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Gendered Citizenship: Understanding Violence Against Women in Pakistan

A Thesis
Submitted to the Faculty
in partial fulfillment of the requirements for the degree of

Master of Arts in Liberal Studies

by Taqdees Mahmood Mela

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August/2022

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Abstract

From 2020 to 2021, there has been an increase in violence against women by 255 percent in Pakistan.¹ As a democratic state, Pakistan constitutionally recognizes its women as equal citizens but the fear of gendered violence acts as an effective deterrent to women to exercise their rights. My thesis explores the question, why Muslim women who exercise their rights are potentially subject to violence in the Islamic Republic of Pakistan. An examination of this question demonstrates the historical roots of violence and their continued effect on the Pakistani Muslim woman as a citizen. Starting from the colonial period, this thesis maps the nexus of the evolving understanding of the ‘Muslim Woman’ to the present gendered laws of the state. It demonstrates and explores the gap between rights given and rights exercised by showing the socio-political conception of the term ‘Muslim’ and ‘woman’ in Pakistan.

Narratives of women from the South Asian subcontinent have been cast in the mold of the female character as the helpless victim and presented as human-interest stories to elicit sympathy and pity. This disingenuous label of the ‘victim’ disempowers these women and takes away their stories of resistance and resilience. Keeping this in mind, I have drawn from primary sources such as interviews, documentaries, and newspapers to highlight the voice of women as visible, autonomous beings and to bridge the gap between theory and praxis by focusing on situated experience.

¹ Sustainable Social Organization, “Tracking Numbers.”

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Additionally, I would like to thank my friends Fatima, Aneeq, Momina, and Naseeba who offered words of wisdom and comfort. And, who listened to my incessant rants on how unfair the world is for women (I have research to prove this).

I would also like to express my gratitude to the interviewees, Mukhtaran Bibi and Maria Tahir for sharing their truth with me. I salute your courage.

Lastly, I would like to thank my wonderful family (old and new) who is a source of constant inspiration for me, especially my sisters; I know I am going to get an earful for not mentioning each one of you by name, but the acknowledgment section cannot turn into

another thesis, be happy guys! However, one person does deserve a special shout-out:
Ahmad Sultan. Thank you for being my safe space.

Gendered Citizenship: Understanding Violence Against Women in Pakistan

Table of Contents

<i>Introduction</i>	1
<i>Chapter 1. Understanding Citizenship</i>	7
1.1 <i>Do We Belong? Understanding the Muslim Woman as a Citizen</i>	12
<i>Conclusion</i>	17
<i>Chapter 2. Gender and Imperialism: Lives of Muslim Women Under the British Raj</i>	18
2.1 <i>Constructing the Other</i>	18
2.2 <i>Understanding Gender Constructs in Colonial India</i>	20
2.3 <i>Impact of Colonial Laws on Native Women in India</i>	23
2.4 <i>Post-Colonial Legacies</i>	30
<i>Conclusion</i>	32
<i>Chapter 3. Putting ‘Islam’ in the Islamic Republic of Pakistan</i>	34
3.1 <i>Islam, a Cultural Interpretation</i>	37
3.2 <i>Zia Ul-Haq and Islamization</i>	43
3.3 <i>The Hudood Ordinance</i>	45
<i>Conclusion</i>	49
<i>Chapter 4. Systems of Oppression</i>	52
4.1 <i>Parallel Legal Systems at Play - Muktaran Bibi’s Case</i>	54
4.2 <i>A Close Look at Maria Tahir’s Case</i>	58
4.3 <i>Control and Honor</i>	61
4.4 <i>Deconstructing Language</i>	67
<i>Conclusion</i>	71
<i>Chapter 5. Reclaiming Citizenship</i>	73
5.1 <i>Women as Agents of Change</i>	73
5.2 <i>Reclaiming Power through Organization</i>	77

5.3 Autonomous Women’s Movement in Pakistan - Challenges and Obstacles.....81
A Path Forward84
Conclusion.....85
Bibliography88

List of Illustrations

Figure 1. Benazir's Undress and Character's Unconcern

Figure 2. Medical Legal Form

Introduction

The idea of my thesis was born in the month of September 2020, when there were horrifying cases of women being brutalized and killed in Pakistan, every day. As cries of an ongoing femicide ring throughout the country, I am once again forced to confront the question which has beleaguered the female population since Pakistan's inception: are women even considered citizens? Am I, a Pakistani Muslim woman, considered an equal citizen?

