military.

Although State sanctioned interpretations of the sacred were imposed on Pakistani society in the Zia years, the position of Islam in the body politic and the social body continues to be fiercely contested. It is these contestations around the *Haddood* Ordinance, particularly women’s experiences of being charged and incarcerated under these laws, that this paper explores. This is accomplished through a discussion of the social and political context in which the law was passed and with information derived from interviews with 14 Pakistani women charged and imprisoned through what have been termed by some as, almost ludicrous legal justifications. I interviewed these women in December 1998. The women were, and possibly still are, inmates of Kot Lakpat prison and residents of Darul Aman (a shelter for women). Both of these institutions are in Lahore. Such accounts are important as they validate individual struggles. Yet it is crucial that these accounts remain tied to the context in which they occur, a context where military as well as weak elected regimes forge alliances with right-wing groups to secure a more broad-based mandate. And those of us who live in the “first world” must remind ourselves that it is our elected governments that have supported these regimes.

Gender, Religion, Sexuality and the State: Mediating the *Haddood* Laws in Pakistan

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The *Haddood* Ordinance, promulgated by President Zia-ul-Haq in 1979 as a first step towards Islamization in Pakistan, seeks to define and reinforce the notion of a "pure and chaste" Pakistani citizen. Critics of the Ordinance (Rouse, 1998; Shaheed, 1997; Mehdi, 1997; Jahangir & Jilani, 1988; Toor 1997), however, argue that these laws allow families to draw upon the power of the State to help regulate the sexuality of "their women," thus contributing to the growing incidence of State sanctioned violence against women. This paper presents a brief sketch of Pakistani *Haddood* laws and examines the social and political context in which the ordinance was passed and some implications of the laws. This paper also gives voice to the experience of 14 Pakistani women whose lives have been affected by the *Haddood* Ordinance. These women were interviewed during a visit to Pakistan in December 1998 and the early part of January 1999. Their stories, in turn are placed in the context in which the *Haddood* Ordinance was created and put into force. The intent is to encourage feminist examinations of the conditions which could impinge upon interpretations of the sacred in Pakistan. And feminist challenges can take into account all factors in imagining and promoting interventions for social justice and change. The *Haddood* Ordinance provides an example of legislation allowing greater control of women within state sanctioned interpretations of the sacred.

The *Haddood* Ordinance

The *Haddood* Ordinance subsumes adultery, fornication, rape and prostitution under the rubric *zina* and treats them as offences against the State. For the purpose of the Ordinance, *Zina* is defined as "sexual intercourse without being validly married." *Zina-bil-jabr*, rape, is defined as "sexual intercourse without being validly married" when it occurs without consent. "Which means," legal aid lawyer Ayesha Karim (1998) points out, "that the very thin line between a person being an accused and a victim is that of consent." With the adoption of *Haddood* laws, for the first time in Pakistan's history, fornication (extra-marital sex) was rendered illegal and along with adultery, non-compoundable,¹ non-bailable² and punishable by death (Human Rights Watch, 1992: 34).

The level of proof required to convict a man of rape is extremely high and in effect the same as that required to convict for adultery. In the absence of the necessary proof of non-consent, the accused is released for lack of evidence while the woman who has alleged rape is vulnerable to being convicted of adultery. Under the terms of these laws, the rape complaint is itself a confession of *zina*. If convicted under the Ordinance, the rape victim is sentenced to one hundred lashes if she is unmarried and to death by stoning if she is married (Shaheed &

¹ A non-compoundable offense is one which the police or government may continue to investigate and prosecute even if the original complainant withdraws his or her statement implicating the accused.

² Those prosecuted on such charges are not eligible as of right for release pending trial by posting bond. Bail is left to the discretion of the judge.

Mumtaz, 1987). Research documents that not only have thousands of women been charged and jailed under the *Haddood* Ordinance but that the repercussions of the Ordinance are class-based. That is women who cannot afford lawyers are those most likely to be charged and jailed (Sumar & Nadhvi, 1994). Although many of the prisoners are eventually released, they can face years of incarceration before trial. Moreover, in prison and particularly in the “lock-up,” they are vulnerable to custodial rape and other forms of physical, emotional and sexual torture (Human Rights Commission of Pakistan, 1997, HRW, 1992).

Once convicted, the maximum sentence or *Hadd* is mandatory. Yet a person’s sentence varies according to the religion and marital status of the accused, the witness, and the evidence on which the conviction rests. In the case of fornication and adultery, if the accused is a muslim and a) confesses or b) there are four adult, pious, male muslim witnesses to the act of penetration (four female witnesses’ testimony will not suffice for *Hadd* punishment), and c) the accused is married, then the accused must be sentenced to death by stoning. If the accused is a non-muslim or unmarried and a) confesses or b) the crime is witnessed as described above, the accused must be sentenced to 100 lashes with a whip. The maximum *Hadd* punishment for fornication, adultery or rape is identical. Although *Hadd* punishments have been imposed, none have been carried out to date.

