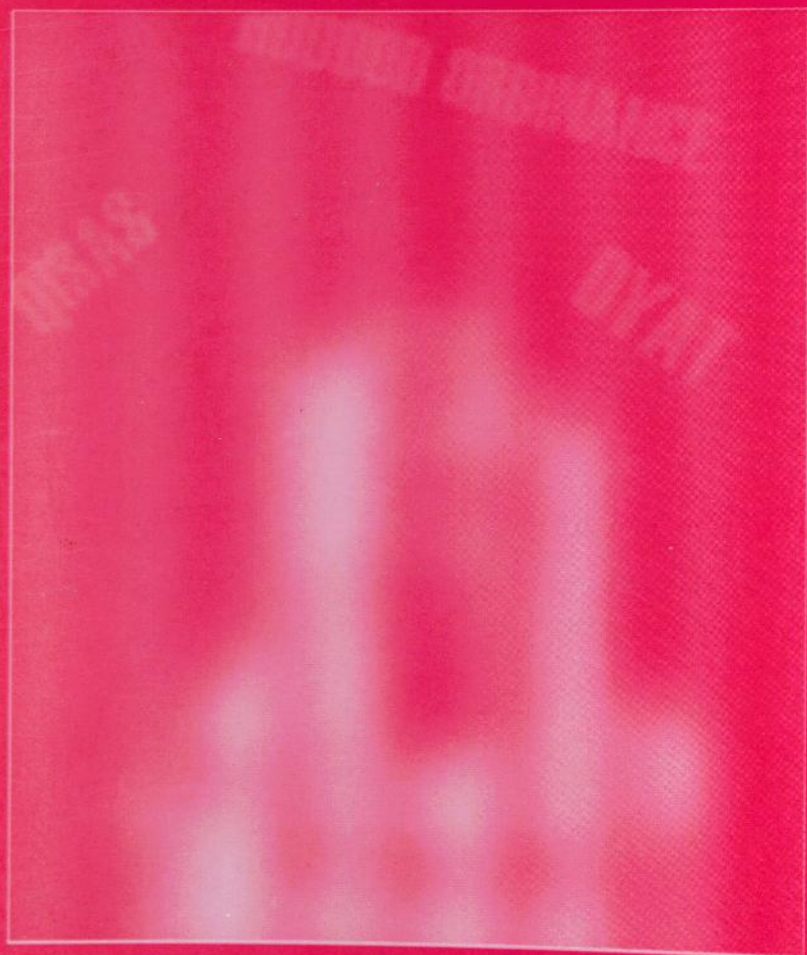


Diary 2006



**WOMEN OF PAKISTAN:
STRUGGLING FOR
LEGAL RIGHTS**

Diary 2006

Concept and Research : Tasneem Ahmar

Research Team : Aisha Amir
Gulrukh Khan
Kashif Rizvi

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Address : House-10, Street 71, F-8/3
Islamabad

Tel : +92-51- 7111419
Tel/Fax : +92-51-2850906

e-mail : uks@comsats.net.pk

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Uks - A Research, Resource &
Publication Centre on Women and Media

PERSONAL DATA

Name.....

N.I.C No.

Address (Office)

Address (Res.)

Tel. (Office)..... (Res.)

Mobile Fax

E-mail.....

Bank Account

Blood Group

Telephone Nos.

Hospital (emer.)..... Tel. Complaint

PoliceElectricity Complaint

Fire Brigade

Each year while selecting a theme for our annual desk diary, we at Uks discuss a number of issues that could be the running theme for that particular year. It is quite a tedious process with lots of priority areas. We want to select an issue that has a history and can be related to the past, present and future of Pakistani women. We are also concerned regarding how and where to get the written material which is reader friendly as well as interesting. Each year we spend a great deal of time debating these factors and then the final selection is made.

Not this time. Losing Shahla Zia - reality many of us have not come to terms with - early this year, we knew the 2006 diary would be dedicated to the memories of Shelly, "a dedicated lawyer, a committed women's and human rights activist and above all, a wonderful human being." Thinking of you, Shelly, this year's diary has taken up the issue of women's legal rights, something that was at the very core of your mind, heart and soul. We hope that we have done justice to an issue that has unlimited areas of concern. We have tried our best to include as many as we could. Thus the reader will see that throughout the diary, there are reflections on this issue from articles, reports and editorials published in various newspapers, magazines, research reports and journals. We have tried to trace the history of legal reforms in the chronology. Though we are aware of gaps that may exist, it is not deliberate and we have tried to be as inclusive as we could. The diary may not make happy reading, but it is only a reflection of what the media reports about the state of women's legal rights and access to justice.

While searching for the contents, many issues and topics have resurfaced in our thoughts and some already existing ones have been reinforced. News items and reports on how an elected elderly woman councillor was paraded naked through a bazaar by the influentials of the tribe as a personal revenge to settle a brawl, infuriated us as did reports that despite the Supreme Court ruling that a Muslim Pakistani girl upon reaching the age of 18 years, can marry out of her own consent, girls who dare to use this right, are chased out and killed, sometimes alone and at times with their spouses. There are several landmark cases that are indicative of the violence and discrimination that girls and women face in today's Pakistan. There are serious issues that need our attention.

We are gravely concerned with the continued "honour" killings, vani, swara and the impunity with which they are committed in Pakistan. We are concerned about the illegal court system of Jirga and Panchayat. These are the main obstacles in ending "honour" crimes by protecting crimes against women and safeguarding the illegal powers of the tribal and feudal lords. We are also concerned that gender violence, discrimination and inequality continue to be embedded in our social institutions, including within

Pakistani laws, and within society. The patriarchal society continues to strengthen this bias. We must eliminate these social and economic barriers that affect women's ability to access justice. We must continue to take a proactive approach to address women's legal concerns and lobby for the review and reform of existing anti-women laws and practices. We must include gender studies and women's human rights, in particular violence against women, into the curricula of law enforcement agencies' (police) educational institutions, religious groups and all other training institutions, including the military. Let us also think about how to provide our rural women with their share of access to education and legal rights, as instruments of development.

The diary tries to provide some food for thought on these issues. It may lead some of us into studying and examining the issue of women's oppression and subordination. It may clear someone's misconception that women are born to be ruled. The diary also intends to inform readers about women's secondary status and its linkages with the legal, economic and political structure as well as the influence of cultural traditions and religious sanctions on their existing conditions.

Over the years, as we have been informed by our friends, the Uks desk diary has contributed to raising public awareness on a number of issues with an underlying but clearly stated message that *women's rights are human rights*. We will continue doing so till the day when the gap between the law and its implementation is actually eliminated and the struggle for justice, equality and rights for women comes to a successful end.

The overall scenario of women's legal rights may seem bleak with little or no hope for any improvement. But today women are challenging laws that are discriminatory and till we have women like Mukhtaran Mai, there will be hope and optimism.

Wishing you a very happy New Year.

Tasneem Ahmar
Director

Dedication to Shahla Zia

At every turn and at each event, we miss her. We miss her affection, her care and concern, her wisdom and sagacity, her professionalism, her instinctive sense of right and wrong... Naively, we had assumed that our grief, our overwhelming sense of loss and of being bereft, would lessen with each passing day and month, eventually becoming bearable. We were sadly mistaken, and it has taken nine months of sorrow to realize and to acknowledge this... and that, in fact, it gets worse...

No tribute can do justice to the person that Shahla Zia was. No words can adequately describe her. Only those fortunate enough to have known her, or those whose lives she touched, can appreciate her and feel her loss. The following passage is an English translation of an inane attempt to pen a few thoughts for the memorial held for her in April, a month after her passing:

"Whether one called her Shahla or Shelly, she was everyone's friend - with malice towards none. Befriending and helping those in need, she was a genuine comrade and companion, a trusted confidante.

No matter how difficult life would get, she retained her infectious smile, her sunny disposition, her undaunted spirit. Facing all odds with uncommon courage and bravery, she still found time to share in the sorrows and tribulations of those around her, as well as to raise their flagging spirits and morale - never allowing her own to falter.

Looking for the silver lining in each cloud, she always found it, along with the positive element in each adversity she faced. Without betraying a trace of anger or sadness, she would rise up again after each setback and would bravely proclaim that the struggle must go on.

Professionally, she accomplished a great deal, in both intangible as well as concrete terms, but she never cared about whether or not she got the credit for it, or whether someone else took the credit! Hating self-projection, or, indeed, being thrust into the limelight by others, she had no self-interest or any agenda, other than work, work and work.

Whether it was her training style, or her research and writing, or her conceptualization and reflection on portentous matters, or her proficiency in drafting laws and advocating legal reforms, she was our Thinker, our Teacher, our Guru, our Guide. Whether it was her work on discriminatory laws against women, or her landmark environmental and human rights case against WAPDA; whether it was her substantive contributions to the Beijing National Report and the Social Summit NGO Shadow Report; whether it was her seminal work as an active member of the Pakistan Commission of Inquiry on Women or as the Chair of the SAARC Prominent Women's Committee - she made absolutely no distinction between them, selflessly giving her time, effort and energy.

Not interested in accepting offers of national and international honours or awards, she was modest and self-effacing, but without hypocrisy. She took a clear, unambiguous and uncompromising stand on issues, and remained steadfast, with courage and strength.

Even her few detractors were unable to ruffle her sense of humour and affable nature, and she never allowed either herself or any of her friends and supporters to be affected by them. Truthful, honest, enthusiastic, passionate and brave, she was like a rock in upholding her progressive values, in her struggle for right vs. wrong, and in her constant quest for justice and equality. Her style was not confrontational or rigid - it was flexible, soft and gentle, preferring to take the peaceful road towards her goals.

However, when the need arose, she was not one to shy away from action - whether it was spending her birthday getting baton-charged, tear-gassed and arrested at the WAF demonstration at the Lahore High Court against the Qanoon-e-Shahadat (Law of Evidence) on 12 February 1983, or marching down Islamabad's Constitution Avenue to the Parliament in the massive CAGAHK (Citizens' Action Group Against "Honour" Killings) rally against the Government's grossly inadequate "Honour" Killings Bill on 8 October 2004; whether the cause was environmental conservation, or women's rights, or the rights of non-Muslim Pakistani citizens, she was fearlessly at the forefront of the struggle for human rights.

Likewise, she was never intimidated by those in high office and shunned their overtures. Well-bred, even-tempered and tolerant, she was totally devoid of arrogance or conceit, and she inculcated the same qualities and progressive values in her beloved family, stressing on respect for all humanity, love, friendship, and warm hospitality. There was never a conflict in Shelly's words and deeds - she herself first practised what she meant to urge others to do.

She left us too soon - unprepared and bereft. If only we had a tiny fraction of her magnanimity, her strength, her courage and her bravery, we might have been able to bear this irreparable loss, this unbearable pain and sorrow, this indescribable void - but we don't. This loss is not just something personal for her family alone, it is also for her numerous friends, colleagues and fellow activists. It is indeed a collective loss and sense of bereavement. Whether it is the private grief that her family and the rest of us are undergoing, or the loss to the women's movement, this vacuum will not be filled. Even though the severity of the pain, sorrow and grief may eventually lessen, it will never quite go away.

Shelly - thank you for having been there, thank you for having given so much, thank you for being you. May Shelly's family be granted comfort, and may Shelly's soul rest in peace."

Tahira Abdullah, friend and fellow activist

Do you want a Canadian visa?

Talking to the Washington Post in New York where he arrived to attend the UN Summit meeting early this week, General Musharraf said about rape incidents in Pakistan: "You must understand the environment in Pakistan. This has become a moneymaking concern. A lot of people say if you want to go abroad and get a visa for Canada or citizenship and be a billionaire, get yourself raped".

This only happens now and again, this kind of denouncement, this kind of unraveling. One almost always brings it upon oneself when one begins to believe his sycophants that one is infallible; when someone seriously begins to believe he is always right. For how else, in one fell swoop, spoil it all for himself? By telling the mothers and daughters and the sisters of the nation that a "lot" of them are women of loose moral character who "get raped" either because they want a visa to travel abroad (why name poor Canada, a good and gentle country that has given succors and shelter to so many unfortunates?), or to become rich. The offensiveness of his remarks defy description. I am so appalled I cannot get myself to say anymore. I can only ask him to apologize to Pakistani womanhood most contritely.

This is not all the General said about rape in the flush of being in New York. According to a news report: "He did not think Pakistan 'should be signed out when the curse is everywhere in the world'. He said he had seen reports or figures about the rape in the United States, Canada, France and Britain showing that 'it is happening everywhere'."

This too is arrogant in the extreme. It is palpably unfair to lump the United States, Canada, France and Britain with Pakistan for the reasons that, one, rape is not sanctioned by city fathers in the countries mentioned, as it was in Mukhtaran Mai case; two, cases of rape are far more strenuously reported and prosecuted in those countries than in ours; three, there are no punitive laws such as Zina Ordinance which is more often than not applied to rape victims as additional torture; and four, because the parameters of rape are very different there. For example, and as pointed out some weeks earlier, even forced sex within marriage is considered rape in the countries named by the General.

Neither was this all. In the flush of soon meeting his "tight" buddy George Dubya, possibly the worst President the United States has had the misfortune of ever having, the General also said: "Leave the developing world aside; I think we are better than all of them. Bring the developed world and let us compare Pakistan's record, under me, a uniformed man, with many of the developed countries. I challenge that we will be better off."

Which is why, I suppose, the Fatherland languishes at number 135 among 177 countries on the UNDP's Human Development Index (HDI), except for Nepal and Bangladesh only ahead of utterly mismanaged African countries. Which is why it has such a hard, nay ugly name, that the government has seen fit to hire

consultants and retain lobbyists to give it a "softer" image. Which is why the vast majority of people in the country do not have access to clean drinking water, let alone health care. Which is why Pakistanis look upon the criminal justice system with contempt and use every means, mostly unfair; to get their rights because that is the way the system is structured. Which is why Pakistan has one of the lowest literacy rates in the world. Yet, we are "better than all of them".

Which is why the mere mention of 'police' strikes fear into the hearts of ordinary citizens, the newspapers being full of the daily criminal pursuits of the constabulary that is supposed to keep the law. Which is why the common citizen who has a problem can go from office to office and find no one to help him unless he bribes his way through to an official who might deign to see him. "Official" means both appointed AND elected may I add. Which is why the speaker of the National Assembly who is supposed to be above party politics openly comes to the aid of the government at the time of a quorum count.

Just to see how well off we are in other areas, let us look elsewhere. During a recent visit to five countries, and for the very first time in all the thirty years that I have been traveling abroad when I told a few traveler where I was from there was a visible start (sometimes accompanied by a gulp) from her or him. We have to note that whilst I look every one of my sixty years, the mere mention of the Land of the Pure gave people the heebie-jeebies. We are "better than all of them", nonetheless.

I traveled through nine airports this time around, none newer than Karachi's Jinnah International, but which stood out for being the filthiest of them all, in every possible way, its stinky (in the CIP lounge, mark) bathrooms leading. Being an airport, no less, and not my home village of Wah, Jinnah International was in darkness for most of the time that I was there changing flights. This is Pakistan's biggest airport, mind you. But, according to the General, we are "better than all of them".

Well, more strength to us.

Kamran Shafi: The Nation, September 17, 2005

Editorials

فوری فیصلے کا بھی انتظام کیجئے

گورنر مغربی پاکستان مسٹر محمد موسیٰ نے ہدایت کی ہے کہ اسکولوں، کالجوں اور دوسروں پبلک مقامات پر جہاں خواتین کی عام آمد و رفت رہتی ہے، وہاں سانج دشمن عناصر کی سرگرمیوں کی روک تھام کے لئے سادہ کپڑوں میں پولیس کے آدمی تعینات کئے جائیں۔ جو عورتوں کو تنگ کرنے والوں کا کڑا محاسبہ کریں اور انہیں قراوہ سزا دلانیں۔

گورنر کی یہ ہدایت بڑی خوش آئند ہے اور میں سمجھتی ہوں کہ یہ قدم آج سے بہت پہلے اٹھایا جانا چاہئے تھا۔ پبلک مقامات پر خواتین سے چھیڑ خانی اور بدسلوکی کی شکایتیں اب اتنی عام ہو چکی ہیں کہ اگر کوئی عورت گھر سے باہر نکلے اور فقرے بازی کا نشانہ بنے بغیر گھر واپس آجائے تو بات ایک معجزے سے کم نہیں ہوگی، میں یہاں اس بحث میں نہیں پڑنا چاہتی کہ اس صورت حال کی حقیقی وجہ کیا ہے اور اس کی ذمہ داری کس پر اور کیوں عائد ہوتی ہے؟ میں صرف یہ عرض کرنا چاہتی ہوں کہ اگر گورنر کی ہدایت پر نیک نیتی سے عمل درآمد کیا جائے تو موجودہ تکلیف دہ صورت حال کا بڑی حد تک مداوہ ہو سکتا ہے۔

اس سلسلے میں ایک قابل توجہ بات یہ ہے کہ جن پولیس والوں کو اس مقصد کے لئے تعینات کیا جائے ان کا اپنا کردار شرم و شہ سے بالا ہونا چاہیئے۔ نیز انہیں اتنا با اختیار ہونا چاہیئے کہ صرف ان کی گواہی پر ملزم کو سزا مل سکے۔ جہاں تک میں سمجھتی ہوں ہمارے قانون میں ابھی تک ایسی کوئی گنجائش موجود نہیں، اور اگر اس مجوزہ اقدام کے تحت پولیس کے سپاہی کسی شخص کو عورتوں کے ساتھ شرارت کرتے ہوئے دیکھ کر پکڑ بھی لیں تو اس شخص کو سزا دلوانے کے لئے شہادتوں اور عدالتی کارروائی کے طویل اور صبر آزما عمل سے بہر حال گزرنا ہوگا اور متعلقہ خاتون کو ان تمام مراحل میں شریک ہونا ہوگا۔ اگر یہ درست ہے تو پھر مجھے شبہ ہے کہ گورنر کی اصل ہدایت کا مقصد فوت ہو جائے گا۔

مناسب ہوگا کہ خواتین سے برسر عام ناشائستہ سلوک یا مذاق کرنے والوں کی سرکوبی کے لئے علیحدہ قانون بنایا جائے اور اس پر عمل درآمد کی ضمانت حاصل کرنے کے لئے صرف سادہ کپڑوں میں پولیس کے سپاہی موزوں مقامات پر متعین کئے جائیں بلکہ اس قسم کے مقدمات کی فوری سماعت اور ان کے فوری فیصلے کے لئے گشتی عدالتیں بھی قائم کی جائیں۔ جو موقع پر ہی متعلقہ سپاہی، ملزم اور بدسلوکی کا نشانہ بننے والی خاتون کے بیانات سن کر فیصلہ سنا دیں تب ہی یہ لعنت ختم ہو سکے گی۔

Women in danger

A tragic drama of death was played out in the Lahore law office of Ms Asma Jehangir, the renowned human- rights activist. Armed relatives of a young woman seeking divorce went past a police guard posted outside the office and shot her dead. Ms Jehangir was not in the office, and a bullet aimed at her colleague fortunately missed. In a belated reaction, the police guard killed the assailant. His accomplices escaped, as usual, taking with them a female lawyer as hostage.

The tragic incident reflects a number of his affliction our society. Primary it is yet another demonstration of the law and order crises and the breakdown of state authority. More specifically, it exposes again the continuing failure of the police to preempt and prevent crime. The luckless woman had taken refuge in Dastak, and her relatives were exerting pressure on her not to press ahead with the divorce proceedings. Her life was known to be in danger. Yet, when the time came, the police could not save her.

Even after the incident, the police guard could not prevent the accomplices from escaping. In fact, according to news reports, it was private security agency which responded to the emergency call and gave chase, though unsuccessfully. The police, as usual, arrived when there were only corpses to be carted and paper work to be done.

The incident also highlights the helplessness of women who suffer domestic abuse and, driven to desperation, finally seek shelter under the law. While social pressures and lengthy legal procedure are tremendous deterrents against such "adventurism", tragedies like the present one further discourage oppressed women from invoking rights guaranteed to them not only by the law of the land but also the injunctions of Islam.

Finally, the incident shows how potentially vulnerable Ms Asma Jehangir is to any misguided zealot. The hazardous nature of her profession and the preferred area of interest make her an irritant for some obscurantist groups. Threats are known to have been made against her person. Hence the police guard outside her office. Yet, as elsewhere, when the crunch came the so-called security arrangements were found woefully wanting.

Coming in the wake of yet another "killing" of the notorious outlaw Riaz Basra, this unfortunate incident highlights how utterly unprofessional and unequal to the daunting challenge agencies are. It should also remind the rulers that their dose of vows to crush lawlessness with the proverbial but invisible iron-hand will not solve the problems at hand. As always, the inescapable reforms, a brick-by-brick rebuilding. Every day brings new reminders that the government's penchant for shortcuts has not delivered, and will not deliver. But there are still no signs of waking up.

Family Laws

Perhaps encouraged by the chief executive plumping for sharia, a certain group decided to challenge the Muslim Family Laws, 1961 in the Federal Shariat Court (FSC). Since the case is being heard in the court these days, it would be prudent at this juncture not to go into the legal aspects and await the court judgment. There is, however, another side of the issue which can be discussed in the context of the impact of the Muslim Family Laws on the social life of Pakistan; particularly, since these laws ensure the protection given to the two most vulnerable sections of the society: women and children. Very few people in the country would be willing to say that these laws have worked against the welfare of women and children. Since there is obviously a school of thought which believes these laws to be in conflict with the injunctions of sharia, it needs to be stated here that when laws were formulated in 1961, a broad spectrum of religious and social scholars was consulted and consensus was reached that these were not against sharia. However, we do not wish to enter into a debate as it may amount to contempt of court. We would only like to voice here the concern about the damage that the elimination of these laws would cause to our social fabric. Abuse of concessions that are allowed to men only under certain strict conditions and the lack of protection to orphans in matters of inheritance, might accrue as a result.