The question of citizenship is of grave importance in the current climate as the role of women and their relationship with the state is rapidly evolving. Ruth Lister, a pre-eminent social scientist, and the author of 'Citizenship: Feminist Perspectives' was asked the question, "Why citizenship and, more specifically, why women's citizenship?"²

For me the answer is two-fold. Firstly, as a Pakistani woman I think there is an urgent need to reclaim scholarship on citizenship which has historically been dominated by white academics, as it is fashioned and understood around western political thought. Christine Keating, a political theorist, emphasizes that the Eurocentric "modes of theorizing exclude or marginalize consideration of non-Western political thought."³ As well as, overlook the transformative work done by non-European countries to shape the situated reality of their citizens on a more egalitarian and inclusive term. Aya Ikegame, a social anthropologist, takes this point further by arguing, that "strong religious, communal and kinship ties in non-European societies were treated as evidence of their inability to

² Lister, *Citizenship: Feminist Perspectives*, 1.

³ Keating, "Framing the Postcolonial," 132.

produce modern citizenship,” and religion as a categorical framework highlights the limit of Western scholarship, remaining outside the understanding of theoretical citizenship.⁴ Thus, to fully understand citizenship in the context of Pakistan, a country that has been constructed along religious lines, one needs to go beyond Eurocentric frameworks. Thus, a theory of situated gendered citizenship allows one to understand the on-ground reality of Muslim women as citizens.

Although one would assume at the outset that citizenship is a gender-neutral concept, that is far from true. As a theoretical framework citizenship has historically excluded women. “Even today, many prominent democracy scholars find no contradiction in categorizing political systems as democratic even when the female half of the population was prohibited from participating in government.”⁵ It is a deeply gendered concept which has real world consequences on the lives of women globally. Lister further expands on this by highlighting the illusion of “gender-neutrality that embraces the idea there lurks in much of the literature a definitely male citizen and it is his interests and concerns that have traditionally dictated the agenda.”⁶ Rather than assuming equality as a foundational concept of citizenship, scholars like Natasha Behl and Nira Yuval-Davis, ask how citizenship experienced unequally based on the intersecting relational differences, like gender, religion, sexuality, ethnicity, and race.⁷ However, one of the most important issues to keep in mind while addressing this concern is: can a concept based on the premise of excluding women be re-appropriated to fulfill women’s basic rights?

⁴ Ikegame, “Mathas, gurus and citizenship,” 1.

⁵ Beer, “Democracy and Gender Equality,” 212.

⁶ Lister, *Citizenship: Feminist Perspectives*, 3.

⁷ Behl, *Gendered Citizenship*; Yuval-Davis, “Belonging and the Politics of Belonging.”

Secondly, to exist, to be visible, and to make a claim for equal citizenship in Pakistan is a victory within its own right. It is imperative for us as women to reclaim what is rightfully ours. The promise of equality needs to be fulfilled and delivered to have a just society.

However, one must keep in mind that the concept of citizenship does not have a positive connotation for all groups in a community. Every group, even within the same community, experiences it differently. Women are not a monolithic group. Religion, gender, class, ethnicity, and sexuality are some of the major markers used to exclude or include individuals within the ambit of state protection. My thesis especially addresses the question, why Muslim women exercising their rights are potentially subject to violence in the Islamic Republic of Pakistan. Exploration of this question reveals the history of gender violence as deeply rooted in the country; it uncovers the continued complicity of the state in legitimizing and reproducing it based on a narrow socio-cultural interpretation of Islam, and hence, ensuring the status of women as second-class citizens.

Starting from the colonial period, the thesis maps the nexus of the evolving understanding of 'Muslim Woman' and the gendered laws of the state. It demonstrates and explores the gap between equal citizenship rights accorded by the modern, democratic state to the Pakistani Muslim woman and the practical reality/experience of these rights. It focuses on the intersection between the legal and the religious to fully comprehend the impact of gendered violence on the Muslim female citizen. Violence against women cannot be assessed only through looking at social/political markers; it is a continuum that spans from the private, to the public, to the political. It is pertinent to delineate a focus on history and the mindsets of people, as historical trajectories shape current experiences. In essence,

I want to trace the changing relationship of the state with its Muslim female citizen and the state's role in gendered violence against women today.