If the evidence falls short of what is required for maximum punishment but the case is still proven, the accused is charged under a lesser class of punishment known as *Tazir*. Here, unlike in the case of *Hadd*, women may testify on their own behalf if the judge should so allow. The *Tazir* punishment for adultery or fornication is up to ten years in prison, thirty lashes with a whip and a fine of an indeterminate amount. The *Tazir* punishment for rape is up to twenty-five years in prison and thirty lashes. For the purposes of *Tazir*, no distinction is made between a married and unmarried offender. Insufficient evidence to impose a *Hadd* punishment may still result in conviction under *Tazir*. When women are unable to prove rape under *Hadd* or even *Tazir* they can be charged with illicit sex under *Tazir*. According to advocates Asma Jahangir and Hina Jilani (1990), *Tazir* punishments or public whippings, of women and men, occur frequently (1988). They argue that prior penal laws, even though they gave a protected but secondary status for women, protected them somewhat. Previously only a husband could file a charge of adultery against his wife and could revoke it any time. Marital rape was also an offense under the old laws. With the *Haddood* laws, rape is subsumed under the category *zina* so that if coercion cannot be proved, the victim becomes an offender who has enjoyed illicit sexual activity. The raped victim has no right to testify on her own behalf.

Context of *Haddood* Laws

While international capitalist patriarchies continue to dominate world politics, local and national patriarchal articulations appear to have become more masculine and violent (Saigol, 1997). Moreover, colonial rule strengthened the articulation of indigenous religious and ethnic identity as distinct from and often opposed to the European colonizers (Jalal, 1991). Particularly, South Asian nationalist anti-colonial struggles united religious and non-religious power brokers against colonial rule. Religious authorities thus were important players in the creation of nation states in the sub-continent, and particularly so in the case of Pakistan (Shaheed, 1997). Furthermore, it has been argued that the two nation theory (muslim and hindu), which formed the basis of the partition of the sub-continent in 1947, was a theory identifying two cultural religious groups (Toor, 1997). Yet in the struggle against colonial authority it became a political theory underpinning the state formation of India and Pakistan. Religion was re-asserted as nationalism in Pakistan and the country imagined as a homeland for Indian muslims came into being in 1947 (Saigol, 1997).

Early in its history, Pakistan developed a State structure geared to high defense expenditure and dominated by the non-elected institution of the military (Alavi, 1973). As Sugata Bose and Ayesha Jalal (1998) point out, in this state structure religion and the Pakistani State continue to be linked in a symbiotic embrace. The prominent place of religious identity in the State’s creation has helped legitimize the frequent recourse made to religion by diverse political actors in pursuit of political power. The largely politically motivated emphasis on Islam has progressively undermined the citizenship status of women and non-muslims who have been increasingly confronted by a hostile environment in which to negotiate their rights as citizens (Saigol, 1997). This process peaked during the General Zia-ul-Haq regime of 1977 to 1986 (Shaheed, 1997). Although State-sanctioned

interpretations of the sacred were imposed on Pakistani society in the Zia years, the position of Islam in the body politic and the social body continues to be fiercely contested (Rouse, 1998). It is these contestations around the *Haddood* Ordinance, particularly women's experiences of being charged and incarcerated under these laws, that this paper explores.

In 1977, General Zia engineered a military coup against the democratically elected Prime Minister, Zulfikar Ali Bhutto and became President of Pakistan. His claim to power was supported by right-wing religious parties and by feudal landlords. The latter in particular rose against Bhutto because he introduced agricultural reforms that threatened their power base (Ahmad, 1996). Once in power, Toor (1997) argues that Zia realized his support stemmed from a contradictory and tenuous alliance. In order to secure broader-based support, Zia initiated *Nizam-e-Mustafa* (the system of the Prophet Mohammed), and began a process of Islamization of laws and social fabric of Pakistan. Islamization further strengthened the ties between Islam, the Pakistani State, and the military. The needs of the State and its view of Islam were to be backed by the strength of the Pakistani military. Conversely, the needs of the military and its international supporters were to be legitimated by state interpretations of Islam. General Zia was able to fund his Islamization as he was the beneficiary of millions of United States and Saudi Arabian dollars (AI, 1995; Anwar, 1988). He generously patronized religious groups and gave monies for the building of religious schools.³ Law, religion and patriarchy interconnected and drew their coercive power through the State. The result was a series of retrogressive laws designed to curb rights of women and minorities.⁴ Such a context has particular ramifications for Pakistani women. As in other nationalist/religious paradigms, women were visualized as the recognized cultural markers of Zia's *Nizam-e-Mustafa* and regulation of their sexuality/morality was a crucial component of the equation (Jalal, 1991). In effect, Islamization has increased the State's power over the lives and liberties of its citizens and brought more people, particularly women, into greater contact with what has been described as an abusive and corrupt criminal justice system (HRW, 1992).

