

Afshan Jafar

Women, Islam, and the State in Pakistan

In this paper, I outline the history of Pakistan's experience with "Islamic" laws and their impact on women. I also trace the links between the state, nationalism, religion, and women's organizations, and demonstrate how they have shaped women's lives in Pakistan. I focus mainly on General Zia ul-Haq's influence in fostering and reinforcing certain detrimental ideologies and policies regarding women. I argue that a close examination of the state, nationalism, the search for cultural authenticity in post-colonial nations, and the struggles and dilemmas of women's activism in Muslim cultures are all central to advancing the discussion of women in Islam.

*With chains of matrimony and modesty
You can shackle my feet
The fear will still haunt you
That crippled, unable to walk
I shall continue to think.*

(Kishwar Naheed, a contemporary poet,
quoted in Mumtaz and Shaheed 1987: 77)

The position and status of women has been a political issue across the globe and over the ages. The recent resurgence of religious fundamentalism has given new life to debates on the position of women in Islam. But these debates often ignore the historical specificities which shape women's lives in a variety of contexts. Kandiyoti (1991) rightly points out that such debates about women and Islam are often marked by an "exegetical" approach and do not demonstrate the links between Islam and other institutions of a given society which account for the variation in women's experiences. As Mohanty argues (1991: 64):

What is problematic about this kind of use of "women" as a group, as a stable category of analysis, is that it assumes an ahistorical, universal unity between women based on a generalized notion of

Afshan Jafar is a doctoral candidate in sociology at the University of Massachusetts-Amherst. Her current research interests include gender and development in third-world countries and transnational feminist movements. Her dissertation examines the role of women's non-governmental organizations in Pakistan.

their subordination. Instead of analytically demonstrating the production of women as socioeconomic political groups within particular local contexts, this analytical move limits the definition of the female subject to gender identity.

Women are not a monolithic group. Neither are Muslims. To speak of “women in Islam” presupposes that there is an uncontested, universal understanding and implementation of Islam and that it affects all Muslim women, all over the world, similarly. In this paper, I outline the history of Pakistan’s experience with “Islamic” laws and their impact on women and trace some of the links between the state, religion, and women’s organizations in shaping women’s lives in Pakistan. I argue that in order to fully understand the current position of women in Pakistani society,¹ one must look at the history of Pakistan and the role of the state in actively formulating and promoting a specific definition of womanhood. It was during General Zia ul-Haq’s regime that Pakistan “returned” to Islam and tradition. By invoking Islam as a universal code of conduct, and by posing the “West” as the “Other”—the common enemy of Muslims—Zia imposed a unified identity on a nation fraught with ethnic and political strife. This demarcation of the “Other” also served as a mechanism for social control in Pakistan since it did not simply refer to Western countries alone, but also to those elements in society that were seen as emulating the West. In other words, this demarcation also singled out the “Other within” as a target for social policy and reform.

Since it is often the position of women that sets Muslim culture apart from “Western” cultures—in the eyes of Muslims and non-Muslims alike—Zia turned to women as a tool and as a symbol of his transformation of Pakistan into the ideal Islamic state. In this paper, I focus mainly on the influence of General Zia ul-Haq’s reign in fostering and reinforcing certain ideologies that have been detrimental to the position of women in Pakistani culture. Like Kandiyoti (1991: 2), I argue that a “detailed examination of the political projects of contemporary states and of their historical transformations” is critical in furthering our understanding of women in Muslim societies. Furthermore, I argue that nationalism, the search for cultural authenticity in post-colonial nations, and the struggles and dilemmas of women’s activism in Muslim cultures are also central to advancing the discussion on women in Islam. By doing so, I hope to shift the debate about women in Islam away from purely exegetical explanations to analyses which consider the links between the state and its various institutions, cultural notions of womanhood and nationalism, and women’s movements in actively formulating and reformulating gender ideology in a given society.²

Pre-Independence to 1977

The governments that were in place before Zia kept the fundamentalist religious groups on a tight leash. The state, up until then, at least paid lip service to the rights of women and other minorities, even if real progress was in fact slow. Women were acknowledged as a powerful political force. Elite women were an integral part of the independence movement leading to Pakistan's liberation from British rule in 1947. They took part in public demonstrations even when they were tear-gassed, *lathi*-charged,³ and arrested for their participation (Mumtaz and Shaheed, 1987; Weiss, 1993). Their involvement in politics gave birth to new aspirations in women. As early as 1942, Lady Martab Ali—a politically active woman—said the following: “The days have gone when Punjab's Muslim women were considered fit only for cooking and minding children. It is now essential for them to take an equal share of responsibility with their menfolks in the field of politics” (quoted in Mumtaz and Shaheed, 1987: 45).

The lives of Muslim women of the Indian sub-continent had changed with their participation in the struggle for independence. As Mumtaz and Shaheed (1987: 47) argue, “the nationalist struggle provided the environment in which Muslim women broke through traditional rules and restrictions, cast off their veils, left their homes, approached strangers, confronted police, and entered politics.” But once the crisis had passed, and independence was won, women were no longer needed as a political tool for gathering support.⁴ Women's political activities were now redirected towards relief and charity work for the masses of immigrants coming from India (Mumtaz and Shaheed, 1987; Rouse, 1999). But these activities coincided with women's roles as mothers, wives, and nurturers, thus they were not met with much resistance. Women also became teachers and entered the medical profession in large numbers. Both of these professions were also in keeping with women's roles as caretakers and nurturers. The need for women doctors was further exacerbated due to tradition which dictated that women's bodies should not be seen by non-familial men (Rouse, 1999).