Depending on her geographical location, social class and privilege, a Pakistani woman can be a working professional making her own choices or find herself devoid of any agency. For example, a woman situated in a village in south Punjab would have to adhere to different social mores and constraints than the one located in a city like Lahore. Even within the same geographical locations, the lived reality of women varies significantly. Looking at women's experience through the lens of gendered citizenship allows one to highlight the contradictory nature of democracy. I do not intend to make universal claims about the entire female population, but I do believe that this project can be used as a starting point to draw a broader map of the issues facing the women of Pakistan.

This thesis is divided into five chapters that each address the uneven terrain of citizenship and the threat of gendered violence experienced by the Muslim female citizen in the Islamic Republic of Pakistan. By using the framework of gendered citizenship, the private, the public, and the political are deconstructed as arenas of power and resistance.

Chapter 1: Understanding Citizenship

This chapter introduces the complex subject of citizenship by focusing on T.H. Marshall's conception of it and by drawing on Ruth Lister's analysis of citizenship's gendered aspects.⁸ The three contours of citizenship outlined by Marshall (the civil, the social and the political) form the basis for my in-depth analysis of citizenship.⁹ Alongside

⁸ Lister, *Citizenship: Feminist Perspectives*

⁹ Marshall, *Citizenship and Social*.

Marshall, I also use Natasha Behl's concept of situated citizenship.¹⁰ These concepts in conjunction with each other clarify the theoretical framework of citizenship through which the lived experience of the Muslim female citizen is analyzed throughout the thesis.

Chapter 2: Lives of Muslim women under the British Raj

This chapter explores the historical constructions of the idea of 'Muslim womanhood' on the subcontinent. Here I focus on the colonial imagination of the Indian woman as it was formed according to the ideals of white Victorian womanhood to show that the effects of this construction still linger on today. The colonial construction of the oppressed 'female other' is rooted in harmful stereotypes and toxic patriarchal notions of womanhood. The chapter focuses on the beginning of these violent imaginings which continue to harm the women of Pakistan. By locating the construction of ideas of Muslim womanhood in the colonial past, I link past stereotypes to present injustices in ideas about gender and citizenship today.

Chapter 3: Putting 'Islam' in the Islamic Republic of Pakistan

This chapter highlights how the parameters of 'Muslim' and 'citizen' are defined using religion. It sheds light on how political parties define and re-define what and who is a good citizen based on religion. Since Pakistan's inception, religion and the state have been entwined to gain political legitimacy and power and thus it becomes obvious, how religion (Islam) can be used to give or withhold rights.

¹⁰ Behl, *Gendered Citizenship*.

Chapter 4: Systems of Oppression

The chapter focuses on the stories of women on the ground to show the lived reality of the promise of citizenship. It presents an intersectional view of the female citizen in her own words. It situates her reality in everyday experiences. We see these women up close, rather than being shrouded in theory or simply being talked about. The systems of oppression span from the macro, to the meso, to the micro level. Deconstruction of language used by the interviewees and participants serves a double purpose; it at once highlights the internalized misogyny and the everyday violence of words, as well as serves as a tool for empowerment as women engage in subjects that had previously been considered taboo. The chapter focuses on citizenship experienced and lived.

Chapter 5: Reclaiming Citizenship

The chapter focuses on women as active agents of change. By highlighting movements spearheaded by women, we can see that they are not passive actors; they are resisting and negotiating for a space within the patriarchal fabric of the nation state and thus, making space for themselves in the public and private sphere. The chapter centers on citizenship as a contestation of rights received and rights performed.

Chapter 1. Understanding Citizenship

Citizenship embraces many definitions, some dating back to the time of Aristotle, and revealing the complexity of the state and its relationship with its inhabitants. Rather than engage in centuries-old literature about the moral and ethical dilemma posed by this relationship, many choose to fall back on the British sociologist, T.H. Marshall's definition of citizenship. I will also draw on the Marshallian definition of citizenship as it is a normative concept about equality and a useful marker to gauge inequality alongside a feminist understanding of the theory. Moreover, I will draw upon Natasha Behl's theoretical framework of situated citizenship to make it relevant to the case of Pakistan.