Although rooted in a particular reading of the sacred, Sara Suleri suggests it is not Islam that is responsible for how the *Haddood* laws have been implemented in Pakistan. Instead she points to "the United States government's economic and ideological support of a military regime during that bloody but eminently forgotten decade marked by the 'liberation' of Afghanistan" (1995: 145). Indeed, the Pakistani regime under General Zia ranked as one of the top four recipients of American aid (HRW, 1992). Subsequent governments under Benazir Bhutto and the current Prime Minister Nawaz Sharif have shown no indication of repealing these laws. It has been suggested that neither regime, both of which held minority government status, would risk alienating the pro-Islamization forces by retracting existing laws (HRW, 1992). Under the last government of Nawaz Sharif programs did not appear to be as clearly aligned with pro-Islamic forces as those under the Zia regime. Government policies towards women, however, remained repressive. There were daily violations of the rights of women without adequate State response (HRC, 1997). The current military regime of General Pervez Musharraf has done little to change the direction of previous policies affecting women.

Implications of the *Haddood* Ordinance

There are many implications of these laws. As Afiya Zia points out, "The foremost considerations in such cases will be proving or disproving consent, rather than forceful coercion or violation. This has the effect of shifting the focus of all subsequent prosecution from the aggressor to the victim" (1994: 17). The onus of providing proof of rape rests with the victim under the *Haddood* Ordinance and there are severe ramifications if she does not provide that proof. If she is unable to convince the court, her allegation of rape is in itself considered as confession of *zina* and the victim effectively implicates herself and is liable to *Tazir* punishment. Furthermore, the woman can be categorized as the rapist herself since it is often assumed that she seduced the man.

³ Historically the religious right has not had much political success in Pakistan. In 1993, the Jamal-e-Islami only won three seats and the leader lost his seat. Other religious parties had similar poor showings.

⁴ The *Haddood* laws, the Law of Evidence, and Blasphemy laws provide examples. The *Haddood* laws will be discussed throughout this document. For a discussion of Law of Evidence and Blasphemy laws see HRC 1997.

Two 1983 cases drew national and international attention, not because they are the only ones of their kind, but because they provided early examples of the disastrous ramifications of *Haddood* legislation. Safia Bibi, an eighteen year old blind girl, was raped by her landlord and his son and became pregnant as a result of those rapes. She was unable to prove her allegation of rape and was charged with fornication, found guilty, and sentenced to three years' rigorous imprisonment, fifteen lashes and a fine of 1,000 rupees. Her pregnancy was cited as evidence of extra-marital sex, while her assailants were acquitted due to "want of evidence." After national and international protest, the Federal Shariat Court acquitted Safia of fornication on appeal. Similarly, a thirteen year old orphaned girl, Jehan Mina, was raped by her uncle and his son and became pregnant. Unable to convince the court that rape had occurred she was instead awarded the *Tazir* punishment of one hundred lashes plus three years rigorous imprisonment for *zina*. The fact that she was pregnant was considered proof by the court that sex outside marriage had taken place (HRW, 1992; Sumar & Nadhvi, 1988).

A 1987 case provides an example of male use of *Haddood* laws to subjugate wives. Twenty-four year old Roshan Jan filed for divorce against her husband on the grounds of severe physical mistreatment, and moved into her neighbour's house. Her husband lodged a FIR (First Information Report) alleging that she was committing adultery (*zina*) with the married neighbour. On the basis of this FIR, Roshan Jan was arrested and incarcerated (HRW, 1992; Sumar & Nadhvi, 1988).

Even if a divorce document is attested to by a magistrate, if the husband fails to register it with the chairman of the local council as legally required, the divorce is invalid. If the woman is unaware of this and subsequently remarries, she can be prosecuted for *zina*. Furthermore, in such a case the woman can be accused of "raping" her second husband, that is committing *zina bil-jabr* on the grounds that she misled him into believing that she was validly divorced. The Shahida-Sarwar case is one such example. Shahida's first husband had divorced her and the papers had been signed in front of a magistrate. The husband however, had not registered the divorce documents in the local council as required by law, rendering the divorce not legally binding. Unaware of this, Shahida, after her mandatory 96 day period of waiting *iddat*, remarried. Shahida had an affidavit attested to by a magistrate in Lahore to confirm her status as an adult, free to marry whosoever she wished. Her first husband, rebounding from a failed attempt at a second marriage, decided he wanted his first wife Shahida back. Shahida's second marriage was ruled invalid. And because she misled her second husband into thinking she was single and free to marry Shahida was accused of *zina-bil-jabr* or rape. She and her second husband, Sarwar were sentenced to death by stoning, a sentence that was never carried out (Jilani, 1998; HRW, 1992).

Research documents that thousands of women been charged and jailed under the *Haddood* Ordinance for similar "offenses". Furthermore the repercussions of the Ordinance are class based, that is women who cannot afford lawyers are those who are the most likely to be charged (Jahangir & Jilani, 1988). A newsletter published by the Human Rights Commission of Pakistan states that between forty to fifty percent of female prisoners in jail are there because of the *Haddood* Ordinance. Although many of the prisoners are released upon trial, they face years of incarceration awaiting trial. A recent study of prisoners in Pakistan revealed that only sixteen percent of the women prisoners had been tried and convicted. The other eighty-four percent had neither been tried nor been released from prison. Moreover in prison, and in particular in the "lock-up" they were vulnerable to custodial rape and other forms of physical, emotional and sexual torture (HRCP 1997). According to a survey conducted in 1988, over ninety percent of the ninety women prisoners interviewed in two prisons in Punjab were unaware of the law under which they had been imprisoned. Over sixty percent had received no legal assistance whatsoever (Jahangir & Jilani, 1988: 134-136). Moreover Jahangir and Jilani point out that women from Bangladesh are also charged and imprisoned under Pakistani *Haddood* laws. Many of these women have been forcibly taken to Pakistan, often via India for the purpose of domestic or sexual servitude.⁵

⁵ Between 100 to 150 Bangladeshi women are illicitly taken to Pakistan each month. The majority are lured by promises of better jobs, but often end up in brothels where they are compelled to provide sexual services, or in private homes where they are forced to work as domestic servants, or in some cases forced into marriage. The average age of these girls is fifteen years.