Islam, as a religion and a code of life, lays a huge emphasis on equality, fair-play and justice. Not only is it obligatory on a husband to provide a house and equal economic support to his first wife but he also allowed only to marry a widow, provided he has prior permission from his first wife and also fulfills the other criteria laid down. The arbitrary manner in which the concession for polygamy is misused by men in our society is not a secret. Therefore, the conditions laid down for divorce in the Muslim Family Laws, in respect of men taking a second or more wives, was tailored to deal with the unbridled abuse of that concession and to place some restraints on it. How could this be against the sharia, nobody has yet been able to explain? Similarly, making the divorce final on the pronouncement of three divorces in one breath, which most men in the heat of the moment are wont to do, does not the cause of sharia, which considers divorce as evil. Even harder to defend is the case of orphans being denied their rightful inheritance. Islam makes it very clear that orphans should be looked after and protected by the society. When this is not the case on Pakistan, how can anyone support those who hold that orphans should be disinherited. The collective aim of our society, especially those who are in a strong socio-economic position, should be to strengthen the foundations of justice and equality. A narrow interpretation of the sharia merely to enjoy certain concessions without meeting the duties that Islam places on them, will lead to social disharmony rather than social consolidation and progress.

The Nation: February 4, 1999

Strange justice

According to reports, after a strange and tragic twist of events two sisters in Gilgit have been placed in the custody of the local police, ostensibly for their own protection. The sisters were reportedly allowed by their mother to marry the men of their choice. Things however went sour soon after, and in keeping with our false notions of male honour, the rejected suitors shot dead the grandfather and brother of the two girls. It was then that the local lock-up. Apparently this has been done as a matter of precaution so that the girls are kept out of harm's way.

But surely a better way could have been devised for this purpose. As it is the two sisters are being made to suffer for absolutely no fault of theirs as their freedom to move about freely has been grossly curtailed. Police guards could have been posted at their house or, as certain community groups in Gilgit have suggested, they could have been moved to and housed in a location more respectable than a lock-up.

This case has some similarities with the Samia case. The young woman was murdered in broad daylight in the premises of a legal-aid office in one of the busiest parts of Lahore. Though the man who pulled the trigger met his fate soon afterwards, eyewitness accounts clearly suggested the presence of an alleged accomplices or accomplices. The next course of action for the police would have been to make arrests in this regard but instead the police would have been to make arrests in this regard but instead the police of another province, where the girl's parents live, saw it fit to register a murder case against the very people whom Samia had gone to seek legal assistance.

In the Gilgit case too, the local administration should realize that really eliminating the threat to the sisters lies not in placing them in protective custody but in arresting those responsible for the murder of their brother and grandfather. Strange are the ways of the law enforcement authorities when it comes to dealing with cases involving gender relations. Even though she may be the victim of grave violence, the woman is expected to prove her innocence, and until then be treated as the guilty party deserving to suffer the worst treatment at the hands of the police.

DAWN: June 5, 1999

A victim's gesture

The Meerwala Jatoi gang rape victim, Mukhtaran Bibi, deserves appreciation for her laudable sense of public good and a newfound mission in life. Mukhtaran Bibi has announced her plans to set up a girls' school, a mosque and a seminary with the financial assistance she has received from the government and the NGOs in the wake of the panchayat-approved criminal assault on her as a form of punishment last month. It is commendable that a victim of bestial violence should thus seek to get over her personal trauma and grief by doing something this positive for the greater good of the people.

Talking to the media the other day, Mukhtaran Bibi also had some more disturbing facts to reveal about her tormentors. She disclosed that after her plight received the coverage it deserved in the national media, the powerful members of the Mastoi clan returned many kidnapped and raped girls to their families, including a local woman councilor's daughter. This calls for thorough inquiry into the alleged kidnappings and rapes at the instance of the said clan, which seemingly has a history of such criminal behaviour. The disclosure also points to the need for setting up a mechanism of reporting crime from the rural hinterland where powerful landlords continue to perpetrate injustice and atrocities on the helpless poor people who are too afraid to approach the authorities for redress. The norms of civil society demand that all such criminals be brought to justice in a swift and unsparing manner.

DAWN: July 11, 2002



Women and honour

In which country are women who have been raped liable to be charged with adultery and stoned to death in punishment?

In which country are women liable to be publicly gang-raped on the orders of "democratic" village community organizations like jirgas and panchayats in revenge for alleged crimes committed by male members of their families and clans?

In which country are young girls criminally assaulted by deranged, perverted or powerful individuals as a matter of routine and condemned to live a "shameful" lie in silence?

In which country are women killed to avenge the perceived "honour" of their male relatives, tribes, clans, village elders, and influential families even though they may not have committed any crime?

In which country are women defaced and deformed by frustrated, "acid-throwing" maniacs?

In which country are women burnt alive in "stove explosions" engineered by enraged in-laws, husbands, brothers and fathers?

In which country do judges clutch at medieval notions of dishonour, inequality, piety and even religiosity to punish and demean women?

In which country are state and society predisposed against women?

If the answers are shameful and embarrassing, we should do something about it. If it is hurtful to see the foreign media washing our filthy linen in public, we should put an end to our dirty practices. If we are appalled by such brutality, we should protest vehemently. If we are aghast at such injustice, we should institutionalize punishments for crimes against women. If our laws are misplaced or discriminatory, we should change them.

Women constitute more than half the population of Pakistan. Yet they are more illiterate, downtrodden, oppressed and exploited than any other section of society. This is a blot on our country's face; a blot that all the nuclear or nationalist "honour" in the world will not efface. The irony is all the greater when it is lost on our leaders. In an interview some time ago with the National Geographic magazine on the subject of women's oppression in the context of "honour killings", General Pervez Musharraf was asked by the foreign interviewer why nothing had been done to alleviate the plight of women in Pakistan. Pat came the answer: "We don't have the money for alleviating poverty and eradicating illiteracy and backwardness". "But you have the money for nuclear weapons and missiles", reported the devious foreigner. "Yes", said the simple soldier, "we need nuclear weapons and conventional weapons and missiles in order to live honorably". Should General Musharraf ever get round to watching that anguished documentary, he might look out for the gleam in the interviewer's eye. If indicts the country and convicts its leader.

Much the same sentiment can and should be expressed regarding some so-called "Islamic" laws that are demonstrably unjust and also give a bad name to Pakistan. We refer, in particular, to the blasphemy law that has been the subject of so much mischief in the name of a great and just religion. Alleged blasphemers are punished by enraged mobs. They rot in prisons or are killed awaiting trial. They are assassinated inside and outside the courts. Judges dare not acquit them. And self-avowed reformers like General Musharraf don't have courage of their convictions to revamp such laws. Why, then, are we surprised by the condemnation of the world when a miscarriage of justice concerning some *masih* or the other is splashed on television screens and some of Pakistan's murderous laws and cultural practices are displayed in all their detail?

Pakistan is stretched on a historical rack, an arm and a leg in antiquity and barbarism, an arm and a leg in modernity and civilization. Old notions of sovereignty, statecraft, politics, power, patronage, despotism, honour. Religion and culture vie with modern symbols of globalization, electoral democracy, constitutionalism, accountability, civil society, gender equality, professionalism, competitiveness and universal literacy. Historic Islamic strictures contradict post-colonial Anglo-Saxon structures. Unable to find a mutuality of interests between these two streams of thought and behavior, society is inclined to descend into a feisty confrontation between the two. As the pace of life quicken under the impact of the new world order, large swathes of state and society are uprooted and dispersed. The job of the modern prince is to channel this energy into a productive, stable and assimilated nationhood. But tragically Pakistan has lacked leaders of substance or vision.

The worst excesses against women and the minorities are the tip of the iceberg. But this is the arena in which we must begin the quest for the soul of the country. Every negative image of their oppression is another nail in our collective coffin. Free them from bondage and suffering and we will have freed half our humanity from chains. There can be no greater celebration of national honour than that.

The Friday Times: July 12-18, 2002

The curse of vani

Taking notice of the growing numbers of cases of "vani", the National Judicial Policy-Making Committee has decided on a strong line against the custom under which women are married off to settle disputes or debts. This is a timely and welcome intervention by the judiciary to halt this ugly practice. Presided over by the Chief Justice of the Supreme Court, a meeting of the committee declared on Saturday that 'vani' was against the injunctions of Islam and strict action would be taken against offenders who continued to break the law by promoting forced marriages. The practice hit the headlines recently following an incident in Mianwali. The daughters of three men sentenced to death were to be married off to relatives of the murdered man to earn a reprieve for those on death row. One of the girls was a minor and was to be married to an elderly man. The incident shock the nation and the outcry that followed prompted the courts to intervene and prevent the hideous deal from being concluded. However, this was only the tip of the iceberg. The practice, it soon transpired, was far more prevalent across the country than was believed. It is encouraging that the Chief Justice has taken note of this sordid custom and has spoken out against it. He pointed out that there were laws on the statute book that strictly prohibited marriages against the will of the persons concerned. He ordered the courts to strictly follow the provisions of the law and prevent the exchange of women for the settlement of disputes.

The committee also touched upon some other customs that, despite being illegal, continue to prevail in the rural areas. One such practice is child marriage, which was forbidden as far back as 1929. There are many cases of girls below the age of puberty being married off, often to old men. The committee also stressed the need to ensure that women's rights to inheritance are not violated. While Islam guarantees a woman's right to inheritance, this injunction too is widely violated in the rural areas. The committee decided to chalk out a strategy to ensure that all legal heirs, especially women and children, are not denied their due share of inheritance. While the committee's decision to take on such customs and practices should be welcomed, it would be encouraging if the judges also spoke out against certain aspects of the Hudood Ordinances, which have also been used to infringe women's rights and have caused immense suffering to thousands of women.

DAWN: December 24, 2002

The Hudood Ordinance Must Go

An 18 member special committee of the National Commission on the Status of Women, especially convened to deliberate on the Hudood Ordinance, announced in September that it was of the view that the Ordinance should be repealed. It furthermore stated that the reason for this decision was that the Ordinance provided 'legal protection to violence against women'.

This decision set forth a show of protest and counter protest across the country, with significant developments having taken place on this and allied fronts over the past two months. Sherry Rehman, a PPP MNA in the National Assembly, has proposed a bill for its repeal. Dr. Fareeda Ahmed of the MMA has sternly opposed this bill, on the grounds that the Ordinance is based on the teachings of the Quran and Sunnah. Emboldened by the tabling of the Hudood Ordinance Bill in the National Assembly, a Sindh Provincial Assembly Member has proposed a bill to declare the killing of men and women—more often the women on the grounds of Karo Kari, as crimes of murder. Processions, demonstrations and seminars have been held throughout the country, for and against the repeal of the Ordinance. Politicians of the NWFP, supported by religious parties across the country, have been loud in their support of the Ordinance; those of the PPP and moderate voices across the country, have supported the call for its repeal.

It is not within the purview of this short piece to elaborate on the pros and cons of the Ordinance. Sufficient that as a mouth piece for liberal Pakistan and moderate Islam, and in particular the voice of the educated, moderate and forward looking Pakistani woman, we stand solidly behind the NSCW Committee that has called for the repeal of the Ordinance. The pages of this magazine, as of journals and newspapers across the country, have been filled for years with the grim and harrowing stories of the infamies committed in the name of this Ordinance. Over the past 15 years women languish in jails for years on end waiting for their trial. (Please read SHE's story 'Behind Bars' in our July'03 issue for mind-boggling account of the fate of these women). Did you know that 70 to 75 percent of women in jails in Pakistan are imprisoned or convicted under Hudood? That there are 285 women in the Special Women's Prison in Karachi, the majority of whom are there on accusations brought under the Hudood Ordinance? That they will languish in jail without trial for three to five years, and that once their cases go to trial, most of them will probably be released, because the initial charge was trumped up, bogus one?

The monstrosity of the system belies belief in the innate goodness of human nature. But in this country are our people just a travesty of human beings? We wonder. In this mockery of justice on this unimaginable scale open to dispute? We call upon the opponents of this motion to repeal this monstrous law and to forego their opposition. Women in Pakistan, nay, women the world over, will forever beholden to them.

SHE: November 2003

Punjab and Hudood laws

The Lahore High Court's Annual Report for 2003 tells us that Punjab's sessions courts heard the largest number of Hudood cases in the country with Lahore topping the list if the cities. In Lahore district alone 1993 Hudood cases were brought to trial while Faisalabad was in second place with 903 cases. Smaller cities like Muzaffargarh and Vehari were unusually high on the list, topping bigger cities like Rawalpindi and Multan. At the High Court level, the avalanche of Hudood cases was so big that more than 6,000 were allowed to spill over into 2004. Punjab will no doubt send more such cases to the High Court in 2004 and the backlog will snowball further in spite of the fact that the Lahore High Court has set a record for clearing backlogs this year.

The Hudood laws have become notorious because three successive reports by Pakistan's Commission for Women's Rights have found that they are discriminatory and violated the Constitution. Under Hudood, women and non-Muslims are discriminated against; that most of the prisoners under this law continue to be women. The Commission has repeatedly recommended taking away the option of Hudood and replacing it with an equally valid Islamic provision of 'Tazir'. As for Punjab emerging as the biggest Hudood trap for women and the minorities, one factor is that its population is 63 percent of the total population. The other is the 'tribalisation' of the cities in the province. While cities like Faisalabad and Gujranawala worry the experts, an increase of violence in Pakistan in general is owed to this retrogressive tribalisation through law, among other ideological factors.

Daily Times: April 26, 2004



REPRESENTATIVES and activists of several women and human rights organization talk to Prime Minister Mir Zafarullah Khan Jamali in front of Parliament House after demonstrating against Hudood ordinance in Islamabad on Monday.—Photo by Ishaque Chaudhry

اپنی رپورٹ دیتی ہے مذکورہ عرصے کے دوران مذکورہ قانون اپنے مقاصد پورے کرنے میں کامیاب رہا کہ نہیں یا اس کے دیگر کیا نقصانات ہوئے ہیں اس کے اندر کیا نقائص تھے جس کی وجہ سے مذکورہ قانون اپنے مطلوبہ مقاصد پورے کرنے میں ناکام رہا ہے یا مکمل طور پر عملدرآمد نہ ہونے کی وجہ سے مطلوبہ مقاصد حاصل نہیں ہو پائے اور اس پر مکمل عملدرآمد اس عرصے میں کن وجوہات کی بنیاد پر نہیں ہونے پایا پھر اس قانون پر پارلیمنٹ اور ذیلی کمیٹیوں میں دوبارہ بحث ہوتی ہے۔ جہاں فیصلہ کیا جاتا ہے کہ مذکورہ قانون کو موجودہ شکل میں بحال رکھا جائے یا ضروری تبدیلیاں کر کے اسے لاگو کیا جائے یا سرے سے ہی آئین سے خارج کر دیا جائے لیکن ہمارے ہاں ایسے معاملات پر جذباتی انداز میں سوچا جاتا ہے بلکہ اسے انا کا مسئلہ بنایا جاتا ہے۔ جیسا کہ حدود آرڈیننس اور ناموس رسالت کے قانون کے بارے میں ہمارے ہاں رد عمل سامنے آتا ہے۔ خواتین کے حقوق کے لئے کام کرنے والی تنظیموں کا استدلال ہے کہ مذکورہ قانون اسلام کی روح کے مطابق نہیں ہے بلکہ اسلام کی اصل روح کے منافی باتیں اس میں شامل ہیں جس کی وجہ سے مذکورہ قانون پاکستان کے اندر خواتین کو تحفظ دینے میں ناکام رہا ہے۔ یہ ایک حقیقت ہے کہ اسلام مکمل ضابطہ حیات ہے اور حضور اکرمؐ کا خطبہ حجۃ الوداع انسانی حقوق کا سب سے پہلا اور مکمل چارٹر ہے۔ اسلام میں جتنا خواتین کے حقوق کا خیال رکھا گیا ہے اتنا کسی اور نظریے اور فلسفے میں نظر نہیں آتا۔ اسلام خواتین کو معاشرے میں مکمل تحفظ دیتا ہے۔ بد قسمتی سے ایک اسلامی ملک ہونے کے باوجود پاکستان میں اسلامی نظام ابھی تک نافذ نہیں ہو سکا ہے۔ ہمارا آئین مختلف نظریات کا مرکب ہے اس میں اسلامی دفعات بھی شامل ہیں۔ انگریز کے بنائے ہوئے نوآبادیاتی قوانین بھی اس کا حصہ ہیں جبکہ ہمارے معاشرے کی جاہلانہ قبائلی روایات بھی اس کا جز ہیں۔ معاشرے کا ہر پہلو ایک دوسرے کے ساتھ مربوط ہوتا ہے کسی پہلو کو دوسرے سے الگ نہیں کیا جاسکتا۔ اسی طرح ملکی اور معاشرتی قوانین کو بھی ایک دوسرے سے مربوط ہونا چاہئے۔ اور اگر بعض قوانین جو کہ مطلوبہ قوانین جو کہ مطلوبہ نتائج نہیں دے رہے ان کا ازسرنو جائزہ لیکر موجودہ دور کے تقاضوں اور زمینی حقائق کے مطابق ان میں ضروری تبدیلیاں کی جائیں تو یہ اتنی بڑی بات نہیں ہے۔ حدود آرڈیننس جس کو خواتین کو تحفظ دینے اور معاشرے سے بے حیائی اور فحاشی کا خاتمہ کرنے کے لئے آئین کا حصہ بنایا گیا تھا لیکن ابھی تک اپنے مطلوبہ مقاصد پورے کرنے میں ناکام رہا ہے۔ ملک میں خواتین کے ساتھ زیادتی، زنا بالجبر اور گینگ ریپ جیسے واقعات میں بتدریج اضافہ ہوا ہے۔

حدود آرڈیننس ایسے واقعات کی روک تھام اور ان واقعات کے مجرمین کو سزا دلوانے میں ناکام نظر آتا ہے۔ اسی طرح ناموس رسالت کے قانون کا ضیاء الحق دور میں متواتر ناجائز طریقے سے استعمال کیا گیا جس کی وجہ سے اقلیتیں پاکستان میں خود کو محفوظ تصور کرتی ہیں۔ اگر ان دونوں قوانین کا پارلیمنٹ میں تفصیلی جائزہ لیکر ان میں قرآن و سنہ کی روشنی میں ضروری تبدیلیاں کی جاتی ہیں تو اس میں کوئی مضائقہ نہیں، اور مذہبی حلقوں کو اس پر کسی قسم کا اعتراض نہیں ہونا چاہئے بلکہ مذہبی حلقوں اور مذہبی رہنماؤں کو اس سلسلے میں حکومت کی رہنمائی کرنی چاہئے۔ حکومت کو چاہئے کہ پارلیمانی کمیٹی تشکیل دی جائے، جس میں حکومت اور اپوزیشن کی تمام پارٹیوں کو نمائندگی دی جائے بلکہ خواتین پارلیمینٹین کو بھی اس کمیشن میں شامل کیا جائے علاوہ ازیں ٹیکو کریٹس، دانشوروں، علماء اور وکلاء کو بھی مذکورہ کمیشن میں شامل کر کے ان معاملات پر مکمل بحث کرائی جائے تاکہ ملک میں بڑھتے ہوئے خواتین کے ساتھ زیادتی کے واقعات پر قابو پایا جاسکے۔

کاروکاری اور غیرت کے نام پر قتل دور جاہلیت کی نشانیاں ہیں جو کہ آج بھی ہمارے معاشرے میں موجود ہیں اور معاشرے میں موجود ہیں اور معاشرے کے بعض طبقے ان پر فخر کرتے ہیں ایسے واقعات سفاکی اور ظلم و جبر کی علامت ہیں جنہیں ختم کرنا حکومت کے ساتھ ساتھ پڑھے لکھے اور باشعور طبقے کی ذمہ داری ہے۔ حکومت کو چاہئے کہ کاروکاری اور غیرت کے نام پر قتل کی سزاترجمی بنیادوں پر تجویز کی جائے۔ اس معاملے میں صدر مملکت کی تجویز لائق تحسین ہے جو کہ موجودہ دور کے تقاضوں کے عین مطابق ہے ایسے تمام فرسودہ قوانین کا ازسرنو جائزہ لیا جانا ضروری ہو چکا ہے جو مطلوبہ مقاصد پورے نہیں کر رہے ہیں۔

حدود آؤڈینس کا جائزہ لینے کا فیصلہ

صدر مملکت جنرل پرویز مشرف نے ہفتہ کے روز انسانی حقوق کے کنونشن سے خطاب کے دوران کہا ہے کہ حدود آؤڈینس اور ناموس رسالت کے قوانین کا ازسرنو جائزہ لیا جانا چاہئے اور اس کے علاوہ غیرت کے نام پر خواتین کے قتل کی روک تھام کے لئے قانون سازی ہونی چاہئے۔ انسانی حقوق کے حوالے سے انہوں نے کہا کہ آنحضرت ﷺ کا خطبہ حجۃ الوداع انسانی حقوق کا سب سے پہلا اور جامع چارٹر ہے۔

صدر نے کہا کہ حدود آؤڈینس انسانی ذہن کی پیداوار ہے اس پر بحث کی مخالفت کیوں کی جاتی ہے قرآن و سنت کی روشنی میں علماء و کلاء اور اراکین پارلیمنٹ کی جانب سے حدود آؤڈینس کا ازسرنو جائزہ لینے پر قوم کو برا نہیں منانا چاہئے۔ حدود آؤڈینس گزشتہ تقریباً 6 ماہ سے متنازعہ بنا ہوا ہے خواتین کے حقوق کے لئے کام کرنے والی تنظیموں کا خیال ہے کہ پارلیمنٹ کا مذکورہ قانون کا ازسرنو جائزہ لینا چاہئے اور اس پر نظر ثانی کرنی چاہئے کیونکہ بقول ان کے مذکورہ قانون مصیبت زدہ خواتین کو انصاف نہیں دلا پارہا بلکہ ان کے استحصال کا ذریعہ بن رہا ہے جبکہ مذہبی جماعتیں اور علماء اس مطالبے کی پرزور مخالفت کرتے ہیں۔ بلکہ متحدہ مجلس عمل کی خواتین ارکان نے پارلیمنٹ کے اندر اور باہر احتجاج بھی کیا کہ حدود آؤڈینس میں کسی قسم کی تبدیلی برداشت نہیں کی جائے گی۔ بعض حلقوں کی طرف سے حدود آؤڈینس پر نظر ثانی کا مطالبہ کرنے والی تنظیموں اور خواتین کو برا بھلا تک کہا گیا۔ انہیں اسلام دشمن، مغرب کی ایجنٹ جیسے خطابات سے نوازا گیا۔ حدود آؤڈینس اور ناموس رسالت کا قانون پاکستان کے دوحساس ترین معاملے ہیں جن پر ہم جذبات سے سوچتے ہیں حالانکہ دونوں انسانوں کے بنائے ہوئے ہیں ان پر نظر ثانی یا ازسرنو جائزہ لینے کی تجویز اتنی حیران کن نہیں ہے جس طرح کہ ہمارے مذہبی حلقے چیخ پڑتے ہیں اور نوبت فتوؤں تک جا پہنچتی ہے۔ جیسا کہ ماضی میں ہوتا آیا ہے۔ ضیاء الحق کے دور حکومت میں تو ایسی بات منہ سے نکالنا ہی جرم سمجھا جاتا تھا اور بعض لوگ اختلاف رکھنے کے باوجود بھی خاموش رہے کیونکہ ان کی عافیت اسی میں تھی جبکہ بعد کے جمہوری ادوار میں کسی حکومت کو اس مسئلے کو چھیڑنے کی جرأت نہ ہوئی۔ حالانکہ مہذب ملکوں میں ہر نیا قانون آزمائشی بنیادوں پر بنایا جاتا ہے جو کہ ایک محدود مدت کے لئے ہوتا ہے۔ میعاد ختم ہونے پر ماہرین کی ایک کمیٹی بٹھائی جاتی ہے۔ جو کہ تفصیلی جائزہ لیکر

Honour Killings: weak bill is evidence of weak will

National Assembly's Standing Committee on Law and Justice has moved a bill in the house which seeks to amend the Pakistan Penal Code 1860 by equating 'honour killing' with intentional murder' and enhancing punishment for it. The bill also stipulates that *in cases of murder related to honour* the family members (legal heirs) will not have the authority to pardon the offender. Another aspect of the bill relates to treating cognizable offence any agreement under which someone gives a woman (or girl) in marriage to another person or party to settle a dispute. Further, in the cases relating to honour killing, the provincial governments will not have the power to remit or suspend the sentence.