Even though women were entering the public sphere in larger numbers than before, the traditional gender ideology remained intact. At the same time that women were challenging the boundaries between the public and private spheres, they were now also expected to adhere to stricter standards of decency and morality. In the case of Pakistan, as Rouse (1999) points out, women pushed for segregated work environments so that they would be free from harassment and their morality would not be suspect. Thus, women's struggles in the post-independence era were constrained and shaped by the prevailing social norms and attitudes regarding gender and sexuality even as they challenged some of those norms. In their struggle to work

in a non-hostile environment, women ended up reinforcing the very segregation that they had set out to challenge. Kandiyoti (1998: 283) makes a similar argument about women's entrance into the public sphere in Turkey. She argues that "the fact that women were no longer secluded or veiled might have mandated new forms of Puritanism that could be activated as a symbolic shield in a society where femininity was . . . incompatible with a public presence." Similarly Najmabadi (1993) argues that as women in Iran gained entrance into the public sphere they imposed new standards of behavior on themselves, thus "sanitizing" and de-sexualizing their presence and language.

Until 1977, women had been used strategically by both the independence movement as well as the post-independence state. In an effort to mobilize the masses, the independence movement had reached out to the women of the sub-continent. The newly independent state of Pakistan called on its women for social service as well as to fill the ranks of teachers, doctors, and even bankers and government officials. This helped bolster the economy as well as promote a modern and "westernized" image of Pakistan to the international community. Women had proven to be effective tools for gaining independence and building a new state.

Although women may have been used strategically by both the pre- and post-independence state, they were not a passive group. Their involvement with the independence struggle and their limited participation in the post-independence economy heightened their political consciousness. They became active in women's rights struggles. One of their foremost victories was in the area of family law. In 1961 the government passed the Family Law Ordinance, which dealt primarily with divorce and polygamy. It stated that a man could no longer divorce his wife through an oral proclamation alone. He had to register the divorce with the courts. Further, if a man wished to have multiple wives he needed permission from his current wife/wives in order to do so. The Ordinance also asserted a woman's right (over that of her family) to choose whom she would marry as well as to initiate divorce.

The post-independence state in Pakistan may not have radically improved women's position, but as some commentators argue, it at least cultivated an environment that held promise (Mumtaz and Shaheed, 1987; Weiss, 1993). In 1973 Nusrat Bhutto, wife of then Prime Minister Zulfikar Ali Bhutto, was one of the co-introducers at the United Nations of the Convention for the Elimination of Discrimination Against Women. According to Weiss (1993: 98), this was "an act symbolizing that Pakistan saw itself at the forefront of initiatives empowering women worldwide. Pakistani women began entering the workforce and government service in unprecedented number." But these changes in policies were felt by only a small group of professional, middle and upper-middle class women as Shaheed points out (1999: 156):

Unfortunately, however, these redefinitions of the parameters of women's personal lives were largely insulated by boundaries of class privilege in metropolitan locations. Class identity shielded the women who embodied these changes from public visibility and overt criticism. For other women, changes were far less dramatic, the most important being the increased access to and acceptability of education, with the bonus of increased mobility.

As I have argued, although individual rulers may have advocated women's rights, in the end their political ambition won out over their activism. Women of the sub-continent had been the symbol of tradition and morality for such a long time, that to challenge such beliefs would have been to alienate the masses. Although there were no radical shifts in the public discourse regarding gender in the pre-Zia period, the state had taken some practical measures in the areas of legislature and public education that were promising.

Zia's Rule: 1977–1988

The future of women's empowerment in Pakistan suddenly became bleak when Zia came to power in 1977. He established himself by overthrowing the "un-Islamic" government of Zulfikar Ali Bhutto (who was subsequently hanged under Zia's orders) in a military coup. Immediately, Zia began looking for a way to legitimize and prolong his military rule. He found the perfect tool in Islam. In his address to the nation in 1979, he said: "It is not easy to reform a degenerate society. It requires courage, time, and continuous struggle. Those who think this work can be done in a day or a week are ignoring the reality" (Muhammad, 1979: 6). He was preparing the country for his long military rule.

In an effort to cultivate support for his rule, he turned to those factions in Pakistani society that had been the most threatened by democratization—religious fundamentalists and feudal lords. He found an ally in the *Jamaat-e-Islami*—an extreme right-wing fundamentalist group—which had fared very badly in all the previous elections. But now *Jamaat-e-Islami* had a perfect opportunity to enforce its vision of Islam on the rest of the country. As Afiya Zia (1994: 1) notes:

The emotional appeal of a symbol [Islam] which would ward off "corrupt" Western influences, the support of an obscurantist, politically thwarted minority and a concerted military backing, implanted Zia ul-Haq's Islamic dictatorship firmly into power.

The proof of his Islamization effort had to be manifested in a way that was visible and drastic. Thus Zia turned his attention to the women of Pakistan whose growing visibility in the public sphere had been a cause of concern for religious parties as well as for the general population to some extent.⁵ By suggesting that women's work outside the house was a Western and anti-Islamic concept, Zia was

able to manipulate the anxiety and tensions caused by the changing social structure as women entered the workforce. A “return” to Islam signified a return to a traditional/patriarchal social structure—one that would undo the damage, the uncertainty and anxiety caused by the “Westernization” of Pakistan as symbolized by women’s entrance in the workforce.

Zia’s vision of the “ideal Islamic state” appealed not only to the Islamic fundamentalists and patriarchal sects in Pakistani society, but also to the nationalist and the anti-colonialist sentiments trying to find cultural authenticity. Vaid and Sangari (quoted in Moghadam, 1994: 15), make a similar argument about how *sati* (widow immolation), is seen as “a symbolic event which has the power to hold together all that seems to be in danger of falling apart: the extended family, female obedience to patriarchal norms . . . Hindu tradition, Indian spirituality and the nation itself.” Further, defending this practice is seen as resisting and struggling against modernization, “Westernization” and a colonial legacy. In the same way, fundamentalist Islamic practices were glorified under Zia as being more “authentic” and nationalistic.