The *Haddoo* laws are not without their supporters. Mian Ghafoor,⁶ a lecturer at the law college, states that most of the women who are in jail are prostitutes, and the *Haddoo* laws help in the creation of a moral and just Pakistani society. Similarly, the Principal of Law College at Punjab University, Lahore, Professor H.M. Haroon argues that “the problem is not with the laws themselves but with the system and that the few miscarriages of justice occur because of the implementation of the law” (1998). Professor Haroon further suggested that those who oppose the law, particularly Asma Jahangir, the chair of the Human Rights Commission of Pakistan, a non-governmental organization, and a legal aid lawyer are agents of the West. Haroon and Ghafoor’s comments point to police corruption as the cause of suffering under the *Haddoo* laws. Yet the analysis offered by both men stops short of making the connection that it is women, particularly poor women, who are the main sufferers, according to Haroon because they are only “few,” and according to Ghafoor because they are “prostitutes.”

But can a text exist outside of its context? Can the *Haddoo* laws exist outside of the system of the Pakistani social and political terrain? Ghafoor thinks so:

The law is Islamic and good, but the hand through which it will be implemented, that of the police is not so good. They do not observe Islamic codes. Most of our people are corrupt and the police more corrupt than other persons. Also there is a lot of poverty and prostitution in Pakistan. If we follow our religion correctly then we can have a moral society. Our secular system has not solved our problems, since the last 50 years Pakistan has been observing secularism. Religious morality and ethics we have not adopted... The upper classes have exploited our national resources too much. Our country is the first one at the level of corruption. And there is no equitable distribution of wealth among the people. So we have had weak and corrupt governments, but they have had international supporters in powerful places, like the United States. There is no justice in our society and marital law has exploited people politically and economically.

So *Haddoo* laws must not be blamed because they are according to the personal beliefs of the Muslims. They are not against human rights. They are not against women. Our culture is more for women. Even more than the west where there is exploitation of women. And it's on the surface over there. So these are good laws. But because of mis-application, corruption and bad government they are causing hardship.

Ghafoor realizes that the women are the main sufferers under the *Haddoo* laws and that they are in a bind because of their poverty. Moreover he knows that corruption and social injustice has caused the poverty. Yet he wants to impose moral and social order not through a challenging of the system but through sexual abstinence. Ayesha Kari, a legal aid lawyer and feminist activist, does not agree. She argues that “anyone who thinks this is a good law is an idiot of the first order.” And she was not surprised that the remark had been made by law professors. She has heard Supreme Court judges make the same statements at the same time they claim to be ushering in a pure Islamic society in Pakistan. Karim’s remarks, as well as those of Haroon and Ghafoor, suggest that some jurists are not sensitive as to how the laws affect women. Even if they acknowledge the suffering, their solution is further religious piety through social and state control and a reversion to an idealized pure Islamic society.

But can Pakistanis go back to a pure authentic culture of the past through legislation which does not consider the present reality of corruption, police violence and, indeed European colonization? In any event, for Pakistanis what would this past be: an Indian past, an Arab past, or a Persian past? And Pakistani history is not “uncontaminated” by the West. *Shari’a* (religious law) is considered central to notions of Islamist identity (Helie-Lucas, 1994; Moghadam 1991) and its use in Pakistan provides an example. Two source documents of *Shari’a* law in Pakistan are *Fatwa Almagiri* the *Hedayah* (Ghafoor, 1998; Pearl, 1979). The former document refers to a collection of legal responses composed under the orders of Aurangzeb, the eighteenth century Mughal emperor. They are used as examples of practical application of *Shari’a* in contemporary Pakistan (Ghafoor, 1998).

The second text, the *Hedayah*, outlines the principles of law (Ghafoor, 1988; Pearl, 1979). Ironically this major source of Pakistani *Shari’a*, which helps to legally constitute the pure Islamic Pakistani citizen is an eighteenth century English translation by Charles Hamilton of a Persian translation of the original Arabic which itself had been compiled in the twelfth century. Hamilton’s “commentary” on Islamic laws, the *Hedayah*, was commissioned by Warren Hastings, then the governor general of Bengal. The *Hedayah* is an interesting text. It

⁶ The names of all activists, jurists, prison officials as well as incarcerated women interviewed for this investigation have been changed so as to minimize any risk they might face as a result of their comments.

reminds us that the Orient and the Occident are interlinked in complex ways. Yet it is this source document, an English interpretation and definition of *Shari'ah*, which forms a crucial component of Islamic law in Pakistan. It is a major foundation of the Islamization process as an attempt to move Pakistan culturally and morally away from the West towards an ideal Islamic society.