Are we finally entering the civilized world? Yes and no. Yes, because of a host of reasons, not least pressure mounted by human rights activists as well as by the international community, the government has been forced to take note of this issue. No, because this is a piecemeal bill and is trying to correct a situation without going to the roots of the problem.

Mercifully, since the case in June 2002 of Mukhtaran Mai the woman gang-raped on the orders of a *panchayat* in Meerwala in southern Punjab the level of reporting on cases involving killings and sexual abuse of women has increased even as there has not been any conspicuous decrease in the frequency of heinous crimes against women. Mukhtaran Mai's case got a great deal of adverse international attention. And, in conjunction with a new interest in the West to fight conservative practices in this part of the world, there has been pressure on the government to bring forth progressive legislation.

This is all for the good but events tell us that there is an element of window-dressing in much of this. For instance, it is a moot point why the government has cold-stored both the Hudood Ordinance bill and the bill on Honour Killings (*karo kari*) presented by Pakistan People's Party. The latter was painstakingly drafted in consultation with the Human Rights Commission of Pakistan and Aurat Foundation but has been pushed to the sidelines by the government. The PPP bill, a party bill since it was steered through the Central Executive Committee of the PPP, was sent to the Standing Committee and has been sitting there for the past six months. Meanwhile, the government has drafted its own bill and presented it before the house without reference to that comprehensive bill.

We emphasize the PPP bills because the draft does not merely seek to address *karo kari* but also the basic problem with criminal cases caused by General Ziaul Haq. Under Anglo-Saxon law a reparable wrong does not involve the State. In case of bodily harm or a crime that is deemed to be committed against the entire society, the State becomes a party. This is why criminal cases are identified as State vs. XYZ. This distinction is important because the basic theme underlying the covenant is the State's understanding to protect the life

and honour of its citizens. General Zia sought to distort this basic postulate through laws in Qisas and Diyat Ordinance. The basic legal problem about settling criminal cases through blood money or getting a family member to pardon a killer emanates from those laws. It makes no sense to *try and suspend* the operation of Qisas and Diyat laws for the purposes just of honour killing while for allowing the concept to stay on the book for other crimes against the body.

Two things are likely to happen if this bill is pushed through the house as it stands. One, it will most likely be successfully challenged in a court of law as being repugnant to the Quran and Sunnah. It may be noted that many years ago the Shariat Appellate Bench of the Supreme Court presided over by Justices Zullah and Nasim Hassan Shah, who were trying to be more loyal than the King, held that even if the Qisas and Diyat laws had not been promulgated, their content and purpose could not be challenged because they formed part and parcel of Islamic *common* law. In other words, this particular bill which attempts to bypass the Qisas and Diyat laws, is likely to flounder on the rock at first challenge on the basis of that judgement by any among a coterie of smart lawyers available to the right wing Islamist forces. Two, people will start killing for honour not in the name of honour but in a way that they can still get off through the operation of Qisas and Diyat. There are too many lacunae in the bill to stand up before *Shariat* law. It is inconceivable that the government and its law ministry don't know this. So why has the bill been floated?

Writing on this issue earlier we had argued that the government needed to debate the issue thoroughly and bring a bill that seek to target not just honour killing but also the laws of Qisas and Diyat. We would also suggest that the government place this issue before enlightened Council of Islamic Ideology and get a progressive interpretation on the issue of Qisas and Diyat so that it can cover its flanks before legislating the whole hog.

As it is, there is no dearth among government members of those who are not convinced of the requirement for such progressive legislation. We have witnessed some of the debates on TV talk shows and it is clear that a number of members think that killing woman is okay since we are a tribal society. Clearly, there is also need to educate members who still cherish anachronistic ideas. We shouldn't just fight the menace of crimes against women. We should put up the fight properly instead of giving a few sops to the international community to score brownie points for a moderation that is confined to mere rhetoric.

Daily Times: October 23, 2004

Pakistan's image

President Musharraf inaugurated an international conference on Violence against Women in Islamabad the other day. The President found it disconcerting that Pakistan's image was being tarnished due to the high profile rape cases like Mukhatran Mai, Dr Shazia Khaild and recently Sonia Naz. In recent times, a lot of rape cases in Pakistan have come into the limelight. What is difficult to determine is whether this is because of an increase in the number of rapes, or because there has been an increase in the reports made by victims. Whatever the reason, the fact remains that due to this enhanced profile of rape cases, Pakistan's image has been badly battered.

General Musharraf is right when he says that rape is not a phenomenon unique to Pakistan. Nevertheless, the President should realize that it is alarming that such heinous crimes are taking place, especially when it has come to light that police officials may have been involved in some cases, and that some of the victims are children (aged 2-12). This is a sign of a sick society, where such monstrous acts are being committed against women and children, who would most surely be scared for the rest of their lives by such vicious attacks on their bodies and souls. General Musharraf put the burden of this tarnished image of the country on the NGOs who brought these cases into the public eye, and raised their voices against such atrocities. Why is the government blaming the NGOs who are just bringing these acts into the light? Surely they are not the culprits, the rapists are. This is tantamount to shooting the messenger rather than paying attention to the message. The government should try to eradicate the crime, not start mud slinging on the NGOs. How much, after all, have successive governments contributed to this battered image of Pakistan in the international arena? The thrust of the Islamic legislation during General Ziaul Haq's tenure was mostly against women's rights. As a result of this legislation, the rape victims are an easy prey for rapists, who are sure that these helpless women would not be able to report this crime to the authorities, as a result of clause 8(b) of the Hudood Ordinance, whereupon if a woman reports a rape case, and is unable to produce four male witnesses to the crime, she herself is arrested on a charge of *zina*. Instead of protecting and offering redress to the victims, our justice system targets them under these flawed laws that no government after General Zia, civilian or military, had the courage of conviction to appeal.

In the Sonia Naz case, the victim has said that she has no confidence in the judicial system as the presiding judge is a relative or close to one of the alleged rapists, and she wants the government to appoint a new inquiry tribunal under a judge of the High Court. There used to be a code of ethics for judges whereby in a situation where the judge turned out to be a relative or friend of the plaintiff or the accused, the judge would himself request that another judge be appointed to hear the case in his place. But in this case, the judge is adamant that he should conduct the inquiry, despite the stated lack of confidence in the tribunal by the

victim of the crime.

Because of the emphasis on Islamisation over the last three decades or more, our society has looked down upon the healthy interaction of the sexes, even in co-educational institutions of hearing learning. This is likely to have given birth to a frustrated society. The government, if it is sincere in upholding the rights of women, needs to recast its policies.

The Post: September 10, 2005

Misery unending for Sonia Naz

The continuing misery of Sonia Naz should put to rest the views of those in this country who think that rape is used by some as a means to seek a better life in the West. What has happened to Ms. Naz so far is heart-rending, and the worst part is that the end seems nowhere in sight. It has now been several weeks since she made a series of shocking allegations of rape, torture, graft and illegal detention of her and her husband against members of the Faisalabad police. The Punjab government had ordered a judicial inquiry which has been conducted by a district and sessions judge while the Punjab police launched its own probe, headed by a DIG.

The victim however did not express too much confidence in either inquiry and made her reservations quite clear but regrettably they were not addressed. The judicial inquiry seemed not particularly receptive to her, amid reports (which were not denied) that the person heading it was related to one of the main accused. In the other probe, Ms Naz had expressed skepticism in the ability of the police to conduct an impartial probe because one of their own was involved in the crime. Things worsened for her particularly when her husband sent her a letter saying that he was divorcing her. The reasons that he quoted were a sign that in a society like ours the odds are heavily stacked against rape victims. Instead of prosecuting and ostracizing the perpetrators of such crimes, many in our society end up examining and scrutinizing the rape victim, especially her character which is inexcusable and the last thing that the victims needs. The least the government can do is to ensure the registration of an FIR against the accused, so that the law can take its course.

DAWN: September 18, 2005

JANUARY

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Sunday



PESHAWAR: Women rights activists hold banner during a protest demonstration against Hadood Ordinance outside Assembly building on Friday.

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Monday

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Tuesday



میں سمجھتی ہوں کہ کوئی بی ڈی چیئر مین اس طرح کی بات نہیں کر سکتا۔ لیکن اگر کسی نے ایسا کیا ہے تو اس کا حکم غیر قانونی اور کالعدم ہے اور فریق ثانی اس کے خلاف اپیل دائر کر سکتا ہے۔

جو شخص ثالثی کونسل کی اجازت کے بغیر دوسری شادی کرتا ہے اسے مندرجہ ذیل رقوم فوری ادا کرنی ہوں گی۔

۱۔ مہر کی تمام رقم خواہ وہ معجل ہو یا موجل۔ اگر یہ رقم ادا نہیں کی جا چکی ہے تو شوہر کو فوراً ادا کرنی ہوگی اور اگر وہ ادا نہیں کرے گا تو یہ رقم مالیہ کے بقایا جات کی طرح وصول کی جائے گی۔

۲۔ شوہر کو ایک سال تک قید محض یا پانچ ہزار روپے جرمانہ دونوں سزائیں دی جاسکیں گی۔ اس قانون میں ایسی کوئی گنجائش نہیں رکھی گئی جس کے تحت دوسری شادی منسوخ ہو جائے۔ مزید برآں اگر کسی شخص نے اس مفہوم کا جھوٹا حلف نامہ پیش کیا ہے تو اس پر تعزیرات پاکستان کے تحت مقدمہ چلایا جاسکتا ہے۔ لیکن سزا صرف اسی صورت میں دی جاسکے گی جب متعلقہ وارڈ کے چیئر مین تحریری شکایت کی جائے۔

میں اس قسم کی نا انصافی کا شکار ہونے والی بہنوں سے درخواست کرتی ہوں کہ وہ جرأت سے کام لیں اور اپنی شکایات متعلقہ حلقوں تک ضرور پہنچائیں تاکہ ان کی مدد کی جاسکے اور مجرموں کو قرار واقعی سزا مل سکے۔

اخبار خواتین، 25 جون 1966ء



اگر شوہر بیوی کی اجازت کے بغیر دوسری شادی کر لے

س: کراچی اور ملتان سے مجھے دو خط موصول ہوئے ہیں۔ جو کم و بیش ایک ہی مسئلے سے متعلق ہیں۔ ایک خط میں ایک بہن نے پوچھا ہے کہ اگر کوئی مرد بیوی کی اجازت کے بغیر اور اس کی بے خبری میں کسی بی بی ڈی چیئر مین سے جھوٹا اجازت نامہ حاصل کرے اور چیئر مین کے پاس بیوی کی اجازت کا کوئی ثبوت موجود نہ ہو تو قانون ایسے مرد اور چیئر مین کو کیا سزا دے سکتا ہے اور کیا شوہر کا دوسرا نکاح فسخ کرایا جاسکتا ہے؟

اسی طرح ملتان سے ایک صاحب نے لکھا ہے "میری ہمشیرہ کی شادی ۱۹۶۲ء میں ایک ایسے شخص سے ہوئی جس کی پہلی بیوی موجود تھی۔ لیکن اولاد نہ ہونے کے باعث اس نے دوسری شادی کی تھی۔ اور اس سلسلے میں پہلی بیوی کا اجازت نامہ بھی پیش کیا تھا۔ لیکن شادی کے بعد معلوم ہوا کہ اس نے ایک غیر منکوحہ عورت کو رکھ چھوڑا ہے۔ کچھ عرصے بعد وہ اس عورت کو اسی گھر میں لے آیا جس میں میری بہن اور اس کی پہلی بیوی رہتی ہے۔ اس تیسری عورت سے اس کا ایک لڑکا بھی ہے۔ اس واقعہ کے بعد ہم اپنی بہن کو اپنے گھر لے آئے ہیں۔ اور شوہر کی طرف سے صلح صفائی کے باوجود نہ ہماری بہن اس کے گھر جانا چاہتی ہے اور نہ ہم بھی جانا چاہتے ہیں۔ ہماری بہن طلاق حاصل کرنا چاہتی ہے۔ لیکن مشکل یہ ہے کہ اس کے شوہر کے گاؤں سے ہم ایسا کوئی گواہ پیدا نہیں کر سکتے جو تنبیخ نکاح کے مقدمے میں ہماری مدد کر سکے۔ آپ بتائیے کہ عائلی قوانین سے اس سلسلے میں کیا مدد مل سکتی ہے اور یہ معاملہ یونین کونسل طے کرے گی، یا عدالت میں جانا پڑے گا۔

پہلے سوال کے جواب میں عرض ہے کہ عائلی قوانین ریڈینس کی دفعہ ۶(۱) کی رو سے کوئی شادی شدہ شخص پہلی بیوی کے ہوتے ہوئے دوسری شادی اس وقت تک نہیں کر سکتا جب تک وہ ثالثی کونسل کو درخواست دے کر اس کی تحریری اجازت حاصل نہ کرے۔

ثالثی دوسری شادی کی اجازت دینے سے قبل پہلی بیوی کے نمائندے کا موقف سننے کی اور پھر فیصلہ کرے گی کہ دوسری شادی ضروری ہے یا نہیں۔ ثالثی کونسل کی اجازت کے بغیر کوئی شادی اس آرڈیننس کے تحت رجسٹر نہیں کی جاسکے گی۔

زیر بحث معاملے میں صورت یہ ہے کہ ایک شخص نے موجودہ بیوی کی اجازت اور نمائندگی کے بغیر شادی کی اور چیئر مین نے پہلی بیوی کا موقف سے بغیر دوسری شادی کا اجازت نامہ جاری کر دیا۔

Women lawyers for amendments in 'nikahnama' form

Female lawyers of the Multan District Bar have urged the government to amend the existing matrimonial deed (nikahnama) to protect the rights of women.

"At present, it is not according to the provisions of Muslim family laws," said Ms Sabiha Hassan Randhawa. She said women should also be entitled to get separation whenever she desired and this section must be provided in the matrimonial deed. She further said that the Muslim family law also required some basic amendment in the light of provisions in the Quran and Sunnat.

Ms Zohra Sajjad Zaid that articles 18 and 24 of Nikahnama are ambiguous and required immediate clarification while article 5 questions about the status of the Bride whether she is virgin, or widow or divorcee, while there is no such question asked from the room.

Ms Fauzia Rana said that some men pose themselves as unmarried in the presence of a wife and deceive the second woman but this is minor crime in family laws. Such persons, she said, should be tried under sections 420, 406 PPC.

Dawn: January 3, 1999

Women-empowerment bill moved in NA

Bill aims to repeal Hudood Ordinance and end gender discrimination

Eight female members of the National Assembly (MNAs) from the Pakistan Peoples Party Parliamentarians (PPPP) on Wednesday tabled 'The Protection and Empowerment of Women Bill 2004' in the National Assembly, which aims to repeal the Hudood Ordinance, introduce universal literacy and end gender discrimination.

MNAs who put the bill to the NA were Sherry Rehman, Ruqayya Khanum Soomro, Dr Azra Fazal Pechuho, Naheed Khan, Nfeesa Munawar Raja, Dr Fehmida Mirza, Shamshad Sattar Behani, Rukhsana Bangash, and Fauzia Habib.

Nilofer Bakhtiar, advisor to the prime minister, said there were some technical flaws in the bill and the government would work with other departments before removing them. She said that she agreed with the spirit of the bill and that the government was already working to adopt its good points.

The bill suggests that primary education for all children under the age of 10 be

made compulsory and requires parents and guardians to enroll their children within a month after the bill is passed.

"Every district government will be bound to provide free primary education to every child under the age of ten in their district," the bill said.

The bill stipulates that the federal and provincial governments will ensure equal participation of women in all walks of life. "The state will introduce an affirmative plan to achieve this end by administrative and statutory means." It said. The bill said that discrimination on the basis of gender would not be allowed and domestic violence including honour-killings should be punished under the Pakistan Penal Code in the same manner as personal inquiry or homicides.

The bill said that if a husband or his relative were involved in torturing his wife, physically or mentally, the crime would be amenable to punishment with imprisonment which may extend to three years and should also be liable to a fine of Rs 500,000.

"Every woman shall be entitled to marry a person of her own choice," the bill said. It said coercion at the time of marriage would be a punishable offence with one year imprisonment and a fine.

A separate and an independent enclosure controlled by women's police will be established in each and every jail by the end of 2004." It added. "At least one-third of seats in the Council of Islamic Ideology, Planning Commission, PIA board of directors, autonomous bodies, and University Grants Commission will be reserved for women," the bill said.

It said that inheritance cases of widows and orphans should be decided within six months. The bill has 10 sections. Its Section 6 provides that the husband or in his absence the eldest male member of his family will be held responsible for cases of stove-burning and liable to grievous harm or culpable under the Pakistan Penal Code 1860.

Ms Khan said the bill was part of the PPP's manifesto. The debate on the bill will continue today. The NA session will start at 9:30 am.

Daily Times: March 25, 2004

FEBRUARY

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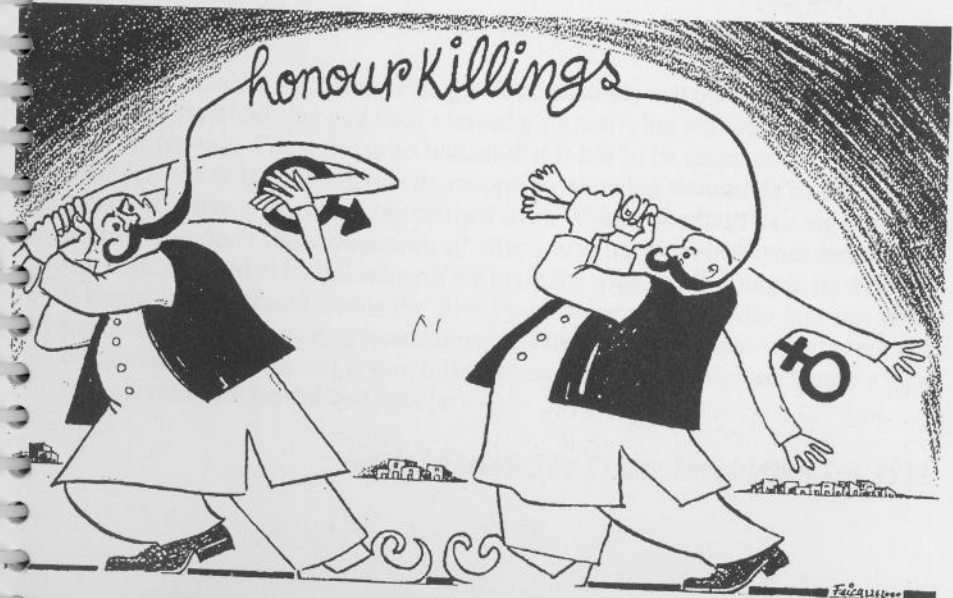
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نومسلم خاتون پر شادی سے پہلے عدت کی پابندی نہیں، وفاقی شرعی عدالت
نومسلم شادی شدہ جوڑے کی سزا معطل کر دی گئی، ضمانت پر رہا کرنے کا حکم
مالاکنڈ کی قاضی کورٹ نے نومسلم میاں بیوی 60 کوڑوں اور 6 سال قید کا حکم سنایا تھا

جسٹس چوہدری اعجاز یوسف پر مشتمل وفاقی شرعی عدالت نے مالاکنڈ میں قائم قاضی کورٹ کے ایک فیصلے کو
کا لحد مقرر دیتے ہوئے نومسلم شادی شدہ جوڑے کی سزا پر عملدرآمد روک دیا ہے اور انہیں ضمانت پر رہا کرنے
کا حکم دیدیا ہے۔ عدالت اپنے فیصلے میں لکھا ہے کہ سابق عیسائی خاتون کے مسلمان بننے کے بعد شادی کرنے
سے پہلے عدت کی مدت پوری کرنے کی کوئی پابندی نہیں، لہذا ملزمہ اور اس کے شوہر کی سزا معطل کر دی جاتی
ہے۔ پولیس رپورٹ کے مطابق عیسائی مذہب کے عابد حسین اور عصمت بی بی نے مسلمان ہونے کے بعد
شادی کر لی تھی، جس پر عصمت بی بی کے شوہر تھو مسیح نے دونوں کے خلاف زنا اور حدود کا مقدمہ درج کرا دیا
تھا۔ قاضی کورٹ کی عدالت نے دونوں کو ۶۰ کوڑوں اور ۶ سال قید کی سزا کا حکم سنایا، جس کیخلاف انہوں نے
وفاقی شرعی عدالت میں اپیل دائر کی۔ فاضل عدالت نے جمعرات کے روز وکلاء کے دلائل سننے کے بعد دونوں
میاں بیوی کی سزا معطل کرتے ہوئے انہیں ضمانت پر رہا کرنے کا حکم دیدیا۔

جنگ، 18 دسمبر 1998

“A woman judge would perhaps be more understanding of a
woman petitioner's problem”

Majida Rizvi

In 1964 when, as a young lawyer, Majida Rizvi was attending an international women lawyers' conference in New Delhi, the appointment of the first Indian woman as a High Court judge was announced. The news sent a ripple of elation through the few Pakistani women participating in the conference. Little did Majida Rizvi know that 30 years later in Pakistan, that unique honour would be hers. On June 6, she became one of the two women to take oath as a judge of a High Court in Pakistan. Majida Rizvi was appointed to the Sindh High Court and Khalida Rasheed to the Peshawar High Court.