Historically, there have been two contending notions of citizenship, the liberal rights tradition, and the civic republican tradition. One focuses on the rights of the individual and the other focuses on the obligations of the individual towards his community and state. The former emphasizes citizenship as a status and the latter emphasizes it as a practice.¹¹ For Civic republicans, citizenship is an active role that needs to be practiced; participation of the individual in the state affairs is seen as a necessary obligation that needs to be fulfilled. Whereas the liberal rights traditionists adhere to a vision of citizens as atomized individuals and see citizenship as a status granted to them by the state. The latter use T.H. Marshall's triad of civil-political-social rights as a yardstick to push for individual freedom.

¹¹ Lister, "Citizen in Action," 227.

Marshall outlined three elements which define the contours of citizenship, the civil, the social and the political:

The civil element is composed of the rights necessary for individual freedom - liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts, and the right to justice. The last is of a different order from the others because it is the right to defend and assert all one's rights on terms of equality with others and by due process of law...By the political element I mean the right to participate in the exercise of political power, as a member of a body invested with political authority or as an elector of the members of such a body. By the social element I mean the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilized being according to the standards prevailing in the society.¹²

This definition of citizenship presents a nuanced incorporation of both the social-liberal and classical notions of citizenship. By using a gendered lens to situate citizenship, Marshall's foundational tenets of citizenship help challenge "the assumption that once suffrage was achieved for women, blacks, and other minorities, all became automatically equal subjects."¹³

Underlying the debate on gendered citizenship, as Ruth Lister writes in her book *Citizenship: Feminist Perspectives*, is the link between freedom and the role of the state in ensuring how that freedom is granted and protected. She talks about two types of freedoms: negative freedom and freedom as a more positive notion. Negative freedom connotes the absence of coercion and freedom from external pressure on a citizen's actions, thus limiting the role of the government to ensuring protection of the citizen's individual autonomy. In

¹² Marshall, *Citizenship and Social Class*, 10-11.

¹³ Behl, *Gendered Citizenship*, 11.

the positive notion of freedom, emphasis by the government is laid on the ability of an individual to participate as a full citizen.¹⁴

These two types of freedoms are intertwined and point towards an individual's autonomy. If one does not have freedom from external constraints, one cannot exercise the ability to pursue or participate on one's own terms; and vice versa, if one does not have the ability to participate but is free from external pressure, the citizen would not have the individual autonomy to act upon those freedoms. At the crux of the matter is the concept of human agency, which political theorist Carol Gould defines as a process of self-development: "of concretely becoming the person one chooses to be through carrying out those actions that express one's purposes and needs. This process takes place in a social context and in developing herself, the individual is also acting upon and thereby potentially changing the world, a world which at the same time structures the choices available."¹⁵

Instead of viewing these as two binary approaches, Lister views them as intersectional and advocates for a more centered and integrated approach.¹⁶ However, the process of self-development, in my opinion is also a highly political act that is embedded in social norms. Thus, the rallying cry of feminist citizenship theorists to re-define the political is also imperative, as the personal is political (which will later be expanded on when we talk about the public-private divide). To address this, Lister advocates for a

¹⁴ Lister, *Citizenship: Feminist Perspectives*.

¹⁵ Gould, *Rethinking Democracy*, quoted in Lister, "Citizen in Action," 228.

¹⁶ Lister, *Citizenship: Feminist Perspectives*.