It is equally ironic that those who oppose the *Haddood* Ordinance and manifestations of Islamization are considered anti-Islam and pro-West. I point to an argument made by Aida Graff who states.

it becomes extremely difficult to fight against injustices that occur in the name of such laws without incurring the accusation of fighting against Islam itself. What complicates the matter is that struggles against injustices arising out of the application of Muslim law are unfortunately, perceived as attempts to subvert Islam, as plots to undermine the true spirit of Islam. That the Prophet himself was a political activist who tried to challenge and change the social, political, and economic reality of his day seems to be totally forgotten (1995:46).

Similarly in Pakistani, those who are critical of the *Haddood* laws are often seen as against Islam and referred to as "agents of the West" (Haroon, 1998).

Opponents of the *Haddood* Ordinance present a different scenario. They are very critical of the *Haddood* laws whose implications become apparent in 1981 when a judge sentenced a man to death by stoning and a woman to one hundred lashes. The case, Fehmida and Allah Bux versus the State⁷ proved to be a catalyst which galvanized women's organizations into forming a pressure group called Woman's Action Forum (WAF), which continues to be a platform for independent women members and women's organizations (Jilani, 1998; Shaheed, 1998).⁸ As Abida Lodhi points out women's organizations have launched different forms of resistance to anti-women policies and laws including the *Haddood* laws. The organization of which Shaheed is co-ordinator, for example has a "Women, Law and Status" program which documents case law information affecting women and provides them with basic training about their civic and legal rights as citizens. Lodhi's organization along with others lobbies the government to demand change. As for being labeled an agent of the West, Shazia Said (1998), co-ordinator of another feminist organization, agrees that this is a cliched remark. "There is more Coca-Cola consumerism among the broader public than among the politically conscious women in the women's movement. But then again what is westernized, one is constantly in transition."

Testimonies of the Women

Having briefly outlined the social and political context which gave rise to the *Haddood* laws and in which they continue to exist, I turn to the testimonies of women charged and imprisoned through what have been termed by some as near ludicrous legal justifications (Suleri, 1995; HRCP, 1997; Jilani, 1998; Husain, 1997). Such accounts are important as they validate individual struggles. Yet it is crucial that these accounts remain tied to the context in which they occur, a context where military as well as weak elected regimes forge alliances with right-wing groups to secure a more broad-based mandate. And those of us who live in the "first world" must remind ourselves that it is our elected governments that have supported these regimes. Stories of women's suffering under the *Haddood* laws must take into account the complexities of the contexts both where the suffering occurs in Pakistan,

⁷ The charge was brought against the couple by Fehmida's father, who objected to her desire to marry Allah Bux with whom she then eloped. After failing to convince her to return freely to the family, Fehmida's father filed a FIR report with the police alleging that Fehmida had been abducted. Despite the couple's repeated contention that they were married, the Court sentenced them both to maximum punishment under the *Haddood* laws. Allah Bux (because he was married already) to stoning to death and Fehmida (a single woman) to 100 lashes (HRW 1992).

⁸ Women organizing for political change is not a new event in South Asia. Indeed women had organized alongside men in the nationalist struggle against the colonial state and in the demand for Pakistan. Now they organized against the Pakistani nation-state and demanded rights as individuals.

and its re-telling in the first world. This is particularly true since racist stereotypes about muslims and third-world women colour popular imagination in North America. Any examination of Pakistani women's oppression risks furthering these discriminatory stereotypes. Yet the effects of the *Haddood* laws must be exposed.

And so, after weighing the possible pitfalls, I take the risk and present the narratives of women imprisoned under the *Haddood* laws. I interviewed these women in December of 1998. The women were, and possibly still are, inmates of Kot Lakpat prison and residents of Darul Aman (a shelter for women). Both of these institutions are in Lahore. I speak urdu and a little punjabi while the women spoke punjabi and a little urdu. I brought a translator and we both transcribed women's oral accounts.

Kot Lakpat, Lahore (December, 1998)

I had used informal family contacts to gain access to the Kot Lakpat prison in Lahore. Throughout our visit we were accompanied by the Warden, Zubaida Khatoon, who told us that fifty percent of the 33 women in the prison were there because of the *Haddood* laws. All these women, she said, claimed to be falsely accused and all of them were lying.

The women are incarcerated in a separate female compound enclosed by a high wall and guarded by female guards. This compound has a garden and a courtyard and was very clean. There is a play area for children. The women are quartered in a large barrack-like room and store their belongings, pots, pans and food, under their beds. Although they are provided food in the prison, they also cook what their relatives bring in. Residents who have been there some time displayed camaraderie, and appeared to rely on each other for friendship and support.

We asked what events led them to jail and then got them to clarify their answers as need be. Their stories were told without hesitation and doubt. They appeared to have told them before. The women told their stories in front of the warden, and when she momentarily left the room, we got a glimpse of a not so happy and content picture. Several women complained that the female complex had had no water for several days and asked if we could use our influence and arrange for them to have water. As noted earlier, all the names have been changed.