While the initiative in the appointment of women judges has come belatedly from the government's side, the fact that history has been created cannot be denied. For Majida Rizvi the realization of being a “first” is an overwhelming experience. “It is a great honour and responsibility given by the government. I hope I come up to the expectations of the people,” she says of her appointment.

Excerpts: Zohra Yusuf, The Herald, June 1994

The case of women against women

HRCP's own chief Ms Asma Jehangir came on to say that during the past decade even the court had changed their view of girls marrying without the permission of their parents. The trend is so blatant that it has to be taken note of, and you can't tell the HRCP to balance its reports by showing thousands of other girls who had gotten away marrying on their own. When you report a rising graph of murder you don't show thousands of others who have not been murdered. Had the BBC decided to let Pakistan off the hook for what it was doing to its women, it could have watered down the film by showing women who had not been persecuted. It is women against women in Pakistan when those who favour the draconian laws come out in much larger numbers under religious banners than those protest and are dubbed 'secular'.

Khaled Ahmed: The Friday Times: April 2-8, 1999

پاکستان جیلوں میں 70 فیصد خواتین حدود آرمڈ فینس کے تحت قید ہیں
پولیس، پریس اور اعلیٰ عہدیدار خواتین سے متعلق معاندانہ رویہ رکھتے ہیں، بی بی سی کی
دستاویزی رپورٹ

ہندوستان ٹائمز کی ایک رپورٹ کے مطابق پاکستان کی جیلوں میں 70 فیصد خواتین حدود آرمڈ فینس کے تحت
سزا کاٹ رہی ہیں۔ رپورٹ میں کہا گیا ہے کہ اگر اس طرح کے برے قوانین کو روکا نہیں گیا تو شک و شبہ کی
بنیاد پر خواتین کے قتل کے تناسب میں مزید اضافہ ہو جائے گا۔ بی بی سی ایک ڈاکیومنٹری کے مطابق پاکستان
کے شمال مغربی حصے میں ایک سال میں تقریباً 350 خواتین اس قانون کی بھیجٹ چڑھ گئیں۔ حدود آرمڈ فینس
کے تحت ہونے والی سزائیں جسے 'اعزای' قتل کا نام دیا گیا ہے۔ اب قبائلی علاقوں کے علاوہ پاکستان کے اہم
شہروں اور اعلیٰ طبقوں میں بھی عام ہوتی جا رہی ہیں اس کی مثال صائمہ سرور کیس ہے جسے ظالم شوہر سے طلاق
مانگنے پر قتل کر دیا گیا۔ انسان حقوق کمیشن کی چیئر پرسن عاصمہ جہانگیر نے کہا کہ پولیس اور پریس کے علاوہ اعلیٰ
عہدیداران بھی خواتین سے متعلق اسی طرح کا رویہ رکھتے ہیں۔ عالم دین ڈاکٹر رفعت حسین نے کہا کہ
پاکستان میں اسی طرح کی ہلاکت کو نام نہاد اسلامی معاشرے کے باعث شرعی قرار دیا جا رہا ہے لہذا ضروری
ہے کہ مسلمان عورت کو ان کے حقوق سے مکمل طور پر آگاہ کیا جائے جو اسلام نے اسے عطا کئے ہیں تاکہ وہ ان
قوانین کے خلاف لڑ سکے جو اس کے خلاف بنائے جا رہے ہیں۔ انہوں نے مزید کہا کہ پاکستان سمیت دیگر
اسلامی ممالک میں خواتین کو اسلام کے مطابق بنیادی حقوق نہیں دیئے جا رہے ہیں۔ یاد رہے کہ پاکستان کے
علاوہ بھارت کے شہر ہریانہ اور راجستھان بھی 'اعزای' قتل کے واقعات کے سلسلے میں خاص شہرت رکھتے ہیں۔

جنگ، 3 جون 1999

MARCH

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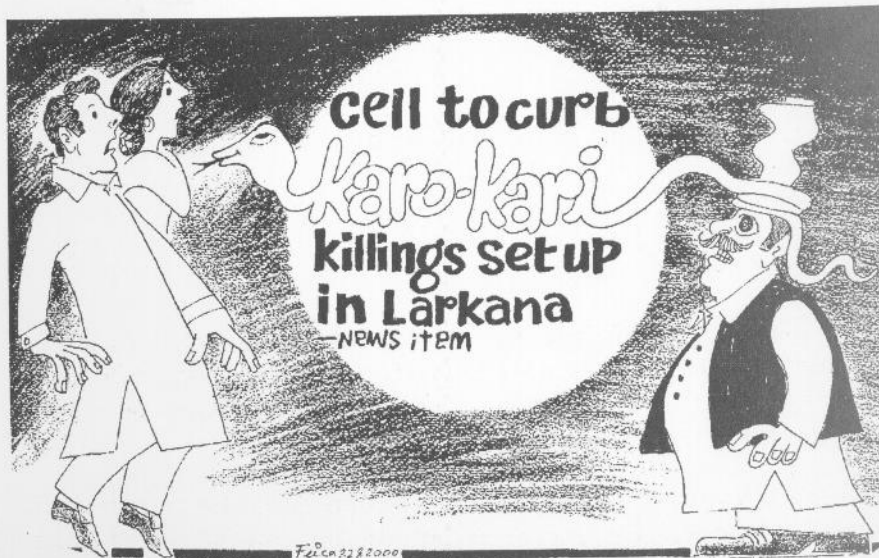
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MARCH

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NCSW asked to work on issue of discriminatory laws

The minister of Women's Development is committed to taking on the Controversial Hudood Ordinance and looks up towards the National Commission on Status of Women (NCSW) to work on legislation relating to discriminatory laws.

The decision to address the discriminatory laws in a time-bound framework in the line with the government's women friendly policy, said Advisor to the prime minister on Women Development Nilofar Bakhtiar while talking to media persons and representatives of the NCSW here on Thursday.

The NCSW recommended repeal of Hudood Ordinance in its report presented last year. The recommendations made by the sovereign body had little impact on the parliament and the government, and the concern was voiced by civil society organizations.

The Advisor to the prime minister, however, disagrees with the opinion that the NCSW recommendations on Hudood Ordinance have been ignored. She held that the government has opened a dialogue on the issue and the process is strongly supported by the president. "Hudood has gone public and is now discussed on state owned media" she asserted.

Hudood Ordinance is commonly viewed as institutionalized discrimination against women. It has caused immense suffering to hundreds of women, languishing in jail as a result of these provisions. At least 50 per cent inmates of Darul Aman, a government-owned shelter, are implicated in Hudood cases, it was confirmed 'The News.'

According to the study conducted by Women Aid Trust, a strong rightwing organization, Hudood Ordinance is seen as highly discriminatory. The report, titled Hadd Zina Ordinance 1079, states; "80-90 per cent women in different prisons are implicated under Hudood and [it] has brought inexorable misery for those women who have remarried and unable to produce documentary evidence of their divorce."

The report cites the case of one Tahira Bibi, presently in Adiala Jail. Three years after her second marriage, she was arrested under Hudood and is jailed along with her second husband and her five-years-old son. Her first husband, who had earlier divorced her, filed the case.

NGOs and human rights groups have persistently demanded to scrap off the ordinance. But despite a series of commitments made by rulers to protect the

rights of women, the realities on ground have not changed. It is hoped the time-bound assurance given by the advisor to the prime minister to take on Hudood would materialize.

The News: February 18, 2005

Dr. Shazia says she was shadowed by MI

Dr. Shazia Khalid has rejected the government's assertion that no one from Military Intelligence kept a watch over her and that she left Pakistan because she wanted to.

She told Daily Times from London that she was surprised that government officials should make such "palpably false" claims. She said that a man with a beard was present during a suspect identification parade and was also to be found at the Hub police station most of the time. He was also frequently seen chatting with the judge and high-ranking police officers.

She said this man came to her and said, "I am a major from Military Intelligence from Balochistan and I have two messages for you from the corps commander. One is good and one is bad. Let the tribunal make its findings and let the police do their investigations, but it will make no difference. We at Military Intelligence know who the culprit is. The bad news is that five armed persons from Dera Bugti are in Karachi and they want to kill you". This bearded MI officer then said to her, she recalled, "you should leave the country and we, the MI, will give you good news when you are abroad, which will be that the culprit has been caught".

She rejected ISPR chief Maj. General Shaukat Sultan's claim that the MI was not involved. After her rape, it was the MI people who were investigating the incident. Even the tribunal report says that the MI took photographs of her room. The local police were offered little or no cooperation by the PPL management. The police's strict warning to PPL management not to shift her to Karachi without the police first recording her statement was disregarded. "Who was issuing these orders to the PPL?" she asked.

She said, "I am not a politician. I do not issue statements, nor do I know how to issue statements, so why am I being accused of that? Allah is the One who knows every secret and I believe that one day by Allah's grace, the culprit will be punished for what he did to me, if not during the time of this government, then may be the next."

Khalid Hassan: Daily Times, September 11, 2005

APRIL

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Saturday

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PAK
PUNJAB
OBSERVER



انتیازی قوانین، پاکستان میں خواتین نامساعد حالات کا شکار ہیں

یورپی یونین سول سوسائٹی تنظیموں کی استعداد کار میں اضافہ کیلئے ہر ممکن اقدامات کرے،

تقریب سے مقررین کا خطاب

تین سال بعد ملک میں ایسی فضاء قائم ہوگی جس میں خواتین خود کو گھروں میں اور گھروں سے باہر محفوظ تصور کریں گی۔ ان خیالات کا اظہار مقررین نے خواتین پر تشدد کے خاتمے کے لئے یورپی یونین اور آکسفیم جی بی کے مشترکہ تین سالہ 'ایوا' کے افتتاحی تقریب سے خطاب کرتے ہوئے کیا۔ مقررین نے کہا کہ اس پروگرام کے تحت ہونے والی سرگرمیوں کے نتیجے میں خواتین کو ایسا سازگار ماحول میسر آئے گا جہاں وہ ہر قسم کے تشدد کے خلاف رپورٹ کر سکیں گی۔ پاکستان میں یورپی یونین کے سینئر اہلکار مائیکل ڈیل نے اپنے افتتاحی خطاب میں کہا کہ یورپی یونین سول سوسائٹی کی تنظیموں کی استعداد کار اور صلاحیت بڑھانے کے لئے مختلف منصوبوں کی تکمیل میں معاونت کریں گی۔ آکسفیم کی ملکی نمائندہ فرحانہ فاروقی نے کہا کہ صنفی برابری کو پالیسی اور عوامی سطح پر مقبول بنانا ان کی تنظیم کا مقصد ہے۔ انہوں نے کہا کہ تنظیم خواتین پر ہونے والے تشدد کے خلاف کام کر رہی ہے۔ انہوں نے مزید کہا کہ پاکستان میں حدود آرڈیننس سمیت متعدد انتیازی قوانین کی وجہ سے خواتین کو نامساعد حالات کا سامنا ہے۔

نوائے وقت، 15 جون 2004

Plan to make rape non-cognizable offence

The law ministry has proposed making rape and selling and buying of persons for prostitution non-cognizable offences thus barring the police to arrest the offenders without warrant or court orders.

To safe guard the rights of women, the law ministry has also recommended changes in relevant statutes to guarantee that a woman offender is released on bail in all offences except heinous crimes.

Informed sources told The News that in a briefing given to Prime Minister Shaukat Aziz last week, the law ministry had sought his approval to a package of amendments in the Pakistan Panel Code (PPC), Criminal Procedure Code (CrPC), Civil Procedure Code (CPC) and other laws.

The apparent of these major changes is to reduce undue discriminatory powers and remove procedural impediments to facilitate speedy justice to citizens besides addressing women rights organizations' apprehensions about the misuse of present set of laws.

The prime minister, the sources said, did not straightaway approve the law ministry's recommendations rather directed the authorities to consult other government agencies on these changes in basic statutes.

The sources said the most "comical" amendment proposed is with regard to Section 10, 13 and 14 of the Offences of Zina (Enforcement of Hudood) Ordinance 1979.

The law ministry has proposed that the offences under sub-section (2) of section 10 (Zina liable to tazir) and section 13 and 14 of the Offences of Zina (Enforcement of Hudood) Ordinance, 1979, may be made non-cognizable.

Non-cognizable offences are those offences where the police could not arrest or investigation offender without court warrant of arrest. Sub-section (2) of section 10 pertains to rape that is liable to Hadd. This section gives 10 years of jail and 30 whips to a convict. Section 13 envisages punishment for those involved in selling person for purpose of prostitution. Section 14 deals with those involved in buying person for purpose of prostitution. Both these sections give life imprisonment and 30 whips for a convict.

The law ministry did not propose to reduce the punishment but wanted to make the above offences non-cognizable. The apparent purpose was to avoid the misuse of these provisions against women, however, the proposed amendment even bars the police to arrest the male offenders.

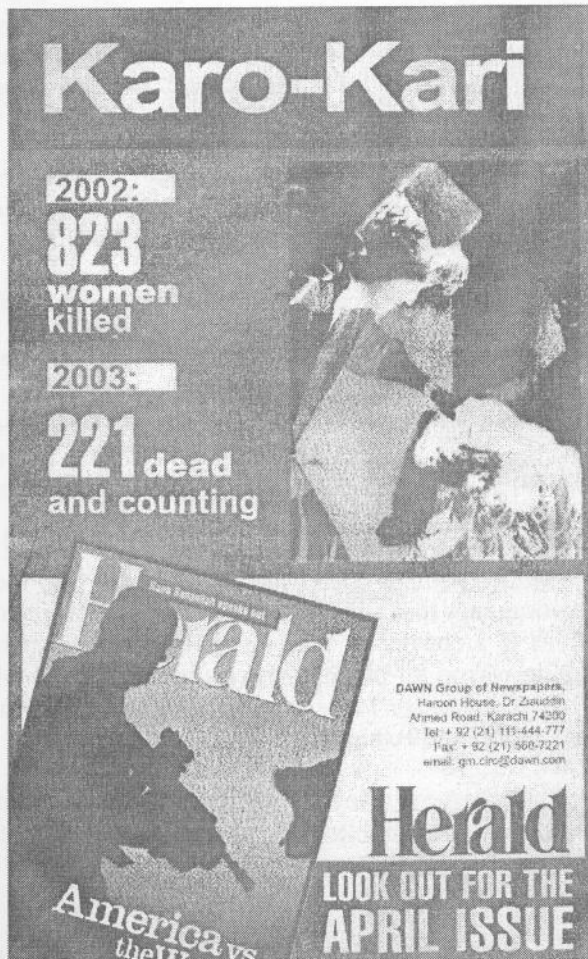
According to a source, in its present shape the proposed amendment would

prove comic. The source said that the women's exploitation could be avoided by simply introducing a stringent procedure for the arrest of woman rape offenders.

Section 497 Criminal Procedure Code is also being amended to safeguard the rights of women. The section 497 deals with bail of women.

The proposed amendment suggests that women offenders could be released on bail except in offences relating to narcotics, terrorism. This amendment is being made following reports that women prisoners and those held up in police locked, are exploited by the jail and police.

The News: February 2005



MAY

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Draft of law on Karo Kari ready for National Assembly Report on Hudood laws soon before NA MMA resolves to thwart move against Hudood laws

The government on Tuesday informed the National Assembly (NA) that it had prepared a draft of the law against Karo Kari and it would be put before parliament soon.

Nilofer Bakhtiar, advisor to the prime minister on population affairs, said the draft was made under the guidance of President Pervez Musharraf, Prime Minister Zafarullah Khan Jamali and Pakistan Muslim League President Chaudry Shujaat Hussain.

The house on Tuesday resumed debate on the bill to eliminate controversial laws against women, including the Hudood Ordinance. The bill was tabled in the National Assembly by Pakistan Peoples Party Parliamentarians (PPPP) MNA Sherry Rehman.

Ms Bakhtiar said the National Commission on the Status of Women had finalized its report on the Hudood laws and it would be presented to the Council of Islamic Ideology for its recommendations and then to the cabinet for approval.

Meanwhile, the Muttahida Majlis-e-Amal warned that it would thwart attempts to amend or change the Hudood laws. "Don't even think of making any amendments to the Hudood Ordinance or any other Islamic law," said Samia Raheel Qazi, the daughter of MMA parliamentary leader Qazi Hussain Ahmed.

Ms Bakhtiar claimed that both the government and the PPPP had agreed to defer the bill till an appropriate time. NA Deputy Speaker Sardar Muhammad Yaqub forbade female members of the treasury benches from debating the bill, a decision that came in for criticism from MMA's Kashmala Tariq, Kausar Firdaus and Mehnaz Rafi.

Criticizing the bill, Ms Bakhtiar called it a "political stunt." "The bill does aim to empower women," she said.

Pakistan Muslim League Nawaz MNA Saad Rafique said the bill was a sugarcoated version of previous bills. Dr Azra from the PPP argued that Islam encouraged discussion on controversial matters and had called for Ijtehad (reasoning). The deputy speaker deferred the bill and adjourned the house for Friday.

Daily Times: June 9, 2004

Death for Defiance

Hafiza, who has been desperately appealing for protection in the wake of death threats from her brothers, was always brought to court in a Darul Aman vehicle without proper protection or police escort and dropped outside the court premises on the road. That fateful day, when she got down from the vehicle and was about to step into the session court premises, her brother Asadullah suddenly appeared on the scene, put a pistol to her head and fired two shots. Satisfying himself that she had breathed her last, the murderer then handed over his weapon to an armed police constable standing nearby and courted arrest.

Excerpts: Shahzada Zulfiqar, Newsline, September 2001

Repealing Qisas and Diyat law

According to a report published in your city page (Daily Times, June 25) a wife pardoned her husband for killing their daughter. And in accordance with the current Qisas and Diyat law, the judge set the husband free. Such a ruling makes a mockery of all notions of justice.

The Qisas and Diyat law was invoked for a society such as that which existed in seventh century Arabia. That is, a society in which individuals committed crimes against one another and revenge was sought by families, clans and tribes.

However, Pakistan today is a modern nation state, a state where an individual does not commit a crime against another individual but rather against society as a whole. This means that society as a whole has the right to demand justice for all crime committed.

Thus it is beyond the power and jurisdiction of an individual to pardon or 'forgive' a crime, especially that of murder, for it is society as a whole that the crime has been committed against. So it is the responsibility of society as a whole to demand justice on behalf of the murder victim. Therefore, isn't it about time that the Qisas and Diyat law be repealed?

Daily Times: July 24, 2004

حدود آرڈیننس کے ترمیم شدہ قوانین کے نفاذ کیلئے میڈیا مہم کا آغاز

قومی کمیشن برائے قانون و انصاف نے حدود آرڈیننس میں کی جانے والی تبدیلیوں کو مد نظر رکھتے ہوئے نئے تبدیل شدہ قوانین کے نفاذ کے لئے میڈیا مہم شروع کر دی ہے۔ اس مہم کے تحت ملک بھر کے پرنٹ اور الیکٹرانک میڈیا میں کمیشن کی طرف سے نئے قوانین کے بارے میں عوام کو آگاہی دی جا رہی ہے۔ نئے قوانین کے مطابق زنا کے خلاف درج ہونے والے مقدمے کی تفتیش سپرنٹنڈنٹ پولیس سے کم درجے کا افسر نہیں کر سکے گا اور نہ ہی ایسے ملزم کو گرفتار کیا جائے گا جب تک کہ عدالت اس بات کی اجازت نہ دے تاہم زنا بالجبر اس میں شامل نہیں۔ اس ضمن میں علیحدہ دفعہ B-156 کا نفاذ کیا گیا ہے۔ تاکہ ایسے افراد جو کسی بھی معصوم فرد پر غلط الزام لگا کر انہیں سزا دلوانے کی کوشش کرتے ہیں کے خلاف سخت ترین کارروائی کی جائے اور بے گناہ افراد خصوصاً خواتین کو زیادہ تحفظ اور مکمل انصاف فراہم کیا جاسکے۔ لاء اینڈ جسٹس کمیشن آف پاکستان نے عورت کو بدلہ صلح میں دینے کی ضمانت کے خلاف بھی نئے مرتب کئے جانے والے قوانین لاگو کرنے کے حوالے سے خصوصی ہدایات جاری کی ہیں۔

اوصاف، 12 فروری 2005



JUNE

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20 خواتین زرضمانت نہ ہونے سے قید کاٹنے پر مجبور ہیں ضمانت کیلئے کم سے کم 25 اور زیادہ سے زیادہ ایک لاکھ روپے کی رقم درکار ہے

خواتین جیل کراچی کی انتظامیہ کے مطابق جیل سے ضمانت پر رہا ہونے والی خواتین کی تعداد تقریباً 20 ہو چکی ہے لیکن افسوسناک امر یہ ہے کہ خواتین کی یہ تعداد زرضمانت نہ ہونے کی وجہ سے جیل میں رہنے پر مجبور ہے۔ ذرائع کے مطابق ضمانت کی کم سے کم رقم 25 ہزار اور زیادہ سے زیادہ ایک لاکھ روپے ہے۔ ایس ایچ او نجمہ پروین نے مخیر حضرات سے اپیل کی ہے کہ وہ انسان دوستی اور ہمدردی کے جذبے کے تحت ان خواتین کی ضمانت کی رقم کا بندوبست کرنے میں دلچسپی کا مظاہرہ کریں۔

جنگ، 24 اپریل 1999



ISLAMABAD: Women visit an exhibition of posters titled "End Honour Killing" held in connection with the international Women Day being celebrated today.