It is no surprise, then, that Zia turned his attention to the women of Pakistan. Women and their position in Muslim culture have long served as a “boundary marker” between the colonized Muslim societies and their Western rulers. As Ahmed (1992), Chatterjee (1993), and Kandiyoti (1998) argue, women’s bodies (and their veiling) have served as longstanding symbols of Muslim cultural authenticity and resistance to colonial rule. No matter how “Westernized” the public sphere (men) became, people could take comfort in the private sphere (women) as being untouched, unharmed, and unspoiled by “Westernization.” Thus when Zia called for a return to Islam, his call did not fall on deaf ears. He was able to manipulate to his advantage centuries of anxiety about colonial penetration.

Zia immediately took several symbolic, non-legal as well as legal measures in order to “Islamize” Pakistan. He vowed to return Pakistan (read: women) to the Islamic way of life. One of his favorite slogans was to return the women of Pakistan to the “*chadar* [a very long veil which covers most of the body] and the *chardivari* [the four walls of the house].” Women’s hard won rights of the pre- and post-independence eras were the first ones to be taken away as Zia began implementing his vision of Islamic Law (Mumtaz and Shaheed, 1987; Weiss, 1993, 1998, 1999, 2001; Human Rights Watch, 1999; Bari and Khattak, 2001).

Zia’s Non-Legal Policies

Since its inception, Zia’s regime launched an aggressive campaign to reform society. In his 1979 address he said, “every citizen of the Islamic Republic of Pakistan should reform himself according to the dictates of Islam so that this country

and society is reformed as whole . . . in order to achieve this, we all have to endeavor collectively and individually” (Muhammad, 1979: 20). He urged people not only to reform themselves but also their neighbors. It became incumbent on every Muslim to ensure that others were following Islamic principles in their daily lives. This created an atmosphere of unprecedented communal vigilantism. As always, women in public spaces were to feel the burden of this change. “It appeared to be giving everyone the license to pass judgement on the “morality” of people in public spaces, the prime indicator of which seemed to be women’s apparel and presence” (Mumtaz and Shaheed, 1987: 72).

In 1979, in Lahore, an incident took place which revealed the impact of this vigilantism. A woman entered a bakery in a well-to-do neighborhood and was slapped by a male stranger for not covering her head. The incident was especially shocking since it took place in an upper class neighborhood, where even western dress was quite common before Zia (Mumtaz and Shaheed, 1987). This vigilantism also afforded the police the opportunity to harass men and women who were out in public together. The police in Pakistan had done that previously too (usually to extort a bribe from the couple involved), but now instead of choosing secluded areas, late at night, they were free to question anybody at anytime. Women who were seen as un-Islamic in their dress or behavior became a target for these vice squads.

In his continued efforts to Islamize Pakistan, Zia sent out another set of directives aimed at women’s dress. In 1980, the government issued orders that all female government employees wear the “national dress” and also wear *chadars* on top of their clothes to cover their heads. These notices were sent out to government offices including Pakistan television. Overnight, the appearance of women on television changed drastically. They could now only appear in full sleeves and with their heads covered (Mumtaz and Shaheed, 1987; Rouse, 1999). Women who refused to follow these orders lost their jobs.

Even the content of television plays took a sudden turn. Prior to Zia’s Islamization:

T.V. plays either dealt thematically with mainstream social problems, or were melodramatic adaptations of popular Urdu novels. A few women made their mark in the media by producing and writing scripts for T.V. plays which introduced themes concerned with women’s oppression and their struggles within their domestic lives (Zia, 1994: 42).

After 1977, the working woman was often depicted as the cause of society’s moral decay. Themes dealing with marriage, family, and religion came to dominate television almost exclusively (Mumtaz and Shaheed, 1987; Zia, 1994).

The construction of womanhood and women’s sexuality is a curious paradox under Zia.⁶ Women’s sexuality does not appear to be something that can be controlled by them—they are always sexual just by simply being. This omnipresent

sexuality is also seen as a destructive force causing *fitna*—disorder or chaos. Women entice, seduce, and corrupt by the mere flash of a bare arm or a fly-away tuft of hair. Yet they seem to entice, seduce, and corrupt not for any physical pleasure or sexual gratification of their own but simply out of capriciousness. According to Muslim theologians, women possess *qaid* power—“the power to deceive and defeat men, not by force, but by cunning and intrigue” (Mernissi, 1985: 33). The concepts of *fitna* and *qaid* culminate in a construction of women and sexuality that is at once aggressive—they have the power to corrupt—as well as passive—they do not seek sexual gratification. Thus, “the onus of transgression falls on the woman and not the man, since *he* is in fact often seen as the victim of her sexuality” (Zia, 1994: 15). Most of Zia’s rules and regulations seemed to be informed by, as well as reinforced by this paradoxical construction of women and their sexuality.

In keeping with this specific understanding of women and their sexuality, the state targeted television advertisements under the pretext of eliminating obscenity. Obscenity in this case meant the presence of women. Since the very presence of women was a danger to the morality of the whole country, the state issued orders that women must be eliminated from “commercials advertising products having ‘little or no relevance to women’” (Mumtaz and Shaheed, 1987: 81). This meant that women appeared only for products that reinforced the idea that women belonged in the “*chadar* and the *chardivari*”—sewing machines, laundry detergents, etc.

Next, the government targeted colleges and mandated that all girls wear *chadars* to school, even though the majority of colleges were sex segregated. Zealous Muslims now had ample opportunity to impose their sense of morality on women. There were incidents of teachers refusing to teach to women who were not wearing *chadars*, lecturers refusing to let women sit in the front row and others who preferred not to have women in their classrooms at all. This was indeed a slippery slope that the state had started upon: Not only was it “un-Islamic” for women to leave their heads bare, but it was also becoming un-Islamic to be outspoken, to drive a car, to have a career, and to fail to show deference to men (Mumtaz and Shaheed, 1984).