NASEEM JEHAN: Age 49 – wife of Arif. She has been in prison for seven months

There is a false case against me. And I have many enemies. I was living in Rawalpindi and they brought me here from Pindi. The judges are bad and want money. They want two or three lacks.⁹ If it was two or three thousand [rupees] it would not be so bad. Then I would be happy as I can pay that [amount]. I am against judges. Please write against judges. 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 lacks 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. The girl who ran away was sold in marriage by her parents for ten thousand rupees. Then the mother-in-law started using her to make money out of her (prostitution) and the girl ran away. My bail has been raised three times and is now three lacks. Because the judge also wants money. I am against judges please write against judges.

NAHEED: Age 25 – From Okara District, She has been in prison for seven months

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.

⁹ One lack rupees is a hundred thousand rupees, approximately \$3,000.00 Canadian.

FEROZA BIBI: Age 50 years

I used to work as a sweeperess (a day worker) at a house. I worked there for eight months, one hour every day and [I] received three hundred rupees. One day my mistress complained that your work is not good. I said that but the work that I do for you is good work. Then she beat me and I ran away to my village. I was afraid that she would accuse me of theft. I was too afraid to ask for wages that were owed me. Another girl also worked for the mistress and she ran away. The mistress told the police that I had helped her run away. And they registered a case of *zina* against my husband and I. The police came to our village and brought us to jail. Now my husband and I are both in jail. No one comes to visit us. My older children have also been implicated by Mistress and Master and they are afraid to come and see their parents. Who will be my *vakil* (lawyer)? Allah is my *vakil*. Maybe Allah will have pity on me, it is *Ramzan* (The muslim holy month of fasting and prayer).

NAVEED: Age 20 years. Has nine years of schooling. She is married and expecting her first child this month. She is a Christian.

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. They said no. I got married anyway. And my parents registered a case of *zina* against me. My husband and I worked for a *zamidar* (landlord). The person who got us the job collected thirty thousand rupees which the *zamidar* said was one years salary in advance. We got nothing. We had worked for nine months when we were arrested. The *zamidar* has our *nikahnama* (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 *nikahnama*. We don't have the money to give him.

AIMA PARVEEN: Age 22. She has never been to school but knows how to read and write Urdu. She is married with a seven year old son and has been in prison nineteen days.

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 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 me 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.

SAJIDA: Age 40. She has four children, aged twenty-one, eighteen, fourteen, and sixteen.

A lady doctor lived near us who did abortions. She said to me if your 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 registered a FIR and blamed me as an accomplice. Now the police have accused me of abducting the girl.

GHAZALA: Age 16. She is unmarried.

I was in a hotel with a man. I have been to hotels with men before. My mother is sick and my father is dead. I charge twenty five rupees for *zina*. The first time I was fifteen. When my father died we had a lot of debt and creditors would come to our house and threaten us. Ami [mother] said don't prostitute yourself. But I don't know where else to get the money so the creditors will not bother us. A friend of mine also does *zina* for money and she showed me how to get clients. The man I was with is in jail as well. We were eating in a hotel and the police caught us. My mother has come to visit me in jail and she is trying to get bail money. But we have no money.

AMINA Age 35, from Bhai Phero, District Kasur. She has been in prison twenty-two days.

My husband's younger brother was getting married. I had come to Lahore on my way to Islamabad for the wedding. I was at the Lahore station waiting to take the coach to Islamabad. I sat down at a table to have tea and a man sat down at the same table to have tea. The police came and accused us of *zina*. They said that you have booked a room at the hotel for *zina*. And I said that I have never even thought of this. They arrested me and also arrested the man. We are both in jail. I have five children, their ages are one, two, four, six, and 8 years. The youngest one is with my mother and the rest are with my husband.¹⁰ My husband believes me and thinks of me as a '*gharaloo*' [domesticated] woman. But we have no money and no property to register. And we can't pay bail.

FIRDAUS Age 35 years. Married with two sons, ages nine and thirteen. She does not know where her husband is and lives with her parents.

I worked as a cleaner at the home of a former madam. There was a raid at the house and I got caught by the police. I am not sure why. I have no lawyer. My parents, they know I worked but don't know I am in jail. My parents think I am away on work. Now it is two months since I saw my parents and they and my children must be worried. I have no lawyer. I can't tell my parents I am in jail. They are too old and will die of shock and shame. I hope that someone will come forward and pay my bail. I have asked other women if they know someone who will help. I will pay them back. If you know someone please help me. I have no one, I am *sharif* [honest]. I will pay them back. That is all I can do. How much will it cost, about two or three thousand? It can't be more. I am strong and healthy. I will work and pay back.