کے بارے میں نہیں جانتے۔ لہذا سب سے پہلے حکومت اس حوالے سے آگاہی پروگرام مرتب کرے تاکہ عوام بالخصوص وہ قید جو اس آرڈیننس کے تحت سزا کاٹ رہے ہیں حقیقت حال سے واقف ہو سکیں۔ مسئلہ یہ نہیں ہے کہ گناہ کی سزا دی جائے بلکہ گناہ ثابت بھی تو ہو۔ اگر گناہ ثابت ہو جائے اور کسی کو واقعی سزا دی جائے تو شاید بے گناہوں کو سخت سزائیں دی جاتی ہیں اکثریتی مقدمات میں ایک ہی جرم میں مبتلا عورت اور مرد میں سے مرد کو کیسے بری کیا جاسکتا ہے اور اسی جرم میں صرف عورت کو کیسے سزا ہو سکتی ہے؟ حدود آرڈیننس کے خلاف آواز بلند کرنے والی خواتین اس آرڈیننس کے نہیں بلکہ اس آرڈیننس کی آڑ میں ہونے والے قتل عام کے خلاف ہیں۔

ہمارے ہاں عقلمند ججوں کی کمی نہیں ہے، انہیں چاہئے کہ اس قانون میں ایسی تبدیلیاں لائیں جن سے صرف ان کو سزا ہو جو واقعی اس فعل کے مرتکب ہوں، تزکیہ الشہو کو یقینی بنایا جائے اور چشم دید گواہان کی پورا کریں تو شاید حدود آرڈیننس کے تحت سزا پانے والے حقیقی مجرمان ہی ہوں۔ اگر شاہی محلے میں حدود آرڈیننس نافذ نہیں کیا جاتا تو پھر عام عورتوں کے خلاف حدود آرڈیننس عائد کرنے کا کوئی حق نہیں۔ کیا طوائفیں حدود آرڈیننس سے مبرا ہیں؟

کیا حدود آرڈیننس اس مرد پر لاگو نہیں ہوتا جو بازار حسن جاتے ہیں؟ یہ کون سی قانون سازی ہے جس کی گرفت میں کوئی آتا ہے اور کوئی نہیں؟ لیکن مسئلہ یہ ہے کہ اگر حکومت شاہی محلے بند کرانے کی جانب جائے گی تو شہروں میں بھونچال آجائے گا۔ یہ ان عورتوں پر ظلم ہوگا کیوں کہ آج بھی ہمارا معاشرہ اتنا وسیع القلب نہیں ہے کہ ان عورتوں یا ان کی بیٹیوں کو گھروں میں بسالے اور ان کی بیٹوں کو اپنی بیٹیاں دے دے۔ اسلام پردہ پوشی کا دین ہے جو بدنامی یا بربادی کے پیش نظر خاموشی کا حکم دیتا ہے۔

مجھے یاد ہے کہ حیدر آباد کن میں نوابوں کے ہاں باندیاں ہوتی تھیں جن کی اولاد کو باقاعدہ جاسید اور میں حصہ دار بنایا جاتا تھا اور ان بچوں کو اتنا ہی تحفظ حاصل تھا جتنا کہ بیگمات کو۔ بیگمات بھی ان بچوں کو برا بھلا نہیں کہتی تھیں۔ اللہ تعالیٰ فرماتے ہیں: ہم کہتے ہیں یہ پردہ پوشی کیا ہے؟ یہ رات پردہ پوشی کیلئے بنائی گئی ہے مگر نا سمجھ ناقص العقل انسان کیوں نہیں سمجھتا میں ایک بار پھر کہوں گی کہ دین اسلام کی سلامتی اور تحفظ کے لیے حکمران طبقہ ذمہ داری کے ساتھ قوانین کی تشکیل و ترامیم میں احتیاط سے کام لے۔

فاطمہ ثریا بیجا: خبریں، 12 اگست 2004

میں حدود آرڈیننس کو نہیں مانتی

میں حدود آرڈیننس کو نہیں مانتی، بلکہ کسی بھی ایسے قانون کو جو عورت کے حقوق کے منافی ہو، نہیں مانتی۔ اگر حدود آرڈیننس کا نفاذ کرنا ہی تھا تو پہلے ان علاقوں پر کیا جانا چاہئے جہاں کھلے عام یہ کام ہو رہا ہے۔ اسلام دین فطرت ہے، ایک ایسا دین جس میں سب کے لئے گنجائش ہے، ایسی گنجائش جو عزت کے تحفظ کے لئے ضروری سمجھی جاتی ہے۔ اسلام سلامتی کا مذہب ہے، تحفظ دینے کا دین ہے، لیکن افسوسناک امر یہ ہے کہ بہت سی مسلم ریاستیں مذہب کا سہارا لیتے ہوئے ایسے قوانین روشتاں کر دیتی ہیں جن کی وجہ سے انسانیت اور خصوصاً امت مسلمہ کو دشواریوں کا سامنا کرنا پڑتا ہے۔ ایسے ہی قوانین میں ایک خاتون حدود یا زنا آرڈیننس کا ہے، جس کی وجہ سے اس وقت پوری قوم ایک کریناک عذاب میں مبتلا ہے۔

اس ضمن میں بنائے گئے قوانین کے بارے میں عام رائے یہ ہے کہ یہ قوانین نیک نیتی سے علماء اور عوامی رائے لئے بغیر بنائے گئے اور اس کے ذریعے خواتین، بچوں اور بعض صورتوں میں مردوں پر ظلم کے پہاڑ توڑے گئے ہیں اور جیلوں میں خواتین و بچیوں کی تعداد دگنی ہو گئی ہے۔ جو سزائیں اسلامی قوانین یا حد کے تحت مقرر کی گئی تھیں اور سزائوں کے لئے شواہد یا گواہی کا جو معیار مقرر کیا گیا ہے، وہ اس حد تک مشکل ہے کہ کسی کو مجرم ثابت کرنا یا ایسے مجرم کو کیفر کردار تک پہنچانا تقریباً ناممکن ہے۔ یہ بات واضح ہے کہ اس وقت اس قانون کو طاقتور کمزوروں کے خلاف بہت کامیابی سے استعمال کر رہا ہے۔ اس قانون کے تحت عورتوں، بچیوں حتیٰ کہ مردوں کو بھی ظلم کا نشانہ بنایا جاتا ہے۔

یہ دین نہ صرف اپنے ماننے والوں کو سلامتی کا پیغام دیتا ہے، بلکہ اپنی پناہ میں آنے والوں کو بھی تحفظ کا یقین دیتا ہے۔ ہم یہ کیسے تسلیم کر لیں کہ اس دین کے ماننے والی عورت کو کسی آرڈیننس کی آڑ میں مار دیا جائے، انسان تو غلطیوں کا پتلا ہے، مگر اللہ غفور رحیم ہے، وہ غلطیوں کا پردہ رکھنے والا اور اپنے بندوں کو معاف کرنے والا ہے۔ جب اللہ تعالیٰ غلطیوں کو معاف کرتا ہے تو ہم انسان کون ہوتے ہیں سزاؤں کا حکم جاری کرنے والے؟

رسول اللہ کی پوری زندگی میں ایک واقعہ ہوا ہے، جس میں رسول اللہ مہاجرہ سے کہتے ہیں: 'کتنا اچھا ہوتا کہ تو نے مجھے اپنے گناہ کا گواہ نہ بنایا ہوتا'۔ میں ان عورتوں کے ساتھ ہوں جو حدود آرڈیننس کی مخالفت کر رہی ہیں۔

لیکن بہت سارے لوگ حدود آرڈیننس کے خلاف یا تائید میں بات کر جاتے ہیں، ان میں 99 فیصد اس قانون

JULY

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Saturday

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Sunday

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Women & Law: rights of citizens in a civilized community

The two quotes from the Constitution of Islamic Republic of Pakistan will be a good beginning for reviewing '*Qanoon Aur Hamn Aurtein*' (Women & Law).

"Fundamental rights are those natural rights which are personal to the individual as a citizen of a free and civilized community and belong alike to every man, woman and child."

"Step shall be taken to ensure full participation of women in all spheres of national life."

It is not what but the law is but it is interpreted and implemented that the law's effectiveness starts to make sense. Having legal rights does not mean that rights are also fully protected. What is important is having machinery for its implementation. Again, it cannot be implemented by just having machinery until it's honest, efficient and above all caring.

Pakistan is a vast country comprising of various cultures and traditions. Even though the whole country is governed under the umbrella of the Constitution of Islamic Republic of Pakistan, still in many parts, tribal customs and traditional norms are very much a guiding force behind men and women's behavior. Low literacy rate among women (the literacy rate is estimated at 40 percent 51 percent for male and 28 percent for female) and male domination, makes it difficult for women to cry out when wrong is done to them.

There are three important things;

- i. Knowing legal and Constitutional rights.
- ii. Knowing the legal system and how it works.
- iii. How to proceed for lodging a complaint of a wrong done to be righted with the help of the law.

In Pakistan, all the three are difficult to get access to, especially for women. Being mostly home-bound and due to very little interaction with the outside world, their knowledge of legal matters is limited. When or troubled situation in their matrimonial relationship, they are completely at a loss, not knowing how to claim their rights when wrong has been committed to them. Due to illiteracy and traditionally being confined to houses chores, their interaction with the outside world is limited. It is in this regard that the book *Qanoon Aur Hamn Aurtein* (Women & Law) takes a constructive step to educate women on their rights and the importance of its implementation.

The book, *Qanoon Aur Hamn Aurtein* (Women & Law), compiled by the Board of WADA and sponsored by Canadian International Development Agency is about legal information on constitutional rights of women. It is explained, in book, in the following manner, "Knowledge alone can give confidence to

women to effectively tackle a problem, whether related to their health, their constitutional rights, opportunities to become economically independent or their role in improving the environment. Wada information books are being published to provide that basic and vital information to women (as discussed above).

"The book deals with various important topics in a precise manner, easy to understand type approach, avoiding legal jargons and specific legal terminology. The title taken up are:

- 1) Constitution of Pakistan and Women.
- 2) Constitutional rights of Women.
 - a) Employment
 - b) Rape
 - c) Matrimony
 - d) Nikah
 - e) Dowry
 - f) Marriage expenses
 - g) Second Marriage
 - h) Divorce
 - i) Custody of children
 - j) Family court Laws concerning ownership rights
 - k) Law and justice
 - l) Support our cause
 - m) Commission of inquiry for Women

The book is not a 'discussion' type or carry elaborate explanations but simple and to the point 'law as it stands'. The book, *Qanoon Aur Hamn Aurtein*, is very useful for women to know their constitutional rights. I feel, that more could be added to explain 'how to go proceed' in case a woman intends to exercise her constitutional rights the society, the constraints, how to get legal advice, cost factor, what to expect and many such areas where women find it difficult to obtain information when in a fix. The important thing is to not only know one's constitutional rights but also to be able safeguard/claim such rights through knowing the procedure.

Let me now recall what Justice Nasir Aslam Zahid and the members of Commission of inquiry for Women called: "amendment in the constitution and changes in the existing laws pertaining to rights of women." They also called for: "major changes for empowering women to make their own decisions in governing their lives equally at par with men." Women organizations and NGOs should be working toward getting the recommendations implemented.

Mohsin S. Jaffri: The News: November 9, 1998

پاکستان میں قانون کے شعبے میں بھی خواتین کو مواقع حاصل نہیں ہیں
ملک میں خواتین وکلاء کی تعداد ایک فیصد سے کم ہے، سینئر وکلاء کی کل تعداد 32 ہے

پنجاب میں، جسٹس مرد وکلاء کے مقابلے میں خواتین کی تعداد صرف 1.2 فیصد ہے، بلوچستان میں 4 خواتین وکلاء ہیں اقوام متحدہ کی رپورٹ کے مطابق پاکستان میں خواتین کو روزگار کے نہایت محدود ذرائع دستیاب ہیں۔ علاوہ ازیں منصوبہ بندی اور فیصلہ سازی جیسے عہدوں پر کام کرنے والی خواتین کی تعداد نہایت محدود ہے۔ اقوام متحدہ کی ایک رپورٹ کے مطابق دیگر شعبوں کی طرح 'قانون' بھی ایک ایسا شعبہ ہے جہاں پاکستانی خواتین کی ایک نہایت محدود تعداد سرگرم عمل ہے۔ چاروں صوبوں کی بارکونسلوں سے جمع کئے گئے اعداد و شمار کے مطابق ملک بھر میں 17543 جسٹس مرد وکلاء کے مقابلے میں خواتین وکلاء کی تعداد صرف 140 یعنی ایک فیصد سے بھی کم ہے۔ رپورٹ کی تفصیلات کے مطابق پنجاب میں 1009 مرد جسٹس وکلاء کے مقابلے میں 57 خواتین یعنی 1.2 فیصد ہیں جبکہ 5693 وکلاء کے مقابلے میں خواتین کی تعداد 13 ہے جس کا تناسب 0.2 فیصد نکلتا ہے سندھ میں 4780 وکلاء کے مقابلے میں 60 خواتین وکلاء ہیں جس کا تناسب 1.2 فیصد بنتا ہے۔ صوبہ سرحد میں کل 1452 مرد جسٹس وکلاء کے مقابلے میں 19 خواتین جن کا تناسب 1.3 فیصد ہے جبکہ اس تعداد میں 467 سینئر مرد وکلاء کے مقابلے میں 3 خواتین وکلاء کے حساب سے تناسب صرف 0.6 فیصد بنتا ہے۔ بلوچستان میں کل مرد جسٹس وکلاء کی تعداد 162 ہے جبکہ ان کے مقابلے میں خواتین کی تعداد صرف 4 ہے اس کل تعداد میں 63 سینئر مرد وکلاء کے مقابلے میں ایک خاتون وکیل کام کر رہی ہے اس طرح یہ تناسب صرف 1.6 فیصد بنتا ہے۔ ان اعداد و شمار کے مطابق ملک بھر میں خواتین کی کل تعداد 3110 ہے جن میں سے سینئر وکلاء کی حیثیت سے کام کرنے والی خواتین کی تعداد صرف 32 یعنی 0.4 فیصد ہے۔

جنگ، 11 مارچ 1999

AUGUST

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Tuesday

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Wednesday

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Thursday

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Friday

جہلم، تھانیدار کا خواتین پر تشدد، رات بھر تھانے بٹھائے رکھا

تھانہ صدر کا عملہ چک خاصہ سے پانچ خواتین کو پکڑ کر لایا، تھانیدار نے رات کو دفتر بلا لیا
دفتر پہنچتے ہی خواتین پر لاتوں، گھونسوں کی بارش شروع کر دی اور فحش گالیاں بکتا رہا

تھانہ صدر جہلم کے ایس ایچ او کا خواتین پر وحشیانہ تشدد اور فحش گالیاں رات بھر خواتین کو تھانہ میں رکھا لیڈی پولیس موجود ہونے کے باوجود ایس ایچ او نے لیڈی پولیس نہ بلائی۔ تفصیلات کے مطابق تھانہ صدر جہلم کی مردانہ پولیس گزشتہ روز چک خاصہ سے پانچ خواتین کو پکڑ کر لائی، تھانہ صدر کے ایس ایچ او ایم ملک ارشد نے رات تو بچے خواتین کو اپنے دفتر طلب کیا اور آتے ہی خواتین پر لاتوں اور گھونسوں کی بارش کر دی ایس ایچ او مذکورہ خواتین زمین پر پٹخ کر گالیاں دیتا رہا ہے لیڈی پولیس ضلع میں موجود خواتین کو گرفتار کرنے کے لئے نہ بلائی گئی اور نہ ہی رات کو لیڈی پولیس تھانہ میں موجود تھی۔ صحافیوں اور کئی سماجی تنظیموں کے نمائندوں نے یہ ہولناک منظر اپنی آنکھوں سے دیکھا صحافیوں نے خدمت کمیٹی کے ضلعی چیئرمین میجر عاشق حسین ملک اور دیگر اراکین کے ہمراہ ایس پی جہلم کو اس غیر اخلاقی و غیر قانونی واقعہ سے آگاہ کر دیا ہے۔

خبریں، 2 اگست 1998



Traditional justice and the absent state

In essence, the jirga system is highly anachronistic and does not provide any justice as such, irrespective of its effectiveness in settling disputes. For one, most of the compensation calculated in a case is pocketed by the sardar, with hardly anything going to the heirs of the deceased. Furthermore, the entire tribe has to cough up a contribution whenever penalties are imposed on any one member. A penalty can also mean giving one's sister or daughter in marriage to the rival tribe. This system, ostensibly designed to cement ties, is blatantly draconian. "Marrying your sister or daughter to your enemy is like banishing her to hell. We have forbidden this practice even within the tribe," claims Abdul Bari Pitafi, the son of the Pitafi sardar.

However, the evidence available, it appears that the practice is widespread. Women, in fact, get a particularly rough deal under the jirga system. A woman accused of being a kari, for example, if she somehow manages to avoid getting killed, is either handed over or takes shelter with the sardar, who is then free to shell her to the highest bidder.

The jirga system, although indirectly, also contributes to crime. The sardars play their part in ensuring that the criminals carrying out their vendettas are not arrested. On the one hand, this allows a sardar to fleece his tribe in the name of a holy war of sorts while in the other, it makes the administration feel indebted to a sardar when the feud is eventually resolved. The moment a feud breaks out, a great hue and cry is raised and the urgent need for arms for the protection of the tribe is impressed upon its members.

Contributions are called for. If the people's response is less than enthusiastic, another incident is orchestrated to raise the temperature. The tribesfolk almost invariably end up dishing out whatever they have. Once enough arms have been obtained and a critical situation materialises, officials panic and a jirga is convened. At the end of the day, the criminals being patronized by the sardars find themselves richer by a Kalashnikov or two.

That is perhaps why the jirga system is opposed by some police officers who do not have tribal backgrounds or interests rooted in this antiquated practice. "The main role in tribal feuds is played by hardened criminals. Why are they spared by the jirgas? Shouldn't they be handed over to the police along with their weapons?" asks Ghulam Nabi Memon, SSP Khairpur. He believes that most of the criminal activity in the Ghotki district is carried out using weapons obtained to settle tribal scores.

Excerpts: Ali Hassan, The Herald, March 1999

A license to kill

In the dingy barracks of Peshawar jail sat Noreen, still unaccustomed to her hostile environment around her. Her parents filed an F.I.R against her under the Zina Ordinance as she had refused to marry the partner her family had chosen for her. She had expressed her desire to marry someone else instead.

Her disobedience has not only landed her behind bars but also shattered her trust in her own family members whom she always looked up to. She knows that if she steps out of jail, they would kill her for the defiance she has shown. To her, the soiled bars of the prison symbolize life whereas freedom for her could actually mean death.

The deputy superintendent further confirms, "Many girls/women convicted of zina, are killed by their own family members, once they leave the jail premises."

Another girl, Shahida, from Matanee, refuses to step out of jail with her brothers because she knows that beyond the large iron doors of prison, the only thing doors of prison, the only thing that awaits her is death. Her husband, who mistreated her, refused to divorce her. She developed a liking for an Afghan boy. Once, while talking to him outside the door of her house, she saw her brothers and other male members of the family heading towards her with gun in their hands. She was forced to run away with the Afghan boy out of fear.

She and the Afghan boy have ended up in jail. However, the penalty does not ended here. The brothers are trying their level best to secure her release, so that they can take her back and kill her in order to regain their lost honour.

The stigma associated with such crimes is, by itself, a heavy penalty. Most of the women prisoners, not having any legal awareness, are unable to provide surety. Mostly, girls/women who have been imprisoned at the instigation of their own family have no other choice but to ask the complaints for surety. Therefore, even if they are freed, and the family decides to spare them, they would continue to live a life of misery and social ostracisation.

The community of society at large act as partners in crime by standing by as spectators, and not protesting the fact that someone is setting a precedent that would encourage other potential criminals of Pakhtunwali.