“synthetic approach” which views citizenship as a status and as a practice, as well as a fluid process that is changing.¹⁷

This dual approach would allow citizens to act on their own impulses, displaying agency and personal autonomy while also being active agents in the political arena. According to Lister, this duality would allow women to challenge the stereotypical and harmful construction of them as passive victims while they confront the patriarchal nature of political, civil, and social institutions, which are based on the systemic exclusion of women.¹⁸ Even though women are at a disadvantage at the macro level, they can exercise their power and autonomy at a micro level. However, individuals that do not participate fully, or exercise their status as citizens, are not excluded from the nexus of state protection. If this were the case, as Lister points out, women and minority groups would be effectively sidelined, widening the gap between theoretical and empirical work on citizenship.¹⁹

It is important to focus on the lived reality of women on the ground. Citizenship is not a linear concept but is multi-faceted; it is best understood by examining the highly complex and sometimes contradictory nature of lived experiences, as all groups even within the same community experience it differently. Therefore, we need to draw upon Natasha Behl’s framework of situated citizenship, which centers the argument around the experiential journey of women, to bridge the gap between theoretical and empirical work. As Behl outlines:

Situated citizenship as an approach explains how and why subordinated groups experience, negotiate, and resist exclusionary inclusion in multiple domains. A

¹⁷ Lister, *Citizenship: Feminist Perspectives*, 36.

¹⁸ Lister, *Citizenship: Feminist Perspectives*.

¹⁹ Lister, *Citizenship: Feminist Perspectives*.

theory of situated citizenship makes citizens' embodied, lived experience of gender and other intersecting categories of difference central to the analysis, and thus helps explain how and why citizenship has failed its promise of equality. As legal status situated citizenship requires an analysis of citizens' access to civil, political, and social rights. As an embodied intersectional social relation, situated citizenship enables an analysis of mediating forces, such as relations of power, and asks how these forces affect citizens' standing as members and participants in their communities.²⁰

Behl's framework allows me to address citizenship outside the ambit of its Eurocentric conception. The Western notion of citizenship disregards religious, kinship and communal bonds as incompatible with modern citizenship.²¹ However, in countries like Pakistan, the ultimate marker of a good, ideal citizen is foregrounded in the very conception of religion. The normative conception of religious parties like Tehreek-e-Labaik Pakistan (TLP), and Jamaat-e-Islami (JI), is that of disempowering women and sidelining them in the political sphere. But as Amina Jamal demonstrates in her book, *Jamaat-e-Islami: Women in Pakistan*, religion can be a site for renegotiating the terms of participation as well as their status as active citizens. She posits that Islam as a religion offers infinite possibilities which are fully compatible with the modern understanding of citizenship.

Situated Citizenship as a framework also allows me to draw from my own experience (as a Muslim woman in Pakistan), and that of my interviewees what Behl call's 'exclusionary inclusion' as a Muslim woman.²² Behl characterizes this exclusionary inclusion as a daily contradiction within all spheres of life, where the formal promise of equal citizenship is made but never delivered.

²⁰ Behl, *Gendered Citizenship*, 4.

²¹ Ikegame, "Mathas, Gurus and Citizenship."

²² Behl, *Gendered Citizenship*.

It is a means to address limited membership extended to women in the political, civil (including religious communities), and social realm. “A situated analysis of citizenship makes visible the mechanisms of exclusionary inclusion that limit inclusion for some, explains the contradiction between expressed commitment to equality and lived reality of inequality within and between multiple levels of analysis, and asks how these limitations and contradictions impact democratic participation and inclusion for all.”²³

1.1 Do We Belong? Understanding the Muslim Woman as a Citizen

The Islamic Republic of Pakistan ostensibly protects and supports gender equality. However, Pakistani women are amongst the most marginalized in the world. This superficial promise of state protection is only delivered on paper. How women experience citizenship is altogether a different matter. “Citizenship is a status bestowed on those who are full members of a community. All who possess the status are equal with the respect to the rights and duties to which the status is endowed.”²⁴ But are women allowed to become full members? And are we allowed to belong? If the Muslim man is the ideal citizen in Pakistan, can the Muslim woman be a full citizen?

According to Nira Yuval-Davis, belonging is about feeling connected to a place and feeling safe there. People can belong in different capacities to different places. “Belonging can be an act of self-identification or identification by others... [it] is always a dynamic process, not a reified fixity, which is only a naturalized construction of a particular hegemonic form of power relations.”²⁵ It is not static in nature and is subject to change

²³ Behl, *Gendered Citizenship*, 5.

²⁴ Lister, Lister, *Citizenship: Feminist Perspectives*, 14.