Darul Aman, Lahore (December, 1998)

Darul Amans are women's shelters in Pakistan funded by the Anjuman-e-Himayat-e-Islam (a religious organization involved in education and charity work). In order to enter these shelters, women need to be referred either by the courts or by a journalist. Ms Parveen Abassi, the Superintendent, claims that she is not allowed to admit women without a reference because the shelter could then be sued by her relatives. Some of the women stay at Darul Aman a few days and some stay several years. The longest staying resident has been here for five years. While at Darul Aman, the women are taught skills like sewing and embroidery. If they have no place to go, the Anjuman-e-Himayat-e-Islam will eventually arrange marriages for them. Ms Abassi pointed out that if there is a dispute between a woman and her family, she speaks to both and decides whom she will believe and whom she thinks is not telling the truth. If she believes the family, she sends the woman home. If she believes the woman, she supports her against the wishes of the family. I asked Ms Abassi if being sent home has ever caused problems for women. She responded, "No, because none of them has ever come back to ask for shelter again." But some activists have pointed out that those women could well have been killed by their families, a common fate for women who have left home on their own.

Women are also charged for food and lodging at the rate of twenty Rupees per day, that is 8,000 rupees per year. These monies are forgiven, Ms Abassi claims, if the women cannot pay and the cost is born by Anjuman-e-Himayat-e-Islam. These claims are disputed in comments made by Ayesha Karim. Some women, Karim argues have asked the courts for protection and have been sent to a Darul Aman. Other women have gone there

¹⁰ Her bail could be around fifty thousand rupees. If she does not have cash she can register property. The bail is to ensure that she does not run away (Yasmin 1998).

voluntarily looking for shelter. When they want to leave, they have problems. First they need a court order and second the Darul Aman's are quite vociferous in their claims to get money from women who want out of the shelter. Karim had gone to the Darul Aman in Lahore with a Supreme court order to get some women out of the shelter, women who had indicated to her that they wanted to leave. And the Superintendent said to her "We don't accept the Supreme Court Order; just give us the money." Karim observed: "I did not give them the money, they had asked the wrong person. But I did get the women out."

A Human Rights Watch (1992) report points out that the Darul Amans function like a prison. They are patrolled by armed guards and locked at all times. The women are locked in their cells, which are bared at 5:00 p.m. every day and they are allowed only one phone call a week. Moreover, some women complained to HRW of beatings by the warden.

During my visit to Darul Aman women were brought to speak to me one by one and the assistant superintendent was present throughout the interviews.

GULBADEN BIBI: Age 17, from Peshawar. She has been in Darul Aman for 22 days.

My father sold me in marriage for 20,000 rupees when I was 15 to Akram who is 50 years old and a zamidar. He used to beat me and yell at me and call me names. So my father helped me obtain a divorce and paid back the 20,000.00 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 father 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 zina. I want to stay married to Qamar. I came to Darul Aman voluntarily. I was afraid of what my father would do to me. My relatives have taken sides in the dispute between my father and me. My *Nani*, (maternal grandmother) and maternal uncle (also her father-in-law) are on my side and want me to stay married to Qamar. My mother sides with father. She lives with him and is afraid of his temper. I am afraid that if convicted I could go to jail for *zina*. I have no lawyer. My father is acting as my lawyer. My husband is in Peshawar.. He has not come to see me here, he told me "If I don't come to see you in DA it is because it is dangerous for me to do so." My brother is trying to shoot me and my husband. My brother fired shoots at me and I ran into the police station and they brought me to Darul Aman. I am very happy here. The Superintendent is good to us, there is no violence here against the women and no one abuses us. At home my father was also violent against me and used to beat me and once my leg was operated on because of his beatings.

GULBANO: Age 15. She is studying in tenth class

My father's relatives were against his marriage to my mother. But he married her anyway. Now he does not meet with his own relatives. Father married me to a man whom 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 *zina* and my husband with abduction. My marriage has been registered and my husband has the *nikhanama*. 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 my mother and do as she says. But I refused. Finally I came to Darul Aman, I am afraid. Now next week I will appear before the court. I am going to say that I want to stay married to my husband. My mother beats me a lot. She beats my siblings less. My in-laws are good to me and also give me money from time to time. But as yet neither my husband nor my in-laws have been allowed to visit me here. (Naseem Bukhari pointed out they need permission from the court before they can visit her)

RASHIDA BIBI: Age 18. She has no formal education

Two years ago her parents married her to a tonga wala (a horse cart driver), Mohammad Zubaid. And I was happy with him. Father owned money to an old man. And although I was already married, he married me again to the old man. My new "husband" not only slept with me but also made me commit *zina* 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 old man's son-in-law has threatened me. My father also used to beat me. I want to go live with my first husband [my legal husband]. He came once to meet me here in Darul Aman two weeks ago. But he could not meet me because he did not have the legal permission to do so. He has not been back since.

SALIMA: Age 20. She has no formal schooling

My step father was thrown out of the house by my mother and brothers. They also used to beat me and emotionally and verbally abuse me. They wanted to marry me to a man who already had two children. But they owed money to him and 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 my 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 home. I want to live with my aunt [father's sister] 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 *zina*. Mother has already made comments about the brother of my friend who sheltered me. She says that maybe I did *zina* 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 *zina* with my step father and *zina* 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.