Excerpts: Samar Minallah, Newslines June 2003

SEPTEMBER

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Saturday

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Notes

ہوئی ہو پھر بھی قانون انہیں بیوی قرار دیتا ہے اور پانچ سال اکٹھی رہنے کی شہادت کے لئے صرف اتنا ہی کافی ہے اور دونوں (مرد اور عورت) کا گزشتہ پانچ سال کے دوران ڈاک کا پتہ ایک ہی رہا ہے۔

ہمارے ملک میں شاید ایک ہزار میں سے ایک شادی لڑکے اور لڑکی کی مرضی سے طے پائی ہے۔ باقی ہماری نوجوان نسل کے 999 لڑکے اور لڑکیوں کو اس بات میں کوئی دلچسپی نہیں ہوتی کہ ان کی شادی کس کے ساتھ ہو رہی ہے۔ وہ یہ معاملہ ماں باپ یا اللہ پر چھوڑ دیتے ہیں۔ لڑکے لڑکیاں اس بارے میں اپنی رائے دینا مناسب خیال نہیں کرتے۔ ہزار میں سے ایک لڑکا یا لڑکی جو اپنی مرضی سے شادی کرنا چاہتے ہیں، کی بھی دو اقسام ہیں۔ ایک وہ جن کے ماں باپ ان کی رائے کا احترام کرتے ہوئے ان کی شادی ان کی مرضی سے کر دیتے ہیں اور دوسرے وہ جن کے ماں باپ ان کی مرضی سے نہیں کرتے اور ان کی رائے سے اختلاف کرتے ہوئے ان پر اپنی مرضی ٹھونس دیتے ہیں۔ جن لڑکے اور لڑکیوں کے والدین اپنی اولاد کی رائے سے اختلاف کرتے ہیں، ان کی بھی دو اقسام ہیں۔ ایک وہ جو بچوں کو جوان ہونے کے ناتے ان کے حال پر چھوڑ دیتے ہیں اور اگر ان کی مدد نہیں کرتے، تو ان کی زندگی میں مزید مشکلات بھی پیدا نہیں کرتے۔ دوسرے قسم کے والدین وہ ہیں جو اپنے نوجوان بچے اور بچوں کی رائے سے اختلاف کرتے ہیں اور ان کے ساتھ جنگ کرنے کی ٹھان لیتے ہیں۔ اس قسم کے والدین کی بھی دو اقسام ہیں۔ ایک وہ جو اپنے بچے بچوں کو مالی اور سماجی منفعت کا ذریعہ سمجھتے ہیں اور ان کے خیال میں ان کے نوجوان بچے اور بچیاں اپنی مرضی سے شادی کر کے ان کے سماجی و مالی منفعت کے عمل کو مایا میٹ کر رہے ہیں۔ دوسرے والدین وہ ہیں جو یہ سمجھتے ہیں کہ ان کے نوجوان بچے بچیاں اپنی مرضی سے شادی کر کے اپنا مستقبل خراب کر رہے ہیں اور غلط باتھوں میں کھیل رہے ہیں۔ والدین کی حیثیت سے ان کا فرض ہے کہ وہ ان کی رہنمائی کریں۔

ہم سمجھتے ہیں کہ ہماری عدالتوں کو جب بھی کسی ایسے مقدمے سے واسطہ پڑے، جس میں کسی نوجوان لڑکی کا شادی کے سلسلے میں اپنے باپ یا اپنے خاندان کے ولی سے اختلافات ہو، تو وہ اس معاملے کا کھوج لگائیں کہ کہیں نوجوان لڑکی اپنے ذاتی فیصلے سے کسی غلط باتھ میں تو نہیں جا رہی اور جہاں عدالت یہ سمجھے کہ بادی نظر میں معاملہ لڑکی کے ولی کی سماجی یا مالی صنعت یا انا کا نہیں، بلکہ نوجوان لڑکی کے مستقبل کا ہے اور خطرہ ہے کہ لڑکی کسی غلط خاندان میں جا رہی ہے تو اس معاملے میں عدالت ضرور دخل اندازی کرے۔ بصورت دیگر لڑکی کے ولی کے مقابلے میں لڑکی کی رائے کو مقدم سمجھنا چاہئے۔ ہماری عدالتوں نے اس نوعیت کے بہت سے قابل

تحسین فیصلے دیئے ہیں مثلاً ایسے کئی مقدمات میں لڑکے کے والدین کو عدالتوں نے مجبور کیا ہے کہ وہ لڑکی کے لئے حق مہر کی کوئی مناسب رقم لکھیں یا لڑکی کے کسی مالی تحفظ کے لئے کوئی جائیداد اس کے نام کر دیں وغیرہ، عدالتوں کو ایسے والدین کا قطعی ساتھ نہیں دینا چاہئے جو خود اپنی ہی بیٹی کے خلاف اس کی مرضی سے شادی کرنے پر حدود کا مقدمہ درج کروا دیتے ہیں۔ ہمارے ملک کی پولیس بہت سی کالی بھیڑوں پر مشتمل ہے، جن کی تحویل میں کسی لڑکی کو دینا اس لڑکی کو 'دروندوں' کے سپرد کرنے کے مترادف ہے۔ قانون کی حکمرانی اور انصاف کی بالادستی کے نام پر کسی خاتون کو اس کی مرضی کے مطابق شادی کرنے پر 'دروندوں' کے سپرد کرنا مہذب معاشرے کے شایان شان نہیں اور اگر کسی نوجوان لڑکی کا والد ایسا کوئی عمل کرتا ہے تو عدالتوں کو اس کا ساتھ نہیں دینا چاہئے۔

جنریں، 19 مارچ 1999



پسند کی شادی اور عدلیہ

لاہور ہائیکورٹ نے ایک مقدمہ میں میاں بیوی کے نکاح نامے کو اس وجہ سے تسلیم کرنے سے انکار کر دیا ہے کہ اس پر گواہان کے دستخط نہیں تھے۔ ہم سمجھتے ہیں کہ یہ موقف کسی بھی صورت میں اسلامی تعلیمات کے مطابق نہیں اور ہماری ناقص رائے میں عام فہم کے بھی منافی ہے عدالتوں کے فیصلوں کے خلاف اختلاف رائے کا اظہار کرنا تو بین عدالت کے زمرے میں نہیں آتا اور آنا بھی نہیں چاہئے تاوقتیکہ یہ اختلاف اس مقدمہ کی کاروائی کے دوران بیان کیا گیا ہو اور اس مقدمہ کے فیصلے پر اثر انداز ہو سکتا ہو۔ چونکہ مذکورہ مقدمہ فیصلہ سنانے کے ساتھ ہی ختم ہو گیا ہے اس لیے اس کے فیصلے کے بارے میں معروضات نہایت ادب سے بیان کیے جاتے ہیں۔

پہلی بات یہ کہ نکاح کے معاملے میں سب سے ضروری شرط فریقین کا ایجاب و قبول ہے۔ یہ ایجاب و قبول کھلے بندوں ہونا چاہیے اور اگر دو یا اس سے زائد گواہ دستیاب ہوں تو ان کے سامنے ہونا چاہئے۔ اسلامی و تاریخی روایات کے مطابق نکاح کی کوئی تحریر ہونا قطعاً ضروری نہیں۔ چنانچہ گواہی قلمبند کرنے کا سوال ہی پیدا نہیں ہوتا 1961ء سے قبل وطن عزیز میں شاذ و نادر ہی کسی نکاح کو احاطہ تحریر میں لایا جاتا تھا۔ ہماری موجودہ نسل کے والدین یا ان کے آباؤ اجداد کے نکاح زبانی ہوتے تھے۔ جہاں نکاح زبانی ہوں، ظاہر ہے گواہوں کے نام قلمبند کرنے اور ان کے دستخطوں یا انگلیٹھوں کا سوال ہی پیدا نہیں ہوتا۔ ایوب خان نے 1961ء میں فیملی لا آرڈیننس نافذ کیا اس آرڈیننس میں تحریری نکاح اس شکل میں ضروری قرار دیا گیا کہ نکاح خوان پر یہ پابندی عائد کی گئی کہ جب وہ کوئی نکاح پڑھائے تو اپنے اس نکاح پڑھانے کے عمل کی رجسٹر اکر اطلاع دے۔ اس آرڈیننس میں نکاح نامہ کی چار نقول تیار کرنے کی ضروری شق شادی کی گئی۔ ان میں گواہوں کے ناموں کے کالم اور دیگر کئی کالم وضع کیے گئے۔

اگر نکاح نامے کے فارم کا معائنہ کیا جائے تو واضح ہوتا ہے کہ اس کے ہر کالم کا اندراج ضروری نہیں، مثلاً اس میں دولہا کے وکیل کے نام کا ایک کالم ہے جبکہ ہمارے معاشرے میں نکاح کے وقت صرف دلہن کا وکیل مقرر ہوتا ہے اور دولہا کے وکیل کی کوئی روایت یا رواج نہیں۔ فیملی لا آرڈیننس یہ قطعاً قرار نہیں دیتا کہ جو نکاح اس آرڈیننس کے تحت تحریر اور رجسٹر نہیں ہوگا قانون اس نکاح کو تسلیم نہیں کرے گا۔ اگر کوئی شخص کسی عورت سے

نکاح کرتا ہے اور نکاح رجسٹر نہیں ہوتا یا تحریری طور پر کسی دستاویز کی شکل میں تکمیل نہیں پاتا تو پھر بھی وہ قانوناً اور شرعاً جائز ہے۔ پاکستان کی عدالتوں نے ایسے کاموں کو تسلیم کیا ہے۔

ہمارے دیہات میں آج بھی بیشتر نکاح احاطہ تحریر میں نہیں لائے جاتے اور نکاح کے وقت صرف دولہا اور دلہن کا ایجاب و قبول ضروری ہوتا ہے۔ فیملی لا آرڈیننس کے تحت کوئی شخص مصالحتی کونسل کی اجازت کے بغیر دوسرا نکاح نہیں کر سکتا لیکن اگر کوئی شخص ایسا کرے اور اس کی بیوی اس کے خلاف بذات خود شکایت لے کر آئے، تو اسے اس جرم میں معمولی قید کی سزا سنائی جاسکتی ہے۔ لیکن اس شخص کا دوسرا نکاح کالعدم قرار نہیں دیا جاسکتا اور دوسرے نکاح سے پیدا ہونے والی اولاد اس کی جائز وارث ہوگی۔ نکاح کے جس معاملے میں میاں بیوی ایجاب و قبول کے عمل کو تسلیم کرتے ہوں، کسی عدالت یا تیسرے شخص کو ان کا یہ بیان کہ وہ میاں بیوی ہیں اور نکاح کے بندھن میں بندھے ہوئے ہیں رد کرنے کا کوئی حق حاصل نہیں ہے اور ہونا بھی نہیں چاہئے۔ شہریوں کی 'پرائیویسی' ان کا پیدائشی حق ہے۔ ان کی نجی زندگی کے بارے میں کھوج لگانے کا اختیار کسی عدالت یا تیسرے شخص یا ریاست کو بھی ملتا ہے اگر میاں بیوی میں اختلاف ہو اور ان میں سے کوئی ایک دوسرے کے ساتھ نکاح کو تسلیم نہ کر رہا ہو۔ جہاں دونوں میاں بیوی نکاح کا اعتراف کریں وہاں پر اگر موقع کے دس گواہان پیش ہو کر یہ کہیں کہ دراصل ان دونوں میاں بیوی کا کوئی نکاح نہیں ہوا تھا اور نکاح نامے پر ان کے دستخط بھی ہیں تو ان گواہوں کے بیانات کی کوئی حیثیت نہیں ہونی چاہئے۔ اگر گواہوں کے بیانات کو اہم بنایا جائے تو ہر میاں بیوی عمر بھر اپنے نکاح کے گواہوں کے غلام ہو کر رہ جائیں گے ان کے نکاح ناموں کے گواہ کسی بھی وقت عدالت میں یہ موقف اختیار کر سکیں گے کہ نکاح ناموں پر ان کے نام اور دستخط جعلی ہیں اور یہ کہ ان کے علم میں بھی آیا ہے کہ ان کا نام ایک ایسے نکاح نامہ پر لکھا ہوا ہے جو بیس سال قبل تیار کیا گیا تھا جبکہ وہ نکاح کی اس تقریب میں موجود نہیں تھے اور اس وقت شہر سے باہر تھے وغیرہ۔

عدالتوں کا کام کسی بھی شادی کو کسی قانونی سقم کی موجودگی میں حیثیت دینا ہے اور اس قانونی سقم کو جہاں تک ممکن ہو دور کرنا ہے تاکہ ملت کے دو شہری میاں بیوی کی حیثیت سے اچھی زندگی گزار سکیں۔ عدالتوں کا کام شہریوں کے لئے مشکلات پیدا کرنا نہیں ہے۔ یہ درست ہے کہ ترقی یافتہ دنیا کی مثالیں ہم پر لاگو نہیں ہوتیں، ہماری اپنی روایات ہیں، ہمیں ان کے مطابق چلنا چاہئے مگر نہ ترقی یافتہ دنیا میں شادیوں کو اس حد تک قانونی حیثیت دی جا رہی ہے کہ اگر کوئی مرد و عورت پانچ سال تک اکٹھے زندگی گزاریں اور ان کی باقاعدہ شادی بھی

Rape of the law

In the recent case of Zafran Bibi (PLD 2002 FSC 1), a woman from Kohat, she was awarded punishment of stoning to death by a sessions court. Even though the decision of the trial court was reversed by the FSC, the judgment raises alarming legal issues which were believed to have been settled. According to the Maliki school of jurisprudence, the burden of proving Zafran's lack of consent by "raising alarm or making complaint" was shifted on her. Proving the lack of consent becomes an arduous task as Pakistani law does not protect the rape victim from attacks on her character. In fact such attacks are permitted under the Qanun-e-Shahadat Order 1984, which provides that "when a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutrix was of generally immoral character."

Excerpts: Danish Zuberi, Newslite, October 2003



OCTOBER

1
Sunday

Notes

OCTOBER

30
Monday

31
Tuesday

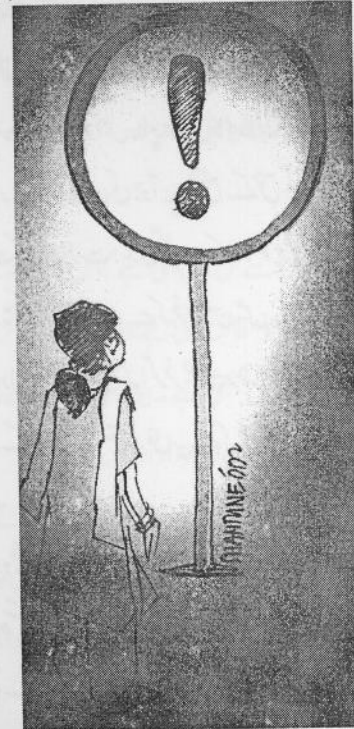
Notes

خلع کا حق نافذ کیا۔ ان دونوں واقعات میں آنحضرتؐ نے اس بات کی تسلی کی کہ میاں بیوی خوش اسلوبی سے ایک ساتھ نہیں رہ سکتے۔ آپؐ نے اس معاملے میں شوہر کی رضا کبھی نہیں دریافت کی۔

مولانا مودودی نے بھی اپنی کتاب "حقوق الزوجین" میں بیوی کے خلع کے حق پر تفصیل سے روشنی ڈالی ہے۔ اور یہ رائے ظاہر کی ہے کہ اگر بیوی کو یہ اندیشہ ہو کہ وہ اللہ کے حدود میں نہیں رہ سکے گی تو وہ حق کے طور پر خلع کا مطالبہ کر سکتی ہے۔ انہوں نے لکھا ہے کہ قانون شریعت نے جس طرح شوہر کو یہ حق دیا ہے کہ وہ اپنی بیوی کے ساتھ گزارا کر سکے تو اسے طلاق دے سے۔ بالکل اسی طرح بیوی کو بھی یہ حق دیا ہے کہ وہ ایسے شوہر سے خلع لے لے جس سے وہ نفرت کرتی ہے اور جس کے ساتھ گزارا نہیں کر سکتی۔

بلقیس فاطمہ اور نجم الاکرام کے مقدمے میں بلقیس فاطمہ نے عدالت میں آکر کہا کہ وہ نجم الاکرام کے ساتھ کسی قیمت پر رہنے کو تیار نہیں۔ اس مقدمے میں نجم الاکرام کو ڈھائی ہزار روپے کی رقم ان زیورات کی قیمت کے طور پر ادا کی گئی جو اس نے نکاح کے موقع پر بیوی کو دیئے تھے اور اس طرح شوہر سے حاصل ہونے والے فوائد کی تلافی پر بیوی کو تنبیخ نکاح کی ڈگری دے دی گئی۔

اخبار خواتین، 2 جولائی 1966ء



آرڈی ننس کی رو سے دفعہ ۷ کے تحت پہلی طلاق موثر ہونے کے بغیر شادی کر سکتا ہے۔ لیکن اگر طلاق تیسرے بار دی گئی ہو اور یہ موثر ہو چکی ہو تو پھر حلالہ کے بغیر دوبارہ شادی نہیں ہو سکتی۔

طلاق تفویض

آرڈی ننس کی دفعہ ۸ کے ذریعے طلاق تفویض یا تنسیخ نکاح کی دوسری صورتوں میں مصالحت کی گنجائش نکالی گئی ہے۔

اس دفعہ کی رو سے فریقین کی طرف سے تنسیخ نکاح کے اعلان کے بعد (طلاق ہی کی طرح) وہ فریق جس کے ایمپر نکاح تنسیخ ہوا ہے، بی ڈی چیئر مین کو نوٹس بھیجتا ہے جو ثالثی کو نسل قائم کر کے فریقین میں مصالحت کرانے کی کوشش کرتا ہے۔

اگر مصالحت کی کوشش ناکام ہو جائے تو نوے دن کی مدت گزرنے کے بعد نکاح منسوخ تصور کیا جاتا ہے۔ مثال کے طور پر اگر ہر شوہر (الف) اور بیوی (ب) کچھ عرصہ اکٹھا رہنے کے بعد یہ محسوس کرتے ہیں کہ وہ ساتھ نہیں چل سکتے تو باہمی رضامندی سے وہ تنسیخ نکاح کے لئے طلاق کا ایک معاہدہ تیار کرتے ہیں۔ اس کی ایک نقل اس بی ڈی چیئر مین کو بھیجی جاتی ہے، جس کے علاقے میں بیوی رہتی ہے نوے دن کی مدت گزارنے کے بعد طلاق کی توثیق ہو جائے گی؛ لیکن اگر شوہر نے طلاق کے اعلان کا نوٹس خود بھیجے گی۔ طلاق کا حق ایک دفعہ بیوی کو منتقل کر دیا جائے تو اسے منسوخ نہیں کیا جاسکتا۔

خلع

خلع کے ذریعے طلاق فریقین کی رضامندی سے عمل میں آتی ہے۔ اس معاملے میں پہلی بیوی کرتی ہے جو اپنے شوہر کو بعض رعایتیں دے کر اس سے علیحدگی کا مطالبہ کرتی ہے اور وہ اسے تسلیم کر لیتا ہے۔ اس صورت میں شوہر کی رضامندی کے بعد بیوی چیئر مین کو نوٹس بھیجتی ہے۔ بیوی کی طرف سے رعایتوں کا مطلب یہ ہے کہ وہ مہر کی رقم معاف کر دے یا بعض دوسرے حقوق سے دستبردار ہو جائے۔

مثال کے طور پر شوہر (الف) اور بیوی (ب) چند سال ازدواجی زندگی گزارتے ہیں اسکے بعد اس نتیجے پر پہنچتی ہے کہ اختلاف رائے اور مزاجوں کی ناموافقت کے باعث یا کسی دوسری وجہ سے وہ الف کے ساتھ مزید گزارا نہیں کر سکتی ب اپنے شوہر الف کو یہ پیش کش کرتی ہے کہ اگر وہ اسے ازدواجی بندھن سے نجات دے

دے تو وہ مہر کی رقم معاف کر دے گی الف پیش کش قبول کر لیتا ہے اور مہر کی رقم کے عوض ب کو طلاق دے دیتا ہے تو یہ خلع کہلائے گا۔ لیکن اگر جج کو یہ شبہ ہو کہ فریقین اللہ کے حدود کے اندر نہیں رہیں گے تو وہ شوہر کی عدم رضامندی کے باوجود خلع دینے کا اختیار رکھتا ہے۔

اس سلسلے میں مغربی پاکستان ہائی کورٹ لاہور میں پیش ہونے والے ایک دلچسپ مقدمے کا ذکر بے جا نہ ہوگا۔

اس مقدمے کی مختصر روداد یہ ہے کہ درخواست گزار بلیس فاطمہ کی شادی اکتوبر 1949ء میں نجم الاکرام سے ہوئی لیکن ان کے صرف نکاح کی رسم ادا ہوئی۔ اور رخصتی بعد میں ہونی قرار پائی۔

لیکن پھر ایسے جھگڑے اٹھ کھڑے ہوئے کہ رخصتی ممکن نہیں رہی اور میاں بیوی کبھی اکٹھے نہیں رہ سکے۔ جنوری 1952ء میں بیوی نے یہ مقدمہ دائر کیا کہ اس کا نکاح منسوخ کر دیا جائے کیونکہ (۱) اس کے شوہر نے دو سال سے گزارا نہیں دیا ہے اور (۲) شوہر بدنام عورتوں سے ملتا جلتا ہے۔

شوہر کا قصور نہیں

ہائی کورٹ نے ڈسٹرکٹ جج کے اس فیصلے کو بحال رکھا کہ رخصتی نہ ہونے میں شوہر کا کوئی قصور نہیں اور اس صورت میں بیوی نان نفقے کی حقدار نہیں۔ اس مرحلے پر ایک اور نکتہ بھی سامنے آیا۔ اور وہ یہ کہ خلع بیوی کا حق ہے اور وہ کسی بھی مرحلے پر عدالت میں آکر اس بنا پر طلاق کا مطالبہ کر سکتی ہے کہ وہ شوہر سے حاصل ہونے والے فوائد کی تلافی کرنے کو تیار ہے۔ قرآن کی جو آیت خلع کے حق کی بنیاد ہے وہ سورہ بقرہ کی آیت ۲۲۹ ہے۔ اس آیت میں قطعی طور پر عورت کو یہ اجازت دیدی گئی ہے کہ وہ شوہر کو بعض رعایتیں دے کر نکاح کی تنسیخ کرائے اور اس بات کا فیصلہ کرنا کسی جج کا کام ہے کہ فریقین میں سے کوئی اللہ کے حدود میں قائم رہے گا یا نہیں۔ اس بات پر تمام قانون دان متفق ہیں کہ اگر فریقین رضامند ہوں تو پھر جج سے فیصلہ لینے کی ضرورت نہیں۔ لیکن جج تک معاملہ کے جانے کا مقصد ہی یہ ہے کہ وہ حکم جاری کرنے کا مجاز ہے خواہ شوہر اس سے اتفاق نہ کرے۔

اس سلسلے میں حضور اکرمؐ کے دو فیصلوں کا بھی حوالہ موجود ہے جن میں عورتوں نے حضورؐ سے شکایت کی کہ وہ اپنے شوہروں کے ساتھ نہیں رہ سکتیں۔ اس پر آپؐ نے انہیں ہدایت کی کہ شوہروں کی طرف سے انہیں جو کچھ ملا ہے واپس کر دیں۔ پھر آپؐ نے ان کے شوہروں سے کہا کہ وہ انہیں طلاق دیدیں۔ اس طرح گویا حضورؐ نے