Another area where the state’s ideology regarding women and sexuality is very clear is sports. Under Zia, Pakistani women’s teams were not allowed to travel abroad to compete. Women could only play sports wearing “Islamic dress” (long sleeves and full pants) and even then only in front of an all female audience. No similar restrictions were put on men’s sports teams. Apparently, the sight of a male athlete’s legs was not sufficient to jeopardize the moral integrity of the nation. The restrictions on women athletes reinforced the understanding of women’s sexuality as causing *fitna*, while the fact that women were not banned from watching men play sports denied them the role of being desiring subjects.

At the same time that the state was pushing for women to return to the “*chadar*

and the *chardivari*,” poor rural women continued to work on agricultural activities alongside men without causing alarm. Shaheed (1999: 154) gets right to the issue:

The leaders of the political discourse were notably not (and still are not) interested in the conditions of women working in the fields . . . Their primary concern, of course was how to obtain power and retain power. And women and gender issues were relevant only insofar as the issue was how to cope with (and control) the implications of changing social and economic circumstances.

The fact that poor agricultural women were not the target of Zia’s policies only reveals the political motives behind his so-called Islamization. He wished to confine those women to the house whom he considered to be “Westernized” and a threat to the patriarchal system—women working in professional fields, factories, sports, television, etc. All of these women challenged traditional norms by being a visible presence in the public sphere, and thus provoked a response by a state whose legitimacy rested in tradition, patriarchy, and anti-Western sentiment.

There were other changes that Zia introduced as well, such as banning women in the foreign service from serving abroad and preventing women from being hired at banks—which were all controlled by the State (see Mumtaz and Shaheed, 1987; Rouse, 1999; Weiss, 2001). Since none of these were “legal” changes, there was no paper trail, and no recourse for women who were wronged by these informal policies.

Two things are most prominent about all of these measures introduced by the state: (1) they were informed by and reinforced a specific understanding about the “nature” of women and sexuality, and (2) they created an adverse ideological climate for women. And although the state’s policies regarding women on television and government service have changed since Zia’s reign, and the media is bolder than it used to be, the ideas regarding women and sexuality promoted by Zia have become deeply entrenched in Pakistani society. To try to change them has been and will continue to be an uphill battle.

Zia’s Legal Measures

Along with all the non-legal tactics that Zia employed, he also introduced a series of legal changes, the consequences of which have been devastating. Once again, his reforms seemed to be informed by and promoted a specific construction of womanhood. In addition to the view of women’s sexuality as passive yet destructive, there were two more guiding principles behind his legal changes. These were: Women as repositories of family honor and women as the property of the men in their family. Such a cultural construction of women, in conjunction with Zia’s legal reforms, paved the way for rampant abuse of women, within both the family and the criminal justice system.

The law that has been the most damaging to women and has aroused much indignation and controversy over the years is the *Zina* Ordinance of 1979 (part of the *Hudood* Ordinance which deals with fornication, adultery, rape, theft, alcohol consumption, and defamation). The *Zina* Ordinance encompasses only adultery, fornication, and rape. For the first time in the history of the country, fornication became a crime punishable by law. Also, statutory rape, which up until then was defined as sex with or without the consent of a female under the age of 14, was no longer a crime. Further, it eliminated the possibility of marital rape. According to the Ordinance, by definition, a person could only rape a "woman or man, as the case may be, to whom he or she is not validly married" (Muhammad, 1979: A-36). The maximum punishment (known as *Hadd*) for adultery/fornication (*Zina*) or rape (*Zina bil-jabr*) is a mandatory sentence once either has been proven according to the requirements of the Ordinance. The maximum sentence for these crimes is stoning to death at a public place when the accused is a *muhsan* (married and Muslim). If the accused is a non-*muhsan* then he or she receives a hundred lashes in a public place. This punishment can only be issued if at least one of the following criteria is met: (1) the accused confesses or (2) the act of penetration is witnessed by four adult, pious Muslim men (when the accused is a Muslim) or any four adult men (when the accused is a non-Muslim). The testimony of women or the victim is not admissible (Muhammad, 1979: A-36).

Because of these stringent requirements for proof, *Hadd* sentences are rare, or they are overturned before the punishment can be executed. Instead these cases are tried at a lower level of punishment known as *Tazir*. The *Tazir* punishment for extramarital sex is up to ten years in prison, 30 lashes in a public place and a fine of indeterminate amount. The *Tazir* punishment for rape is up to 25 years in prison and 30 lashes in a public place (*Zina* Ordinance).

There are several problems with these laws. First, the law protects rapists who commit a crime in front of non-Muslims or women, or even in front of Muslim men who are not "pious" or of "good repute." At the same time it leaves rape victims to be charged with extramarital sex—*Zina*—when they fail to prove that they were indeed raped. This was precisely what happened in the case of Safia Bibi, in 1983. She was an 18-year-old blind peasant girl who had been raped by her local landlord and his son. As a result she became pregnant, but the baby died after birth. Both the landlord and his son were acquitted due to insufficient evidence while Safia Bibi was charged with *Zina* because her pregnancy was viewed as a self-confession. She was sentenced to three years in prison, 15 lashes in public, and a fine of Rs.1000. The punishment was never carried out because the charges were dropped by a higher court due to publicity. But not all rape victims have been so fortunate. In 1983, Lal Mai, another rape victim, was charged with *Zina* and became the first woman to be

publicly flogged. She was given 15 lashes (by a man) in front of a crowd of between five and eight thousand people (Mumtaz and Shaheed, 1987; Malik, 1997).