²⁵ Yural-Davis, “Belonging and the Politics of Belonging,” 199.

over time. She goes on to outline how belonging is constructed on three major levels. “The first level concerns social locations; the second relates to individuals’ identifications and emotional attachments to various collectivities and groupings; the third relates to ethical and political value systems with which people judge their own and others’ belonging/s.”²⁶

Social locations are embedded in a society. When we talk about someone’s gender, age-group, ethnicity, religious affiliation or even their occupation, we are trying to place them in an economic or social location. These locations have been shaped by history and the politics of power in particular moments in time. For example, a young Muslim woman under colonial rule versus a woman in modern day Pakistan have completely different social connotations attached to them; the power dynamics have shifted and changed over time. These positionalities are structured around an axis of power that is subject to change historically. The meaning attached to these positionalities is fluid and contested, and often based on multiple social markers. That is, a Pathan Muslim woman would have a vastly different experience as a Pakistani citizen than a Punjabi Muslim woman. These markers of identity are intersectional in nature and inform the identity of an individual based on a “power axis of difference.”²⁷ However, social divisions in themselves do not hold concrete meaning as the example illuminates; to be a woman means different things to different women based on class, ethnicity, and religious affiliation in Pakistan. Identification around these axes renders the female citizen visible, which in turn can lead to liberatory power because being visible as a woman in this cultural stratosphere is a form of resistance.

²⁶ Yural-Davis, “Belonging and the Politics of Belonging,” 199.

²⁷ Yural-Davis, “Belonging and the Politics of Belonging,” 200.

As Yuval-Davis rightly points out, without individuals who construct the meaning behind these socio-political markers, other members in the society would not be able to identify them.²⁸ Bringing us to the second level the belonging discourse, which is identification and emotional attachments. Identities are based on the identification of individuals with groups and collectivities. We can at once belong to multiple groups and collectivities, which in conjunction with each other inform our identity. However, such identification is directly or indirectly linked to how the members of the group view you. How the group identifies you and in turn how you identify yourself and vice versa, is informed by the perception of one with the other.

The construction of belonging and longing to belong are also transitional. They both need affirmation and re-affirmation through one's actions. "Constructions of belonging have a performative dimension."²⁹ They become more pronounced and crucial when threatened. Emotional attachments of an individual's identity are also subject to this; the more hostility they feel, the more certain aspects of their identity might be highlighted. In the context of Pakistan, this was in response to colonists labelling Indian men as effeminate and Indian women as promiscuous. "The feminization of the colonized male at the hands of the colonial power was matched by the vigorous assertion of masculinity in the home; a masculinity proved and redeemed by an equally exaggerated femininity," and piety (expanded in chapter 2).³⁰

²⁸ Yuval-Davis, "Belonging and the Politics of Belonging," 201.

²⁹ Yuval-Davis, "Belonging and the Politics of Belonging," 203.

³⁰ Saigol, *Pakistan Project*, 52.

Identities and belonging effect the social positioning of individuals within groups and places. However, as Frantz Fanon points out, these identifications and positionings need to be deconstructed and resisted by the oppressed.³¹ These forced constructions and positionalities favor the powerful and can be internalized by the oppressor. Internalized patriarchy in women is one of such examples found within Pakistan and the rest of the world.

The third level through which belonging is constructed is through ethical and political values.³² As mentioned earlier, the politics of belonging is constructed when all three levels come together. They work in tandem with each other, informing one's sense of self by how they view themselves, how they are included/excluded from groups and collectivities, how these boundaries of belonging are acted out, and the resistance or acceptance around them. The third step of drawing boundaries and how these social locations, identity, and emotional attachments effect an individual is a political act.

Inclusion and exclusion are a political regulatory process of the state to wage a war of control over its subjects. In Pakistan, the politics of belonging are used to push forth a homogenized Muslim identity, by making categorical boundaries of insiders and outsiders. Insiders usually have access to the Marshallian promise of citizenship, while outsiders are pushed to the periphery. The heterosexual Sunni Muslim man is the most desirable citizen, who performs his rights and obligations by working towards a unified (read Sunni Muslim) identity, an economically prosperous vision of Pakistan, or by physically performing one's belonging and attachment by defending the homeland and joining the military. The tension

³¹ Fanon, *Black Skin, White Masks*.