Conclusion

This discussion has focused on the interconnection of religion, sexuality and State sanctioned violence against women in Pakistan through the *Haddood* laws. The *Haddood* laws were promulgated as a means to ensure a "moral" and just society. The reality is quite different in a society where police corruption and violence often goes unpunished, male violence against women has no legal sanction, and the majority of the population is increasingly impoverished. Although the *Haddood* laws affect the lives of all Pakistanis, women, especially lower class, women are particularly adversely affected. Families who have little means to cope with increasing inflation and chronic unemployment, often find that their daughter's sexuality is a valuable asset. Marrying her to the highest bidder in exchange for a "gift" frequently becomes one method of paying off debts. Thus women's sexuality becomes a commodity commanding a high price. If women marry it must be with parental consent and the *Haddood* laws are a powerful means to secure that consent. If a woman does not have the parent's good wishes she can be charged with *zina* and incarcerated.

Husbands as well find that these laws work in their favour. They can use it to intimidate and subjugate their wives. Otherwise they can always charge them with *zina*. Raped women not only have to deal with the trauma of the sexual violence but also the ramifications of *Haddood* laws. Under the terms of the laws, women find it extremely difficult to prove rape and be criminally prosecuted if they cannot provide the proof. Women who behave in ways the men in their families do not like, or who choose who they will marry, or who seek divorce, or who incur the wrath of the men they are married to, or who are related to men wanted by the authorities, get accused of *Haddood* offenses as a means of controlling them or intimidating their relatives. Even friends of a woman who wants to leave her family or her husband are often charged and incarcerated under the terms of the *Haddood* laws. Their male co-defendants also suffer, but men benefit from the bias in the laws which favours them. At least fifty percent of the women in prison are there because of the *Haddood* laws and most do not have financial resources to post bail. Even if they did have the resources, bail has to be posted by a male, their father, their brother, or their husband. Often these are the people who are responsible for their being in jail in the first place.

In a sense the *Haddood* laws are used to sweep clean the streets of women, particularly poor, unwanted and rebellious women. The laws censure women for having sex, but there is little conclusive proof that the women in jail have had sex in the first place. Many of them were accused of merely aiding and abetting abductions. Indeed many of the women are acquitted upon trial due to lack of evidence. Yet the fact that thousands of women have been incarcerated for years on the accusation of helping in an abduction, or elopement, sends a message that women, particularly poor women, belong to their fathers, brothers and husbands. And people who treat them as individuals with full rights of citizenship and who are sensitive to their narratives of pain and suffering at the hands of those whose property they are socially deemed to be better watch out. They could be accused of helping that property escape the clutches of its rightful “owners.” The narratives of the women that I interviewed are a testimony to their poverty and endurance in the face of tremendous odds. The women are contesting their status as property, particularly those at Darul-Aman. They are running away from fathers, brothers and husbands who beat them and sell them to the highest bidders. They are choosing their own marriage partners knowing that their choice places them at considerable risk. Yet in their desire to be *gharaloo* and *sharif* [chaste and honourable] they appear to have accepted the middle class ideal of domesticated, chaste and honest women and their families also want it of them. Yet their narratives also suggest difficulty in maintaining it in their conditions of poverty.

A weak democratic regime brought in the *Haddood* laws to bolster its political base through alliances with right wing religious parties. Subsequent weak regimes have allowed it to continue to wreck havoc in society at the expense of the most vulnerable members, lower class women. All of these regimes have had western financial and political support. The current martial law regime has done nothing to repeal the anti-woman laws. In the West few questions have been raised concerning the mis-use of religion or lack of human rights in Pakistan. Particularly the United States has seldom used its influence with Pakistani regimes to press for an end to human rights violations. The Assistant Secretary of State for Human Rights and Humanitarian affairs Richard Schifter, seemed more concerned with keeping good relations with the Pakistani government, an important American ally, than with the human rights violations against women. During hearing before the House Subcommittee on Human Rights and International Organizations in 1991, he commented that the *Haddood* laws were within the cultural, religious, legal norms of Pakistani society. (HRW 1992). With these comments Mr. Schifter homogenized Pakistani society as monolithic, with all in favour of the process of Islamization. His views rendered invisible the controversies in Pakistan around the *Haddood* laws, the resistance of the women incarcerated under the terms of the Ordinance, and the determination of the women and men organizing and challenging the laws.

The *Haddood* Ordinance is a contested issue in Pakistan. But it is unlikely that the current regime, which is again a minority government, will risk losing the support of Islamist elements within the country. Internal pressure of Pakistani activists will have to be supplemented by external pressure, from individuals, organizations, and governments. Those of us living in North America have to make our elected representatives aware that Pakistani culture is not determined solely by the religious right but is as contested as the culture of any other place.

Finally I argue that liberating Pakistani women from the regressive forces of Islam and local patriarchy will not suffice. Instead, I support an analysis which examines the contestation of national and global interests in defining and constituting the ‘sacred’ at particular sites. Within such a frame we can challenge the *Haddood* laws not as an instance of Pakistani culture but as part of a strategy of survival by weak, undemocratic regimes. In this way, international feminist strategies of collaboration can identify and target all players in the forces that create and sustain the environment through which women and men live out their spiritual and secular lives, not only in Pakistan but at other sites as well.

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