How can we understand these laws and their impact in light of the construction of women as repositories of honor and as the property of men? As mentioned earlier, under these laws marital rape and statutory rape were not acknowledged as crimes. The symbolic significance of this change was immense. Consent, which up until then was a woman's right, became a non-issue. Consent now resided with the men in the family—the father in the case of unmarried girls, and the husband in the case of married women. Even in cases of rape, if the accused could prove that he *believed* himself to be married to the victim, the accused was acquitted (Mumtaz and Shaheed, 1987; Human Rights Watch, 1992, 1999; Chadbourne, 1999). The message was clear—women were men's property and men could do with them as they pleased.

The manner in which the punishment of public flogging is executed is also telling in this regard. "The stripes shall be applied in the case of a male, while he is standing and in the case of a female, while she is sitting" (Muhammad, 1979: A-52). The floggings are administered by a man. The fact that the women sit (presumably on the ground) while they are given lashes is particularly significant in a Pakistani context where a person belonging to a lower class or status will normally be seated lower than one who is of a higher social class/status. Thus, the public floggings serve as a reminder of women's status in relation to men. As the executor of the punishment, the man stands towering over the woman who cowers on the ground. This is a symbolic re-enactment of the power men have over women as their "owners" and "lords."

Because the women are also considered the repositories of their family honor (more specifically the honor of the men in their family), the punishment has to be carried out in public. The shame of a woman charged with adultery is not just hers, but her whole family's. Thus punishment cannot be a private matter. There must be other witnesses in order to reinforce the fact that the woman has dishonored her whole family and brought embarrassment and disgrace upon them.

The entrenchment of the idea of women as property, and the opportunities afforded by the new laws, led to rampant harassment of women by their families. Jilani and Jahangir (1990: 103) report, "often husbands file *Zina* cases against their wives or former wives, either to keep them in forced marriages or simply to humiliate them." There have also been instances in which ex-husbands have filed *Zina* charges in order to keep their ex-wives from re-marrying. As mentioned earlier, under the Family Law Ordinance 1961, a couple is required to register their divorce. But since the *Zina* Ordinance, husbands will often lie about registering the divorce only to turn around and file *Zina* charges against their wives when they become

involved with someone else (Mumtaz and Shaheed, 1987; Human Rights Watch, 1992, 1999; Chadbourne, 1999). Even fathers will bring *Zina* charges against their daughters or rape charges against their daughter's husband when she marries against the family's wishes. Human Rights Watch (1992: 63) reports: "Of the 44 women in Karachi Central Jail in 1987 who were charged with *Hudood* Offenses, over half were accused of having committed *Zina* due to leaving their homes with a man of their choice . . ." As Chadbourne (1999) notes, this practice is far from over; women even in present day Pakistan have to deal with false accusations from their own families. The criminal justice system has traditionally favored the family (although as Chadbourne reports this is beginning to change) since it is inconceivable to some that a father, whose honor resides in his daughter, would falsely accuse her of illicit sex.

If the idea of women as property played into the hands of the male family members, the idea of women as repositories of family honor played right into the hands of groups outside the family. Now women's bodies could be used as tools of vengeance in family vendettas or by the police "both to extort money and to exercise social control over women and, through them, the broader population" (Human Rights Watch, 1992: 64). In 1990 the police took four women from their house, when they could not find the male relatives who were the subject of the search. The police detained the women illegally and molested them. The women were released when the wanted men finally surrendered themselves—nine hours later (Human Rights Watch, 1992). Women's bodies and the threat to their chastity (and hence to the family honor) were used as a means to coerce the male relatives into turning themselves in.

So far I have discussed how the traditional gender ideology upheld and legally sanctioned during Zia's time promoted the abuse of women both within and outside of the family. This gender ideology was crucial in legitimizing Zia's reign. Because all the changes regarding women were very visible and very extreme, it gave the impression that the society was undergoing a profound Islamic transformation. Women were the living manifestation of his program of Islamization and of Pakistan's superiority over the "West." In reality, he had not alleviated any of the real problems of Pakistani society—class hierarchies, corruption, poverty, and inequality all stayed intact or got worse (Mumtaz and Shaheed, 1984; Rouse, 1999).

The combined effect of his propaganda about Pakistan's/Islam's superiority, the prevalent gender ideology (i.e., women as a destructive sexual force, as repositories of family honor and as property) and the near impossibility for women victims to prove crimes against them, was to foster an atmosphere of denial and privatization of criminal activities (especially against women) in the country.⁷ In his address to the nation in 1979, Zia stated: "With the introduction of Islamic system, crimes will be eliminated . . ." (Muhammad, 1979: 20). Needless to say, crime was not eliminated; it was merely privatized (for instance marital rape, domestic abuse, incest).

The head medico-legal officer for the city of Karachi told Human Rights Watch “women bluff, women make up stories, women lie.” Another medico-legal officer added, “all girls who come here [in rape cases] for an examination have gone (to have sex) willingly, and the poor boy gets stuck in jail his whole life” (Human Rights Watch, 1999: 48). A prosecutor reported to Human Rights Watch, “Incest does not occur here . . .” (1999: 20). The chief attorney of Punjab revealed to the same researchers, “In Pakistan there is no rape as a consequence of sexual frustration . . . Rape in the west is a sickness. *Ours* is not a sick society” (p. 50, italics added). Even the Federal Shariat Court (an Islamic Appellate Court, with the power to change the findings and sentencing of any case under the *Hudood* laws) operating under the assumptions that a father’s honor resides in his daughter’s chastity and that Pakistan is an Islamic country (and thus crime-free), acquitted a man who was convicted and sentenced to the maximum punishment in two different trials for raping his nine-year-old daughter. Their reasoning was: “[I]n essence . . . [the court] could not accept that a father would rape or even abuse his own flesh and blood” (Human Rights Watch, 1999: 51, brackets in original).