خلع بیوی کا حق ہے

آج میں طلاق کی مختلف صورتوں سے بحث کرنا چاہی ہوں۔

پاکستان اور ہندوستان میں طلاق کی جو شکل سب سے زیادہ رائج رہی ہے۔ وہ طلاق بدعت کہلاتی ہے۔ اس میں اگر کوئی شخص ایک نشست میں یا پاکی کے دنوں میں اپنی بیوی کو طلاق دینے کا تین بار اعلان کرے تو یہ قطعی اور ناقابل تنسیخ طلاق تصور کی جاتی ہے لیکن طلاق کی اس شکل پر جو مستحسن سمجھی جاتی مسلم عائلی قوانین کے آرڈی نمنس کے ذریعے پابندی لگا دی گئی ہے اور اس کے موثر ہونے کی مدت بھی نوے دن مقرر کر دی گئی ہے۔ طلاق کی مختلف شکلوں کا موازنہ کرنے سے معلوم ہوگا کہ آرڈی نمنس نے طلاق کی ایسی صورت نافذ کی ہے جو طلاق سنت کے تقاضوں سے زیادہ ہم آہنگ ہے۔ اس کا مطلب یہ ہوا کہ اس آرڈی نمنس کے ذریعے قانون شریعت میں کوئی تبدیلی نہیں کی گئی۔ بلکہ اسے مربوط کر کے قانونی دفعات کے ذریعے نافذ کیا گیا ہے۔

طلاق کے لئے آرڈی نمنس کی دفعہ ۷ کے تحت اس یونین کونسل یا کمیٹی کے چیئرمین کو نوٹس دینا ہوتا ہے جس کے دائرہ کار میں بیوی رہائش پذیر ہے۔ اگر شوہر طلاق کا اعلان کر دے اور نوٹس نہ بھیجے تو طلاق منسوخ ہو جائے گی۔ بصورت دیگر چیئرمین کو نوٹس موصول ہونے کے نوے دن کے بعد موثر ہو جائے گی۔ طلاق کے اعلان اور اس کے موثر ہونے کی درمیانی عرصے میں میاں بیوی کی حیثیت میں نہیں آئے گی۔ چیئرمین کو نوٹس بھیجا جائے اس کی ایک نقل بیوی کو مہیا کرنا لازمی ہے۔ اس شوہر ایسا نہیں کرے گا تو اس پر مقدمہ چلایا جاسکے گا۔ لیکن اس سے طلاق کے جواز پر نہیں آئے گا۔

طلاق احسن

عائلی قوانین کے نفاذ سے پہلے جو قوانین رائج تھا اس کے تحت کوئی جوڑا طلاق احسن کے سوا اگر کسی اور طلاق کے ذریعہ الگ ہو جائے تو وہ دوبارہ شادی نہیں کر سکتا تھا تاوقتیکہ بیوی کسی دوسرے مرد سے شادی نہ کرے اور ان دونوں کے درمیان میاں بیوی کے تعلقات قائم نہ ہو جائیں۔ اس دوسرے شوہر کے انتقال پر یا اس کی طرف سے طلاق مل جانے پر بیوی پہلے شوہر سے دوبارہ شادی کر سکتی تھی۔ اس کے بغیر پہلے شوہر کی کوئی قانون حیثیت نہیں ہوتی تھی اور اس سے ہونے والے بچے ناجائز تصور کئے جاتے تھے۔ لیکن اب عائلی قوانین کے

NOVEMBER

1
Wednesday

2
Thursday

3
Friday

Notes

Divorce at Gunpoint

On July 18, some 1000 armed Afghani Pathans from all over the country descended on Sanghar Stadium for a tribal jirga. The issue at hand was the elopement and marriage of a Pathan girl, Bakhtawar with Toshan Jonejo, the 24 year-old nephew of ex-MNA Pir Bux Jonejo. As far as the tribesmen were concerned, their "honour" had been besmirched and they were duty-bound to take revenge. As anger mounted among the crowd, some called for talking Bakhtawar's life. It was finally decided that would Roshan would be compelled to divorce her and return her to her family to face the consequences.

Decisions such as these by tribal jirgas are becoming increasingly common. They draw their strength from the support of powerful landlords and the compliance or complicity of the local administration. The Ujjan Kalairi feud, for instance, which was also sparked off by a marriage of choice, has continued for the past decade and claimed nearly 100 lives. Another case of this kind led to the Phalia-Jatoi clash last year, in which the Jatois attacked the Phalia's village and raped several of their women and pillaged their homes.

Excerpts: Naziha Syed Ali & Massoud Ansari, Newslines, August 2000

Not without my daughter

"The girl is now with her mother, but the Jawaki tribe is not happy with the decided to kill them," said suspended MNA from FATA, Haji Baz Gul, who is a member of this jirga. Baz Gul also joined the protest demonstration as a mark of solidarity with his fellow Afridi tribesman. "Courts have their own method of disposing of cases, but tribal jirgas have their own writ and power," said Haji Baz Gul, who contended that the lives of all three are under serious threat, and any delay in implementing the jirga's decision puts them at further risk.

If she survives, according to the court's decision Tahira Naz will remain with her mother until she attains the legal age of 18, whereupon she will personally decide her own future. A tribal elder and parliamentarian from Dara Adamkhel, however, sounds a chilling note. "They cannot escape death by running away. They are in Afridi land and under our watchful eyes all the time."

Excerpts: Behroz Khan Newslines June, 2001

A Maulvi that mattered

...Mukhtaran Mai lived much of her life in a remote rural part of Punjab and speaks no English. Yet the world recognized her suffering. Her tragic tale of gang rape on the orders of a village council or panchayat has alarmed human rights activists, journalists and greatly embarrassed the government of Pakistan...

Much as Mukhtaran Mai deserves to be congratulated for her courage, there is another unsung hero in this saga. In a patriarchal and highly restricted society such as rural Pakistan, one may wonder how Mukhtaran Mai was able to get her voice heard and approach the police. Initially she was so desperate and humiliated that she swallowed a bottle of pesticide, hoping for a merciful death but was saved in time. Her cries for help initially went unheard by urban women's rights groups but a local mosque's imam, paid heed.

Defying the stereotypes of a misogynistic Muslim male Maulvi, Abdul Razzaq stood by Mukhtaran Mai. He gave a sermon at the Friday prayers saying that the village council had sinned greatly and that the criminals responsible for rape must be brought to justice. He then went beyond his pulpit and brought a local journalist, Mureed Abbas, to meet Mukhtaran Mai's father, and persuaded the family to file charges. The family was persuaded to do so primarily because of the imam's stature in the community.

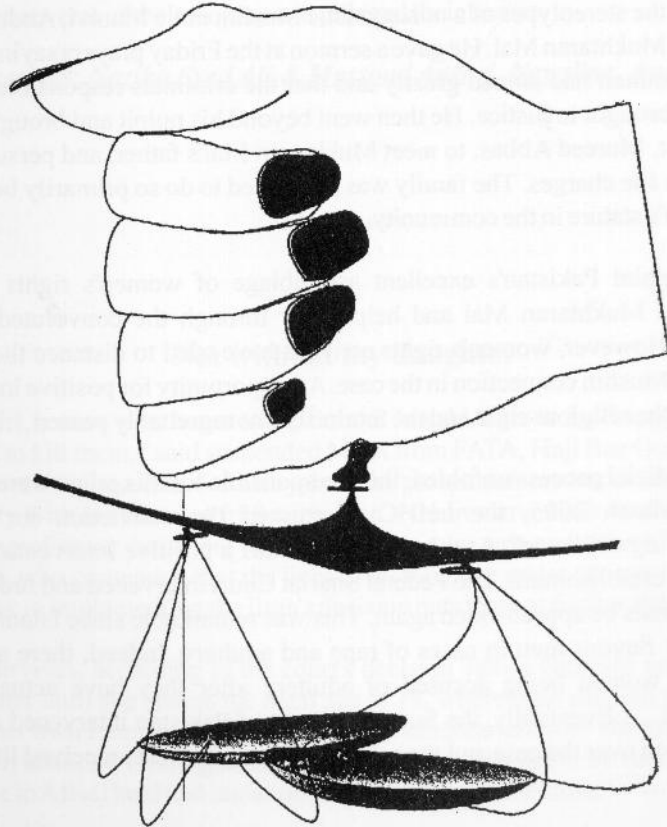
At this point Pakistan's excellent assemblage of women's rights activists embraced Mukhtaran Mai and helped her through the convoluted judicial process. However, women's rights activists have tried to distance themselves from the Muslim connection in the case. An opportunity for positive interaction between the religious right and the feminists was regrettably passed.....

As the judicial process unfolded, those responsible for this crime were charged but in March 2005, the LHC overturned the conviction for lack of "convincing evidence". At this point there was a positive intervention by the religious establishment. The Federal Shariat Court intervened and ordered that the criminals be apprehended again. This was remarkable since Islamic courts generally flavour men in cases of rape and adultery. Indeed, there are many cases of women being accused of adultery after they have actually been raped..... Eventually, the Supreme Court of Pakistan intervened and took jurisdiction over the case and the role of religious elements received little press coverage...

When such positive actions go unappreciated cynicism sets in among reformers. Acknowledging the efforts of this cleric is exceedingly important. It

is also high time secular and religious forces try to find common ground on human rights issues. Let us be principled and not positional in our approach. As we congratulate Mukhtaran Mai for her efforts, we must consider the role of a progressive imam as a rare but promising sign that Islam might also be a means of championing women's rights.

Excerpts Saleem H Ali, Daily Times, November 14, 2005



DECEMBER

1
Friday

2
Saturday

3
Sunday

Notes

Government of Pakistan Initiatives Towards Signing the Women's Convention

That Pakistan sign the Convention with a blanket reservation to the effect that "The Government of Islamic Republic of Pakistan agree to ratify the Convention on the Elimination of All Forms of Discrimination Against Women to the extent that articles and sub-clauses are not repugnant to the teachings of the Holy Quran and the Government of Pakistan will be the sole judge of the question whether such repugnancy exists".

The Ministry of Foreign Affairs objected to the above mentioned recommendations and objected to the proposed reservation on the following grounds:

1. According to article 28(2) of the Women's Convention, "any reservation incompatible with the object and purpose of the Convention shall not be allowed". The Ministry of Foreign Affairs realized that the proposed reservations as indeed against the spirit of the Women's Convention and would face objection from other States Parties.
2. A second objection to Pakistan signing the Convention was that this treaty embodies only the Western notion of women's human rights and fails to integrate diverse customs, values, religious and ethical perspectives as well as different socio-economic conditions around the world.
3. Signing the Convention would mean regularly monitoring the position of women in the country, compiling a Country Report and its discussion thereof in the CEDAW Committee. It appears therefore, that from the very outset, the Ministry lacked confidence in the various agencies that would be responsible for the monitoring and reporting mechanism were the Government to accede to the Convention.
4. Yet another objection raised was that in the opinion of the Ministry of Foreign Affairs, the substantive provisions of the Convention are not "entirely consistent with the Constitution of Pakistan, the tenets of Islam nor in keeping with the current status of Islamization of laws".
5. That the Convention has been used by western human rights activists as an instrument to not only criticize the situation in various Islamic countries but also the very fundamentals of the Islamic faith. It was also argued that the Muslim countries that had already signed and/or ratified were facing considerable difficulty in defending their policies.
6. Last, but not least, the Cabinet Secretariat was warned that Pakistan's ratification of the Women's Convention entailed security by the International community and in that event we would be hard put to protect ourselves from the criticism of other States Parties and the international community at large unless we brought our laws in conformity with the substantive provisions of the Convention.

Source: A Comparative Study of the United Nations Convention on the Elimination of All Forms of Discriminations Against Women, Islamic Law and The laws of Pakistan by Shaheen Sardar Ali, June 1995

Family Laws

- The Government should immediately set up a task force to prepare proposals for reforms in the area of family laws for non-Muslims; this task force must be representative both along gender and along minority group lines.
- The nikahnama should include a column for the statement of the current marital status of the spouses, their existing partners' addresses, and the number of children, if any, from the earlier marriages.
- Clause 17 of the nikahnama be amended so that where a statement of special conditions is required, a specific question be added to ask whether the wife shall automatically be delegated the right of divorce in case her husband contracts a polygamous marriage.
- Clause 18 of the nikahnama should read as follows: 'Whether the husband has refused to delegate the power of divorce to the wife'.
- A law be enacted to punish those who coerce non-consenting parties into a marriage, and at the same time to declare that the consent of the wali to the marriage of an adult female is not required under the law.
- Section 4 of the Muslim Family Laws Ordinance, 1961 be amended to provide the right of inheritance to spouses from the share of their predeceased partners on the death of a parent-in-law. Similar provisions be made for the parents of a predeceased child.
- The nikahnama should include a column for the statement of the current marital status of the spouses, their existing partners' addresses, and the number of children, if any, from the earlier marriages.
- A new marriage should strictly be subject to permission, and the authority for permission should be the family court.
- Permission should only be granted on the following conditions:
 - a. The existing wife/wives have voluntarily and specifically consented to the additional marriage. Their statements should be recorded by the concerned family court.
 - b. The husband should be required to file details of his assets and income.
 - c. The family court should grant the existing wife/wives adequate provisions for maintaining her/their own residence/residences and ensure that her/their financial status is not affected by the additional marriage of her/their husband.
 - d. An application made by the husband for an additional marriage should include a provision whereby he must delegate his right of divorce to his existing wife/wives.
 - e. The husband be liable to pay a dower amount to the existing wife/wives which shall be fixed by the court keeping in view the financial status of the parties.
 - f. The grounds for granting permission for an additional marriage

should be exclusively where:

- i. the insanity of the wife is established
 - ii. the wife is declared physically unfit to have conjugal relations
 - iii. the parties are issueless and the wife has been medically declared unable to bear children and where in the opinion of two competent medical practitioners she has no chances of recovery.
- Where an appeal is preferred to the district court, the decision of the family court shall only take effect after the appeal has been disposed.
 - A complaint against violation of the law can be made by an aggrieved person or any of her blood relatives.
 - Penalty for violation of the law should be imprisonment of five years and a fine of Rs. 200,000 to be paid to the aggrieved wife.
 - A provision be made imposing a penalty for misstating any facts in the nikahnama.
 - Where the husband misstates his pre-existing martial status, the aggrieved wife should have the same rights as those applicable to the existing wife; for example, the court should grant her the delegated right of divorce, adequate provisions for maintaining her residence and financial status, and a dower which is equitable in light of the financial status of the parties.
 - Amendments be made to section 2 of the Dissolution of Muslim Marriages Act, 1939 as follows:
 - a. In section 2 (i), the words 'the whereabouts of the husband have not been known for a period of four years' should be changed to 'the whereabouts of the husband have not been known for a period of one year'. Further, the proviso to this section should be deleted since it gives the husband a six-month period to appear before the court prior to the final judgement.
 - b. The proviso to section 2(v) should be deleted as it requires the husband to prove his potency within one year after the court has decreed dissolution on the grounds of impotency.
 - c. Section 2(vi) be amended so that the wife can seek dissolution if a husband is insane for a period of six months rather than two years.
 - d. Section 2(viii)(a) be amended to expand the definition of cruelty by dropping the word 'habitually'.
 - e. A new subsection be added in section 2 to include incompatibility and irretrievable breakdown of marriage as a ground of divorce.
 - f. The law be amended to provide for the dissolution of those marriages where the parties have been separated for over a year and reconciliation efforts have failed.
 - Khula should be granted by the courts after making due efforts at reconciliation and by simply recording the statement of the wife

making out a case of khula.

- The family courts be empowered to issue restraining orders against the husband where the wife is separated from him.
- The law be amended to provide for granting ma'ta on the termination of marriage either through talaq or otherwise; where under the law the wife should be provided adequate maintenance till she remarries or dies.
- It is important that every divorce, including an oral one, is officially registered. The record is needed, among other things, for subsequent legal decisions, as on maintenance, custody of children, settlement of mutual obligations, etc. thus the law should be amended to give the family courts powers to terminate the marriage and to decide all other connected matters at the same time.
 - a. Every notice of talaq received by the Union Council must also be sent to the family court.
 - b. The family court should decide all the matters arising out of the termination of the marriage within ninety days, failing which talaq may be granted ninety days after having received the notice of talaq. However, proceedings regarding other related matters shall continue and be heard on a day-to-day basis.
 - c. As family courts will be deciding all family disputes affecting marital disputes (as mentioned earlier), therefore such judges be appointed with care and be sufficiently experienced.

Source: Report of the Commission of Inquiry for Women, August 1997



Women and the law

The continued existence of laws that discriminate against women remained a threat to their rights and welfare, with various cases illustrating the extent of the risk women faced.

In April, Zafra Bibi, a young married woman whose husband was in jail, was found guilty of adultery by a local court in Kohat in the NWFP, and sentenced to death by stoning. She herself maintained she had been raped by her brother-in-law. This was the first such sentence in at least 15 years. As a campaign for the repeal of discriminatory laws against women began in the country, an appeal against the ruling was lodged before the Federal Shariat Court (FSC). In June, Zafra Bibi, was acquitted by the FSC after her husband stated that he was indeed the father of a child born to her early in the year.

HRCP maintained that despite the acquittal, the real issue remained the continued presence of Hudood laws. The UN Office for the Coordination of Humanitarian Activity (UNOCHA) stated in July that of the 2,220 women in prison in the country, most were either awaiting trial or had been convicted under the Hudood Ordinance.

In May, the National Commission on the Status of Women (NCSW) began a review of the Hudood laws, with a special committee set up for this. However, by October, the special committee of the NCSW, which also included religious scholars nominated by religious parties, has failed to finalise its recommendations on this issue. Press reports stated that further time had been requested because of differences among committee members on the matter.

The NCSW, whose chairperson, Shaheen Sardar Ali, had resigned last year, also remained relatively inactive for a part of the year, with no permanent chairperson appointed for a period of nearly six months. A member of the commission, Dr. Faqir Hussain, continued to act as the chairperson until the appointment of Justice Majida Rizvi in March.

In May the NCSW launched its first report, and recommend the removal of the need for women to be accompanied by a close male relative (mehram) to perform Haj and the empowerment of female judges to deal with cases related to family matters. It also recommended that the filling of all clauses of the 'nikhanama' be made compulsory.

Accepting the recommendations of the NCSW, amendments were made in September in the Family Courts Act of 1964. Under these amendments, all suits in family courts had to be resolved within six months. It was also decided to increase the number of female judges in family courts across the country.

The Prevention and Control of Human Trafficking Ordinance 2002, promulgated in August, dealt with the issue of the trafficking of women and children in particular, acknowledging that organised groups were involved in this practice.

While the NCSW continued its task of reviewing laws and advising amendments to eliminate discriminations, previous recommendations made on amendments in the Citizenship Act and a specific law on domestic violence, were not acted upon.

Courts meanwhile continued to give judgements, which in some cases acted to uphold the rights of women, but in other cases added to the difficulties they face. The Lahore High Court (LHC), in October, ruled that a nikah registrar must be present at every nikah, to prevent the use of fake nikahnamas and to ensure that all clauses protecting the bride were filled out.

In at least eight different cases reported during the year, high courts in Peshawar, Karachi and Lahore upheld the right of an adult woman to marry of her own free will. In January, the LHC ruled that a minor girl could not leave her parent's house, without consent, even if she had converted to Islam. The verdict came in a case filed by Inayat Masih, who stated that his 16-year old daughter had been kidnapped, forced to convert to Islam and made to wed her abductor.

In June, the Supreme Court held that honour killings could not be justified on any grounds, especially when they were of those family members who had no role in undermining the presumed honour of the accused.

Women's rights groups meanwhile continued to call for a scrapping of laws that discriminated against women, including the Hudood Ordinances and repressive tribal and feudal traditions used repeatedly against women in the country.

State of Human Rights in 2002 by Human Rights Commission of Pakistan.

Key issues as identified by the Special Committee

As a result of deliberations held during the first meeting, the Committee identified the following as the key issue in the Zina Ordinance:

1. Is the law under discussion delivering justice? If not, then should it remain as part of the statute books?
2. Whether the existing Hudood provisions in the Hudood Ordinances 1979, are in accordance with the Islamic injunctions, particularly with reference to the Federal Shariat Court's judgement in Hazoor Bux case, wherein two different Benches gave conflicting judgements; one holding that Rajam is not according to the Islamic injunctions (PLD 198 FSC 145), and the other stating that it was so (PLD 1983 FSC 225)?
3. Whether Section 8, which deals with the production of evidence for Zina and Zina-bil-Jabr is confusing and should the required evidence for each of the two be different and distinctive; because under the existing law, the victim in Zina-bil-Jabr becomes an accused, which is unjust and against the spirit of the Islamic legal system and encourages rape?
4. Definition of "Marriage" as provided in the Ordinance in the context of offence of Zina.
5. Whether the definition of "pregnancy" has any bearing with rape or adultery?

6. Should not the attainment of puberty be de-linked from adulthood? How can a girl at the age of 10 years or a boy of the age of 15 years, if she/he attained puberty, have enough understanding to know the implications of Zina or Zina-bil-Jabr, after being enticed away and abused?
7. Whether the punishment for Zina-bil-Jabr can be the same as for Zina, as described in the Quran (Surah Noor 24:2 Surah) (Zina-bil-Jabr is not mentioned in the Quran and hence is a Tazeer issue).
8. Is the provision of only "male witness" a correct interpretation of Quranic verse as the literal translation differs on this point? And whether by providing for only Muslim male witnesses does the law not attach leniency towards the perverse elements who, despite their involvement in such heinous crime, are likely to go totally free or just be penalized with mitigated punishments?
9. Whether the punishment of Rajam comes under Hadd or Tazeer? And under what conditions should it be awarded, particularly with reference to the verses of Surah Noor?
10. The rationale of including other offences not related to the Hudood, e.g. "enticing women", "cohabiting with women" and "selling and using women prostitutes" etc?
11. Is it just that a law is made applicable to non-Muslims but they are debarred from being represented by a non-Muslim counsel? Is it fair, equitable and in the spirit of Islamic injunctions as regards testimony, that a non-Muslim witness cannot be judged under the Rule of Tazkiyatul-Shahood, and as such the evidence becomes a secondary evidence. Is non-Muslim witness discriminated against Muslim witness as no weight is given to the testimony of a non-Muslim?
12. In view of exclusion of non-Muslims as witnesses and presiding officers of the Court, what is the rationale of application of this law to non-Muslims?
13. Whether Tazeer punishments could, in particular reference to the Zina offences, be awarded under the Hudood Laws? (Whether Tazeer is permissible as an alternative punishment)?
14. Whether the entire Ordinance is repugnant to Islamic injunctions and requires to be repealed and drafted afresh, or could it be modified through some amendments and brought in conformity with Islamic injunctions?