³² Yural-Davis, "Belonging and the Politics of Belonging," 203-204.

between equality and difference is played out by using religion as the most effective tool to gain more power and control for the state (expanded in chapter 3). Women, as the most vulnerable segment of society, are easily silenced by using discriminatory laws like the Law of Evidence of 1984, which reduces a woman's testimony to half of that of the man. On the other hand, Article 25 of the constitution states that all citizens of Pakistan are equal before the law and are entitled to equal protection; there shall be no discrimination based on the gender of an individual.

This contradictory arena of politics, highlighting difference at one point and universality at another, is subject to change according to the political goals of the nation state. The state is perceived through a masculine lens, while the nation is conceived through feminine imagery. Like the state, men are thought to be rational, individualistic, decisive, and worthy of being treated as equals, whereas women are considered weak, emotional, and more focused on community and home. This biased perception of women comes across in the legal sphere; law is not a neutral body but is constitutive of power relations embedded in larger structures. Thus, when the constitution states in the law of evidence that "in matters pertaining to financial or future obligations, if reduced to writing, the instrument shall be attested by two men, or one man and two women, so that one may remind the other, if necessary, and evidence shall be led accordingly."³³ Such reasoning propagates the notion of women being less than men, and civically incapable of performing their duties as citizens. "Their relation to the state tends to be mediated by men and ceases to be a direct one as an individual citizen."³⁴ The Pakistani Muslim woman is at once excluded and included within the ambit of citizenship; Natasha Behl calls these contradictory lived

³³ Punjab Police, "Qanun-e-Shahadat Order, 1984."

³⁴ Saigol, *Pakistan Project*, 107.

experiences 'exclusionary inclusion'. The Muslim woman poses a perfect dilemma of the construction of belonging, as she identifies herself as a Pakistani, Muslim, female citizen. Being Muslim and Pakistani are advantageous positionings in the country, whereas the conception of the woman, and a contender for equal citizenship makes her a threat to the patriarchal structure of the state.

Conclusion

Citizenship is a multifaced concept, that offers multiple theories with differing interpretations. T.H. Marshall presents a foundational understanding of it, describing citizenship as based on social, civil and political rights. By using Natasha Behl's conception of situated citizenship in conjunction with Marshall's definition of it, the gap between the theory and praxis can be assessed for the female Muslim citizen of Pakistan.

Situated citizenship emphasizes that citizenship is experienced differently by different groups based on their location on the axes of power that are gender, age, class, ethnicity, race, and sexuality. Pakistan's failed promise of equality for all its citizens is highlighted by the hierarchical structure of the state, which makes the Sunni Muslim male an ideal citizen, and thus, relegates women and minorities to the status of second-class citizens.

Chapter 2. Gender and Imperialism: Lives of Muslim Women Under the British Raj

The Islamic nationalist discourse that created Pakistan left an indelible mark on the conception of Muslim womanhood in the country. In this chapter, I locate the historical construction of the idea of Muslim womanhood. By situating the woman in the nineteenth century, we can delineate the idea of the ‘female other’ that was promulgated through the gendered laws of the colonial state. Due to which, Muslim womanhood was constructed along a patriarchal reading of Islam, reflecting the increase in conservatism of the Muslim community.

2.1 Constructing the Other

Representations of people and histories are rooted in structures of power. Focusing on history of British India, orientalist and colonialist discourse against colonized Indians, sheds light on the conception of the other, the Muslim, the female. One must look for how that conception came to be and locate it in the structures of institutional power and knowledge. Moreover, it is imperative to understand the impact of the label of the other bestowed on the native because he responded to these constructions by internalizing or rejecting them.

In 1818, James Mill wrote *A History of British India*, a three-volume work that attempted to highlight the necessity of British colonial rule in India. He painted the Mughal rule as “foreign”, “despotic” and “degenerative,” and therefore justifying the civilizing rule

of the British Empire.³⁵ Mill's work represents the construction of what Edward Said calls the Oriental, constructed by the Western Orientalist.

The British Empire constructed the Orient as a binary opposite of the West, the Occident. By labelling the whole East as the Orient, and all non-European, non-white people as Orientals, the colonial masters homogenized and erased difference within the Eastern nations. "There are Westerners, and there are Orientals. The former dominates; the latter must be dominated."³⁶ Said goes on to say that by using such rhetoric the West justifies its imperial rule, which entails seizure of lands in the orient and the exploitation of its resources and culture.