Zia set the precedent for privatizing crimes against women in order to uphold the image of a crime-free Islamic nation and to bolster his support with the traditional power holders in Pakistani society (feudal lords, religious sects). But if his intention was really to privatize crime, why would he criminalize adultery and fornication? Would it not make more sense to cover up the existence of extra-marital sex in order to maintain the façade of an ideal Islamic country? I believe the answer lies, once again, in the use of women in this game of legitimacy. Adultery and fornication laws impact women disproportionately. Since pregnancy could be used as a self-confession, women became the most vulnerable to these accusations. But a woman who was sexually active outside of marriage posed a serious threat to Zia’s process of Islamization (and hence to his image as well). Such a woman chose to willfully challenge the concepts of women as property and as repositories of family honor; such a woman was “Westernized” and was a threat to the status quo and to the traditional power holders with whom Zia’s strength resided. She had to be punished—and in such a way that made an example of her to the rest of society.

Rape, on the other hand, does not threaten the status quo; in fact it reinforces it. It reinforces the power of feudal lords over their serfs, of the rich over the poor, of the military/police over civilians⁸ and ultimately of men over women. Thus rapists go unpunished whereas rape victims get charged with adultery so that they would think twice before they accuse those in power.

During Zia’s time, the discourse on women and sexuality was dominated by the following beliefs: (1) women’s sexuality is a negative, destructive, and omnipresent force that must be curtailed, (2) women are repositories of family (more

specifically men's) honor, and (3) women are men's property. These beliefs are not independent of each other; often they work together to enable increased scrutiny, vigilantism, harassment, and abuse of women in public as well as private spheres. Although these ideas regarding women were not novel—indeed they would not have been so widely accepted if there were not a precedent for them in Pakistan's male-dominated society—Zia's reign gave new life to them and entrenched them further.

The specific ideology and policies regarding women, as promoted by Zia, not only served to define the parameters of womanhood, but, as I have argued, also served to give Pakistan the *semblance* of a transformed, anti-Western, ideal Islamic state. This was crucial in legitimizing Zia's overextended military rule. Through his program of Islamization he managed to reinforce the status quo and appease those factions of Pakistani society that would be endangered by democratization. Furthermore, he manipulated the anxieties of a relatively young post-colonial nation in its search for cultural authenticity, thus ensuring his long reign.

Ironically, it was during Zia's repressive regime that women's activism reached unprecedented heights. Women's organizations became very aggressive and outspoken with a clear political (as opposed to only welfare) agenda. Never before had their rights been so overtly threatened by the state. Zia's *Hudood* Ordinance and more specifically laws regarding *Zina* caused an uproar which resulted in the formation of Women's Action Forum (WAF). WAF and its supporters agitated on behalf of many people accused and sentenced under the *Zina* laws. Because of the publicity that these cases received, many of the sentences were overturned or lessened. In 1983–1984 WAF also protested against the proposed Law of Evidence which weighed the testimony of two women as equal to that of one man. After much agitation and many protests the final version of the adopted law required the testimony of two women to equal that of one man in financial matters, while all other cases were left to the discretion of the judge.

WAF's efforts to mobilize a mass movement on behalf of women met with many challenges. Under Zia's martial law regime all fundamental constitutional rights had been suspended, and all political parties and demonstrations were banned. Those that protested often faced the threat of being jailed or *lathi*-charged. Quite apart from the external threats posed to the women's movement (led by WAF) by the state, were the pressures and fissures that the movement faced internally. For one, it remained mostly an urban centered movement. Second, involvement in the movement and in activism had different consequences for women from different classes. As Shaheed (1999: 156) points out:

For less privileged women, losing jobs was a greater danger than for upper-middle-class activists who were better equipped to handle the consequences. If jailed, poorer women were more likely to be raped [by the police] than better-connected activists.

Thus, the women's movement remained restricted due to its inability to address the concerns of women from different class or regional backgrounds. Faced with all these obstacles, the ability of the women's movement and WAF in challenging and curtailing the power of the state is certainly praiseworthy.

Post-Zia Pakistan

The state-sanctioned abuse of women that began with Zia has continued. Lal Mai was not the last woman to be flogged. The number of women in prison charged under the *Zina* ordinance has steadily gone up, as have the incidents of violence against women (Human Rights Watch, 1992, 1999). With the mysterious assassination of Zia in 1988 and the election of Benazir Bhutto⁹—the first woman prime minister of Pakistan and Zulfiqar Ali Bhutto's daughter—women's organizations had hoped that these laws would be repealed. Benazir Bhutto was herself an outspoken defender of women's rights. But as Weiss (1993: 103) points out:

most individual members of the provincial and national assemblies remained entrenched in patriarchal views of women's place in society. The new listeners to convince were no longer the national political leaders but rather the local political elites within the system, the ones upon whom the PPP [Bhutto's party] was dependent for political support and survival.

Her attempts to repeal some of the laws created under Zia also met with legal obstacles. According to the Eighth Amendment to the Constitution, Zia's "Islamic" laws were "protected from ordinary legislative modification and judicial review" (Human Rights Watch, 1999: 21). Under this constitutional amendment, any government would need the vote of two-thirds of both the parliamentary houses in order to repeal them. It also provided the president with the authority to dismiss the prime minister and dissolve the national assembly, making it crucial for a prime minister to have the president's support in all the political changes that he or she wished to implement.