The participants carried out brainstorming sessions on the above listed issues. In the following section of the report, all issues raised while reviewing the Zina Ordinance have been reported section-wise. The issues/questions with particular reference to the offence of Zina, as discussed and identified by the Special Committee as "Key Issue" (listed above), have also been reported in this section. Other issues pertaining to the overall impact of all the Ordinances have been reported in the Final Conclusion of the Report given at the end.

Source: Report on Hudood Ordinances 1979 by National Commission on the Status of Women in 2003

Chronology

1892

- Female franchise is not mentioned in Councils Act of 1892 in British-ruled India.

1909

- There is no mention of female franchise in Councils Act of 1909 in British-ruled India.

1916

- Women of the All India Muslim Ladies Conference, led by the Anjuman-e-Khawateen-e-Islam, pass a resolution against polygamy.

1919

- The Government of India Bill is enacted; it excludes women from voting, but allows Provincial Assemblies to drop exclusion clauses if they so wished.

1921

- The provincial assembly of Madras gives women the right to vote. Other provinces follow suit, except Orissa and Bihar.

1929

- The Child Marriage Restraint Act is passed. The minimum age of marriage for girls is fixed at 14 years.

1930-31

- A memorandum demanding rights for all people regardless of religion, caste, creed or sex is submitted to the First Round Table Conference by Mrs. Subramanyam from Madras and Begum Jahan Ara Shahnawaz from Lahore on behalf of Indian women.

1934

- Permission is granted for women's night work not to exceed 10 days per month, with provision of rest rooms and facilities such as the presence of a night warden.

1935

- The Government of India Act, for the first time, enfranchises 6.6 million women and allocates 9 out of 250 seats for women in the Federal Assembly and 6 out of 150 seats in the Council of State in

British India.

- According to Shariat Law of 1935 the Muslim women of India are not given their share in the inherited property, with Punjab particularly upholding this discrimination.

1937

- Upon pressure from Muslim women, the Muslim Personal Law is enacted, allowing women to inherit property.

1939

- Women obtain the right to file for divorce under the Muslim Marriages Act.

1947

- After Independence, Pakistan adopts a modified version of the Government of India Act 1935, containing provision of reserved seats for women.

1948

- Muslim women's right to inherit property (including agricultural land) is included in the Muslim Personal Law.

1953

- The first Pakistani women's NGO, the All Pakistan Women's Association (APWA) pushes for the setting up of Family Laws Commission.

1954

- A Charter of Rights for Women is presented before the Constituent Assembly, calling for reservation of ten percent seats for women in all legislative assemblies, equal status and equal opportunities for women, equal wages for equal work, and protection of women's rights in the Muslim Personal Law. The Constituent Assembly unanimously adopts the Charter, but amends the demand for ten percent seats to three percent.

1955

- A federal Commission, titled The Family Laws Commission, headed by a Supreme Court judge, Justice Rashid, is set up to make recommendations for the protection of women's rights in the Muslim Personal Law.

1956

- The Family Laws Commission presents its recommendations, inter alia, calling for the wife's right to divorce, and recommending restrictions on polygamy.
- The Commission's report is shelved after Islamic political parties boycott the reforms programme, and threaten agitation.
- Ghulam Fatima is hanged on charges of murder in Central Jail, Mianwali (Punjab). She becomes the first woman in Pakistan to undergo the death penalty.
- Women obtain the right to a double vote one for the general seats and the other for women's reserved seats.

1958

- 4th June is declared Women's Demands Day. APWA passes a resolution calling for reforms in the Family Laws on divorce, maintenance and custody of children.

1961

- Based on the recommendations of the Rashid Commission, President General Ayub Khan promulgates the Muslim Family Laws Ordinance. The Ordinance lays conditions on Muslim men's right to polygamy, requiring registration of marriage and divorce, allowing inheritance of children of predeceased parents, introducing a standard nikahnama (marriage form) and raising the minimum age of marriage for girls from 14 to 16 years.

1962

- The right of double voting is taken away from women under the 1962 Constitution.

1963

- Under pressure from conservative and religio-political forces, the West Pakistan Assembly passes a resolution recommending the repeal of the Muslim Family Laws Ordinance (1961). The move is, however, defeated in the National Assembly after a 20-hour debate, due to the hectic efforts of women's rights activists within and outside the legislature especially the courageous and sustained efforts of two pioneering legislators and workers of the Independence Movement, Ms. Mahmooda Saleem Khan and Ms. Zari Sarfaraz Khan.

1964

- The military ruler, President General Ayub Khan, acquires the

services of several Islamic clerics, who issue a fatwa (religious edict) against women's eligibility to become head of an Islamic State. This is done to prevent Quaid-e-Azam, M. A. Jinnah's sister, Mohtarima Fatima Jinnah, from contesting elections.

1965

- Despite the fatwa, Mohtarima Fatima Jinnah contests the presidential elections but loses, amidst widespread rumours of election rigging.

1967

- Moved by a woman legislator, Sahibzadi Mahmooda Begum, the West Pakistan Assembly passes the Prohibition on Exhibition of Dowry Bill.

1969

- The new Martial Law regime of General Yahya Khan declares the kidnapping of women and children as a crime punishable by death.

1973

- Under the rule of Prime Minister Zulfikar Ali Bhutto of the Pakistan People's Party (PPP), the Constitution is unanimously passed, containing the milestone Article 25. Other important Articles pertaining to women's equality are 27, 32, 34, 35 and 228. It provides for the reservation of ten National Assembly seats, and five percent Provincial Assembly seats for women for a period of two general elections. All government services are declared open to women, barring the police force.

1975

- The United Nations declares 1975-1985 the Decade for the Development of Women. In response, the Z. A. Bhutto Government creates the first Women's Rights Committee, headed by the then Attorney General, Mr. Yahya Bukhtiar to recommend steps for improving the status of women. It submits its draft report a year later.
- The First Lady, Mrs. Nusrat Bhutto, leads the Pakistan delegation to the First International Conference on Women in Mexico.
- Nine women are arrested for conducting union activities in a factory in Lahore.

1976

- The Women's Rights Committee submits the first draft of its report

to Prime Minister Z. A. Bhutto. The Report recommends legal and structural reforms to improve women's status. This report is suppressed by the military regime of General Zia-ul-Haq (1977-88).

- The Dowry and Bridal Gifts (Restriction) Act is passed, limiting marriage expenditures and dowry demands.

1979

- On 10th February, the Hudood Ordinances are promulgated and a system of so-called "Islamic" punishments is introduced by President General Zia-ul-Haq.
- A Women's Division is established in the federal government, and Women's Development Cells are set up in the provinces for the first time.

1980

- The Second World Conference on Women is held in Copenhagen. The Secretary of the Women's Division leads the Pakistani delegation.

1981

- The Women's Action Forum (WAF) is formed, providing a platform for women's rights activists in Karachi, Lahore, Islamabad and Peshawar to raise their voices and concerns on women's issues, and to act as a monitoring, watchdog, lobbying and advocacy umbrella group.

1982

- WAF starts a campaign to save the Muslim Family Laws Ordinance (1961) from retrogressive state-sponsored "Islamization". Two thousand individual women and organizations sign a protest document, despite the draconian military rule. It becomes a historic milestone for the women's movement in Pakistan.

1983

- The signature campaign and rallies led by the WAF against the sentencing under the Zina Ordinance (1979), prove successful as the Federal Shariat Court acquits Safia Bibi. This 18-year old girl, who was raped but could not identify her rapist because she was visually disabled, was earlier sentenced to public lashing, imprisonment and a fine on charges of adultery.
- On 12th February, WAF Lahore activists demonstrating in front of the High Court against the Law of Evidence, are tear-gassed, baton-

charged, beaten up, arrested and jailed. Subsequently, the day is commemorated annually nationwide as Pakistani Women's Day.

- On 8th March, WAF observes International Women's Day as a day of protest against the Law of Evidence.
- On 30th September, Lal Mai becomes the first Pakistani woman to be publicly flogged in Liaquatpur, Bahawalpur District. She is convicted under the Zina Ordinance and is given 15 lashes by a man with 5,000 people as spectators. WAF launches a nationwide protest.
- President General Zia-ul-Haq sets up the Pakistan Commission on the Status of Women, headed by Begum Zari Sarfaraz Khan, with a mandate to identify women's needs in a range of development sectors.
- The Ansari Commission report recommends "Islamic" provisions to be incorporated into the 1973 Constitution, and proposes that women should not be allowed to hold high government positions such as president or prime minister. In addition, women contesting elections should be married, above 50 years of age and should have prior written permission from their husbands.

1984

- President General Zia-ul-Haq promulgates Qanoon-e-Shahadat (Law of Evidence) Ordinance that equated the evidence of two women to that of one man, under stipulated circumstances. Subsequently, the draft is amended to restrict the evidence of two women and one man to financial matters only. In such matters, the evidence of one woman is not to be admitted.
- Several women of a family in Nawabpur, near Multan, are stripped naked and forced to parade around in a busy bazaar by young, feudal landlord of the area.
- The Majlis-e-Shoora (Parliament) adopts measures to double the number of reserved seats for women from ten to twenty.

1985

- The Pakistan Commission on the Status Women (PCSW) submits its report but the Zia regime suppresses it, classifying it a secret document.
- The Third World Conference on Women is held in Nairobi. Pakistan attends and endorses the Conference document: "The Forward Looking Strategies for the Advancement of Women".

1986-87

- The draft 9th Constitution Amendment (also known as Shariah Bill)

is tabled in the Majlis-e-Shoora (Parliament) by two extremist religio-political party members, Qazi Abdul Latif and Maulana Sami-ul-Haq. It is strongly condemned by the women's movement. WAF launches a vigorous campaign against it, including a 1000-women demonstration organized by the Islamabad chapter, defying the ruthless enforcement of the Zia regime's ban on freedom of assembly and speech.

1988

- In August President General Zia-ul-Haq is killed in an air crash. The country returns to democracy after the general elections in November. Benazir Bhutto (PPP) becomes the first woman Prime Minister of Pakistan and the Muslim world.

1989

- PM Benazir Bhutto removes the secret classification of the 1985 report of the Pakistan Commission on the Status of Women and it is publicly disseminated.
- The Women's Division is upgraded to the Ministry of Women's Development (MoWD).
- The PPP Government sets up the First Women's Bank Limited.
- The PPP Government sets up the first Women Police Stations with all female staff.
- The rape of two nurses while on duty in Civil Hospital, Karachi, makes press headlines in August, after a democratic government has supposedly been reinstated in Pakistan.

1990

- PM Benazir Bhutto's government is "sacked" by President Ghulam Ishaq Khan.
- Dr. Fauzia Bhutto, an intern at the Jinnah Post-Graduate Medical Centre Karachi is shot dead. Her body is found in an apartment that belonged to Rahim Bux Jamali. A case is registered and Jamali is arrested on murder charges, but is later released on bail.

1991

- PM Nawaz Sharif's PML-heavy Islami Jamhoori Ittehad (IJI) coalition government enacts the Shariat Act through Parliament.
- Veena Hayat, the daughter of a prominent politician is raped. She goes public, claiming it to be an act of political intimidation, and presses charges against Irfanullah Khan Marwat.
- Khursheed Begum, wife of a Pakistan People's Party (PPP) activist, lodges a complaint of sexual assault. She claims that the police

committed the crime to take revenge for her husband's political affiliation with the PPP.

1993

- PM Nawaz Sharif's government is "sacked" by President Ghulam Ishaq Khan.
- Benazir Bhutto is elected PM a second time.

1994

- A Commission of Inquiry on Women is established, headed by a Supreme Court judge and including political and NGO representatives and legal experts as members.
- Women are appointed as Magistrates and Family Court Judges. Justice Majida Rizvi and Justice Khalida Rasheed become the first women High Court judges. They are appointed to Sindh and Peshawar High Courts, respectively.

1995

- The Fourth World Conference on Women is held in Beijing. PM Benazir Bhutto leads the Pakistan delegation and presents the Pakistan National Report, prepared in collaboration with women's rights activists and NGOs. Pakistan endorses the conference document, but with reservations.
- The Islamic Ideology Council declares the feudal custom of marrying girls to the Quran as un-Islamic and immoral. Despite the declaration, the practice continues unabated.
- The Punjab Government passes an Ordinance reserving one-third of all local council seats for woman.

1996

- The Bhutto government ratifies CEDAW the Convention on the Elimination of All Forms of Discrimination Against Women, but with an important Reservations and an umbrella Declaration.
- Work begins on drafting the National Plan of Action, as a mandatory follow-up to the Beijing Conference endorsement of the Platform for Action. Civil society is invited to participate and does so.

1997

- The Benazir Bhutto government is sacked and Nawaz Sharif (PML) is again elected Prime Minister.
- The report of the Pakistan Commission of Inquiry on Women (COIW) headed by Justice Nasir Aslam Zahid, co-authored by

Shahla Zia and Asma Jahangir, with a number of excellent recommendations, is presented to Prime Minister Nawaz Sharif.

- A ruling by the Lahore High Court, in the much publicized Saima Waheed case, upholds a woman's right to marry of her own free will, but calls for amendments to the Muslim Family Laws Ordinance (MFLO-1961), on the basis of Islamic norms, to enforce parental authority to discourage "love marriages".
- Parliament passes a law making the death penalty mandatory for gang-rape. This is in addition to the Hudood Ordinances (1979).

1998

- The controversial 15th Amendment Bill is approved in the National Assembly where PM Nawaz Sharif's Pakistan Muslim League has an absolute majority. The Bill is to replace the existing legal system with "Islamic Shari'ah".
- Prime Minister Nawaz Sharif in his Independence Day speech to the nation launches the National Plan of Action (NPA) as a follow-up to the FWCW, Beijing. There is no subsequent action on its actual implementation. There is no mention of the COIW report.
- Nina Aziz is brutally murdered in Islamabad. An independent, highly educated and professionally qualified woman, Nina's murder becomes a landmark case of media sensationalism. It also points out the absence of laws or ethical codes that could hold the media responsible and accountable.

1999

- Samia Sarwar's murder by her rich, influential NWFP family in Hina Jillani's AGHS office launches a nationwide protest against such so-called "honour" killings, attracting widespread media coverage.
- In August, a resolution drafted and advocated by WAF activists, condemning the act of so-called "honour" killings and demanding concrete government action, is turned down by the Senate Chairman and a large number of male Senators without even being tabled in the Senate, due to intense pressure from the retrogressive NWFP members and feudals, as well as friends of Samia's murderer her father, Ghulam Sarwar Mohmand, the head of the Sarhad Chamber of Commerce and Industry.
- In October the Lahore High Court, Rawalpindi Bench, is moved by Viqar-un-Nisa Aslam to seek the post of a career development officer in the Pakistan International Airlines (PIA) in pay group 7 with all benefits of previous service, on the plea that she was being denied her fundamental right of equal opportunity in service career.

- PM Nawaz Sharif's government is overthrown by a military coup d'etat and General Pervez Musharraf appoints himself as the "Chief Executive" of Pakistan.

2000

- On 21st April, in his speech at a Human Rights Convention, General Pervez Musharraf declares "honour" killing, as pre-meditated murder, punishable under the law.
- A permanent Pakistan National Commission on the Status of Women (PNCSW) is established and tasked, inter alia, with giving recommendations on discriminatory laws and working on issues of violence against women.
- The Government of Pakistan submits the first of the required annual reports on progress achieved in implementation of CEDAW to the UN (two years late).
- President Rafiq Tarrar pardons a mosque cleric, Qari Mohammad Sharif, who was sentenced to imprisonment as punishment for barbaric torturing of his wife, Zainab Noor. He is set free after only six years in prison.
- On 3rd May, seven Christian girls of Diyari, a Christian colony near Lahore, are raped by Shabbir Chhangar and his accomplices. The bus, carrying the victims from their factory was intercepted in the evening by the culprits who detained them for several hours, subjecting them all to rape. All culprits remain at large, despite being formally identified.

2001

- The Ministry of Women's Development holds a selective and exclusive "consultative" workshop on the Draft National Policy for Women. One of the recommendations from the working groups is to limit the Preamble of the draft Policy to the 1973 Constitution and the International Human Rights Charter but it is not approved by the Ministry of Women's Development.
- Under the Local Government Ordinance 2001, 33 percent seats are reserved for women in district, town and tehsil council.
- Bilal Khar, son of former Governor Punjab, Ghulam Mustafa Khar, throws acid on his wife Fakhra, and leaves her in a critical condition. Despite wide media coverage, he is not arrested.
- Hafiza is shot dead by her brother in the premises of a sessions court, while appealing for protection in the wake of death threats from her brothers.

2002

- On 8th March President General Pervez Musharraf announces the National Policy on the Development and Empowerment of Women.
- Under the Conduct of General Elections Order 2002 (Chief Executive's Order No. 7 of 2002) the number of seats for women in the Senate, National Assembly of Pakistan and the Provincial Assemblies of Punjab, Sindh, NWFP and Balochistan is increased from 20 to 60 with a view to giving the women adequate representation in the Parliament.
- The National Commission on the Status of Women constitutes a Special Committee comprising prominent (retired) judges, eminent lawyers, scholars, representatives of minorities and members of the Commission to examine the Hudood Ordinances (1979) with a view to determine (1) whether or not these Ordinances ought to be repealed; and (2) whether or not these Ordinances could be improved through amendments.
- Mukhtaran Mai of Meerwala, district Muzaffargarh, near Multan, is gang-raped on the orders of an illegal, non-formal, all-male council or traditional "court" known as a "panchayat" (known in NWFP, Balochistan and Afghanistan as a "jirga"). A worldwide furore ensues.

2003

- Zafran Bibi, a woman from Kohat, NWFP, is sentenced to stoning to death by a sessions court. Even though the decision of the trial court is subsequently reversed by the Federal Shariat Court, the judgement raises alarming religio-legal issues which were believed to have been settled two decades ago.
- The Special Committee set up by the National Commission on the Status Women (NCSW) submits its report and the NCSW takes up the review of the Hudood Ordinances (1979). After extensive deliberations the NCSW approves the recommendation that the Hudood Ordinances should be repealed, as recommended by the majority members of the Special Committee.
- In a landmark decision a full bench of the Supreme Court of Pakistan declares that Muslim girls can marry without their "Wali's" (guardian's) consent and an admission by the couple is sufficient proof of marriage. In its judgement, the apex court said: "The consent of the wali is not required and an adult and sane Muslim female can enter into a valid nikah of her own free will".

2004

- The National Commission on the Status Women (NCSW) presents its report and recommendations on the Qisas and Diyat Laws.
- The National Assembly Standing Committee on Law, Justice and Human Rights approves amendments in the draft Criminal Law (Amendment) Bill, 2004 to address "honour" killings.
- Despite strong and widespread protest from women's rights activists, the Government presents in the National Assembly a greatly watered-down and modified bill on "honour" killings, seeking to amend the Pakistan Penal Code, (1860). The National Assembly passes the bill in October, after Cabinet approval.
- The "honour" killing bill is passed in the Senate in December.
- On 8th October, the Citizens' Action Group Against "Honour" Killings (CAGAHK), comprising women's rights activists and civil society organizations, stage a massive rally in Islamabad against "honour" killings and in favour of the original bill drafted mainly by Ms. Shahla Zia. Media estimates put the number at around 5,000, which is unprecedented in Islamabad..

2005

- In January, President General Pervez Musharraf signs the Criminal Law (Amendment) Act 2004 providing for death penalty or 25 years imprisonment for perpetrators of "honour" killings.
- Dr. Shazia Khalid accuses an army officer, Captain Hammad, of raping her at a government hospital in Sui, Balochistan, but President General Pervez Musharraf declares him innocent while the case is sub judice.
- Dr. Shazia Khalid is declared Kari by her tribe, and her life is threatened.
- In March Dr. Shazia Khalid and her husband leave the country to settle abroad, to escape continuing death threats.
- The NWFP/MMA government's Hasba Bill is passed by the NWFP Assembly, despite strong opposition by women's and minority rights groups, progressive religious scholars and lawyers. Before the NWFP Governor signs it into a Law, a five-member bench of the Supreme Court issues notices to the NWFP government and Advocates-General of all the four provinces on a reference filed by the federal government, seeking the Apex Court's opinion on the NWFP Hasba Bill 2005. THE Supreme Court examines a huge volume of research, hears arguments from both sides, and delivers its judgement that the Hasba Bill is unIslamic, and thus instructs the NWFP Governor not to sign it.
- Under Local Government (Amendment) ACT 2005 the

government reduces the number of women seats from 21 to 13.

- In March, the Lahore High Court (Multan bench) acquits five of the six convicts of the Meerwala Mukhtaran Mai gang-rape case, in a review petition.
- Women's rights activists and NGOs take the case of Mukhtaran Mai to the Supreme Court. Subsequently, the federal government also appeals the case in the Supreme Court. The Supreme Court clubs both appeals together, and high-profile hearings follow, highlighted globally by the international and national media.
- In June, the Supreme Court accepts the petition for appeal to overturn the LHC (Multan bench) verdict, as it finds no lack of evidence against the convicts, and sends them back to prison. The case is still pending.
- In an interview with the Washington Post during his visit to USA in September, President General Pervez Musharraf stated that in order to get rich and to obtain a Canadian immigration visa, Pakistani women were willing to get raped. This statement unleashed a storm of protest and condemnation in Pakistan and worldwide.
- The Supreme Court in December orders the inspector-general of NWFP and Punjab to protect women in their respective provinces being given in marriages as ransom under unIslamic customs of "Vani" and "Sawara".

NOTES

YEAR 2007

January						
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July						
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9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

August						
M	T	W	T	F	S	S
	1	2	3	4	5	
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

September						
M	T	W	T	F	S	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

October						
M	T	W	T	F	S	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

November						
M	T	W	T	F	S	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

December						
M	T	W	T	F	S	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						