By Bhutto's second term, the country was so fraught with ethnic and political turmoil that her activist agendas had to take a back seat. Amin's (1995: 140) description of Pakistan in 1994 is characteristic of the country during the Bhutto-Sharif-Bhutto-Sharif merry-go-round from 1988 to 1999: "The political system suffered from institutional decay, widespread financial corruption, and spiraling ethnic, sectarian, and religious violence, leading to near anarchic conditions in certain parts of the country." Yet in the midst of these crises, Bhutto's government managed to take certain symbolic steps toward women's empowerment. For one, Bhutto established a separate Women's Ministry, which highlighted the importance of women as a separate group that needed government support and attention. Secondly, she initiated the

Social Action Programme (SAP), Pakistan's "largest-ever social sector program . . . intended to integrate policies for delivery of social service and facilitate the participation of the poor in development projects . . ." (Laumann, 2000: 126). Although the SAP failed to meet its goals, it had the effect of mainstreaming women's concerns—with the public as well as government bureaucracies (Weiss, 1999; Laumann, 2000).

Nawaz Sharif, Zia's protégé, followed in Zia's footsteps and implemented further misogynistic laws under the pretense of Islamization. In order to "deflect public attention away from more serious economic and infrastructural matters" (Weiss, 1993: 103), Sharif announced: "Simple changes in laws are not enough. I want to implement complete Islamic laws . . ." (Human Rights Watch, 1999: 23). To this end he introduced the *Shariat* Bill (1991) which eroded the power of the constitution by declaring Islamic law as superior and able to override any law. This made the legal and criminal justice system vulnerable to the court's own biased interpretation of Islamic law. For instance, a woman's right to marry of her own free will (granted under the Family Law Ordinance of 1961) began to be questioned as un-Islamic.

One of the most damaging laws to be passed during Sharif's reign was the *Qisas* and *Diyat* Ordinance,¹⁰ which was first introduced by Zia. This law deals with murder, attempted murder, and bodily injury. *Qisas* refers to retribution (equal to the extent of injury caused) and *Diyat* refers to monetary compensation. These laws have had the effect of turning serious crimes into private matters (Human Rights Watch, 1992, 1999; Amnesty International, 1999; Bucha and Aqeel, 2002; Laeeq, 2002). The following quote from a judge illustrates this point:

the individual victim or his heirs retain from the beginning to the end entire control over the matter including the crime and the criminal. They may not report it, they may not prosecute the offender. They may abandon prosecution of their free will. They may pardon the criminal at any stage before the execution of the sentence . . . The state cannot impede but must do its best to assist them in achieving their object and in appropriately exercising their rights (Amnesty International, 1999).

This law makes the weakest members of society susceptible to coercion and abuse from the strongest members. The law further states that in the case of a murder (where *Qisas* would be capital punishment), the accused can only be sentenced to a maximum of 14 years if the victim's heir is also a descendant of the offender. Thus, a husband who murders his wife, with whom he has children, can only be punished with a maximum of 14 years imprisonment. But this assumes that someone from the victim's family seeks justice. It is no surprise then that "honor killings"—where a couple who engages in illicit sex (adultery or fornication) is murdered by the woman's husband or father—have multiplied since the Ordinance was passed. In reality, there are many more female victims of honor killings than men (Human Rights Watch, 1992, 1999; Amnesty International, 1999; Laeeq, 2002).

Here again we see the beliefs in women as repositories of family honor and as men's property culminating in a devastating practice—not only in the custom of honor killings but also in the way that the criminal justice system deals with such incidents. For instance, the logic of “grave and sudden provocation” and “self-defense” are often employed by the court for excusing such behavior (Chadbourne, 1999; Human Rights Watch, 1999). Even though these explanations for honor killings were eventually not incorporated into the actual Ordinance, they continue to be used in courts where judges have a wide measure of discretion when dealing with these cases. To illustrate, in the case of a man who murdered another man upon finding him in bed with his wife, the judge ruled, “I am of the view that the appellant as the custodian of the honor of this wife had the right to kill the deceased” (Human Rights Watch, 1999: 45).

The implementation of *Diyat*, together with the prevailing ideology of women as property has led to another practice which causes much suffering to women. This is the practice of *bed-e-sulh*—handing over a woman or women as compensation for a crime. Although *Diyat* legally covers only monetary compensation, and does not include women, the idea of women as property is so prevalent that even courts agree on such settlements. Women have no more of a voice than the money, land or other property that changes hands in these transactions.

We can see the long-lasting impact of Zia's reign in the laws that have been passed since 1988, and in the laws which were first introduced by him that continue to exist. The *Qisas* and *Diyat* Ordinance is a direct outcome of the so-called “Islamization of Pakistan” started under Zia. It takes the privatization of crimes against women one step further by codifying it. The privatization of domestic abuse, spousal murder, and honor killings reinforces the concepts of women as property and as repositories of family honor by giving legal sanction to such crimes.¹¹

Since Zia's time, Pakistan has seen a quick succession of governments, each of which has had to contend with ethnic and political strife. This has led to a growing disenchantment among the people with political processes and leaders. At the same time, Pakistan has witnessed a burgeoning civil society. Not wishing to rely on transient governments vulnerable to the whims of traditional power holders, many Pakistanis have become actively involved in reforming their country. Women's groups are at the forefront of this movement. According to Weiss (1999:141):

In Pakistan's fifty years, it is when women have organized themselves into groups with a political purpose—as lobbyists, non-governmental organizations (NGOs), and in other forms of social activism—we have witnessed significant advancement in the construction of a civil society in the country.

The women's movement and women's organizations in Pakistan have certainly played a very active role in the emergence of human rights organizations and in

inspiring debate about principles of democracy and the nature of an Islamic state. They have been important in resisting and challenging the power of the state even at times when others were forcefully silenced. They have been witnesses to false promises by various governments and have been at the forefront of establishing non-governmental groups which seek to reform Pakistani society. In all of these ways and more, the women's movement has played a critical role in the emergence of a strong civil society in Pakistan.

Yet there are those within the movement who are more critical of its accomplishments and feel that it has lost its political edge since Zia's death (Shaheed, 1999; Khan, 2000; Bari and Khattak, 2001). Although the areas of legislation and political representation have been actively problematized by the movement and other civil society organizations, the areas of culture, tradition and the family have been somewhat ignored. The continued focus on the state, though justified and unavoidable during Zia's reign, has hindered a systematic analysis of other sources of women's oppression, such as the family (Mumtaz and Shaheed, 1987; Shaheed, 1999; Bari and Khattak, 2001). Thus, campaigns against honor killings, *bed-e-sulh*, and domestic violence are launched on an *ad hoc* basis after an unfortunate incident reaches the media. These practices are not systematically analyzed as outcomes of a patriarchal family structure.

The omission of a critical evaluation of culture and family perhaps results from the need to gain legitimacy. Bari and Khattak (2001: 227) explain:

If its [the women's movement's] demands pose a threat to the basic structure that helps the edifice of the state to exist, it will alienate all those who are in power. Unable to risk such an eventuality as well as dictated by personal investments in relationships within the family, women in the movement have kept clear of the family in general.

Jeffery (1999: 229) also highlights the dilemmas of South Asian feminists who are critical of the family:

Globalization processes have spread Western universalistic frameworks that tend to devalue and oust local ones. In South Asia, critics of feminism generally see it as an instance of such processes. When feminists critique the family (and also the religious community) as a key site of women's subordination, their assaults on local values and identities generate a backlash that decenters their universalistic claims by pointing to their ethnocentrism, that asserts the equal (or even superior) validity of locally produced frameworks, and that insists on the contextual specificity of morality.

Feminists in Pakistan find themselves in a predicament: a non-critical stance towards tradition and culture, though more acceptable to society, seems to betray feminist principles, while a critical stance only swells the ranks of the fundamentalists.

Feminists need to be especially careful in contemporary Pakistan since fundamentalists are gathering support by promoting anti-U.S. sentiment and by targeting

NGOs as U.S. agents (“Workers of NGOs Demand Security,” September 2002). Although President General Musharraf has shown support for civil society organizations, the victory of *Muttahida Majlis-i-Amal* (MMA—an extreme right wing fundamentalist group) in the North West Frontier Province (NWFP) is of serious concern to NGOs, especially those dealing with women’s issues. Over the last few years, women’s organizations have been specifically targeted by violent fundamentalists who have even resorted to hurling hand-grenades at the offices of women’s NGOs (“NGOs Concerned over Election Results,” October 2002).

The women’s movement in Pakistan is faced with an old enemy once again—politically powerful religious fundamentalists. In the past, the movement was pushed to new heights of activism when faced with the same threat. The prospects for a similar response seem promising, especially considering Musharraf’s progressive bent. But as we have seen, the struggle for women’s empowerment fought at the intersection of the state, tradition, religion, and civil society can be a slow and difficult process.

What emerges from this brief history of women, Islam and the state in Pakistan, is that none of these is a fixed, monolithic category. Discussions about women and Islam must not make such an assumption. The position of women in Pakistan (and in other countries) is the product of specific, historical, political, and cultural forces and it should be analyzed as such. This is not to say that there are no similarities between the conditions of women living in Muslim and non-Muslim countries across the globe. There certainly are. But these similarities do not exist *a priori*; they are actively produced. It is this process of “making” women and defining womanhood in different contexts that should be the focus of feminist and transnational feminist inquiry into the lives of women in Muslim countries.

Notes

1. Obviously the experiences of Pakistani women vary depending on their social position. But generally speaking, one cannot deny that the position of women *relative* to men in Pakistani society is subservient.

2. Examples of other works which consider some of these interconnections are the edited volumes by Abu-Lughod (1998), Jeffery and Basu (1999) and Kandiyoti (1991).

3. *Lathi* is a type of baton used by the police when dealing with mobs and demonstrations.

4. This phenomenon is not unique to Pakistan. For a discussion of how women’s movements are thwarted by larger political movements, see Moghissi (1994), and Shahidian (2002).

5. To be fair, women were not the only group whose rights were threatened. The peasantry was another. Minorities, especially non-Muslims, were yet another target. But women were, by far, the largest and the most visible constituency to be affected by his policies. See Rouse (1999) for a further discussion of the impact on non-Muslims.

6. This specific construction of women and sexuality was not original to Zia. These ideas have been dormant in Pakistani society for a long time, but Zia reinvigorated them to an unprecedented

level. See Mernissi (1985) for a detailed discussion of the construction of female sexuality by male Muslim theologians.

7. Afiya Zia (1994) discusses the absence of a word for rape in further promoting the denial of crimes against women. *Zina bil jabr* is a legal term used only in courts by those familiar with legal jargon. "Instead euphemisms such as *izzat khona/izzat looti jana* (loss of virtue/theft of virtue) or *bay-izzat karna* (causing one to lose one's honour)" (1994: 18) are often used to describe rape.

8. See Human Rights Watch (1992) and Jahangir and Jilani (1990) for discussion of police and military sexual abuse of women and women prisoners in Pakistan.

9. Benazir Bhutto held two incomplete terms from 1988–1990 and from 1993–1996. Both times, the president used his power under the Eighth Amendment to dismiss the prime minister and dissolve the National Assembly. Between 1990 and 1993, and then again between 1997 and 1999, Nawaz Sharif held office.

10. This was first promulgated as an ordinance in 1990, and was kept in force by the power of the president to re-issue every four months. It was passed as a law by the parliament in 1997.

11. Even under the current, relatively progressive, government of Musharraf, the *Hudood* Ordinance has not been repealed, and women's organizations are skeptical about whether it will be repealed anytime in the near future ("NGOs Sceptical about Discussions on *Hudood* Law," March 2003).

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