By Said's logic, the orient is what the orientalist says it is. It is trapped within the framework of power, unable to speak for itself. According to Bannerji, the India that Mill's constructed in his work, is the India as seen by the agents of Empire; anything negating these representations would be considered un-Indian. "Knowledge gives power, more power requires more knowledge, and so on in an increasingly profitable dialectic of information and control,"³⁷ and the relationship between the Orient and the Occident falls within this ambit. It is a relationship between the dominant and the dominated. Since the knowledge of the Orient is generated out of a position of strength, this knowledge shapes how the orient is seen and how the oriental situates himself in it; and, in turn, how the orientalist views himself in opposition to all that the oriental is not. To support this argument, Said, quotes a speech of the Earl of Cromer, in which Cromer highlights the

³⁵ Bannerji, *Inventing Subjects*, 59.

³⁶ Said, *Orientalism*, 36.

³⁷ Said, *Orientalism*, 36

essential qualities of the Oriental: “Accuracy is abhorrent to the Oriental mind ... want of accuracy, which easily degenerates into untruthfulness, is in fact the main characteristic of the Oriental mind. The European is a close reasoner, his statements of fact are devoid of any ambiguity; he is a natural logician.”³⁸ The Oriental is bound within this dichotomy of the other, the lesser, the inferior; thus, the construction of these terms limit and constrain him within these imperial imaginings and within his own mind.

The West pedagogically subjugated the Oriental, by analyzing the Orient through a Eurocentric lens of knowledge and power; as Sir John Shore said of William Jones’s work, “His real motive was the pursuit of ‘Knowledge and Truth’, regarding Indian culture and society in service to his own country.”³⁹ Truth of India the nation and its people, is constructed by documenting them; these understandings are as much a representation of the knower as well as the known. Since truth-making is embedded in the might of the Empire, these misrepresentations are constructions of power. The continuous reification of the Orient as the other, and Orientals as inferiors was not just a rationalization of the rule of the Empire, but also, what paved the path and later necessitated the domination of the Orient in the Western mind.

2.2 Understanding Gender Constructs in Colonial India

Against this backdrop, the Indian – and the woman – is situated in colonial India. As the white man thought he was superior to the colonized Indian, the white woman also perceived herself as being above the natives.⁴⁰ This relationship was emblematic of the

³⁸ Said, *Orientalism*, 38.

³⁹ Bannerji, *Inventing Subjects*, 35.

⁴⁰ Burton, “The White Woman’s Burden”; Zakria, *Against White Feminism: Notes on Disruption*.

power structures present in colonial India, as the imperial ideology shaped the narrative of the colonized and the colonizer. This section locates the white woman within this paradigm, as the white women abetted and aided the construction of ‘womanhood’ and ‘Indian womanhood’ within the empire, promoting a “sense of national and racial superiority based on Britain's imperial status.”⁴¹

Literature about the Orient and the Orientals had been written by the Orientalists. The understanding of what and how a native Indian acted was in this imperial construction of them. Where before, empire had been regarded as a wholly male enterprise, recent works of scholarship by academics like Antoinette M. Burton, Mrinalini Sinha and Rafia Zakria have complicated this understanding by locating the role of white women in colonial India. White women benefitted from the structures of power; they attained power by being in proximity to power, as most white men in colonial India had administrative positions. White women aligned themselves within the imperial stratification and through that gained significant social standing.

Moreover, Western feminism re-iterated the ethos of imperialism as it gained influence and authority through it. In "Chathams, Pitts, and Gladstones in Petticoats," Mrinalini Sinha substantiates this viewpoint by focusing on the role of white women in the proposed passing of the Ilbert Bill of 1883. The Ilbert Bill, also provides an insight in how the othering of the Indian women played out to further subjugate both Indian men and women. “To not create a fixed division between women as victims and women as agents who have created their own spaces, cultures and loves to emphasize either one without the

⁴¹ Burton, “The White Woman’s Burden,” 137.

other creates an unbalanced history... Women's support has always been crucial to the endurance of patriarchy; hence we must examine and understand the motivations of women who have colluded in their own oppression,” and in the context of white women, the oppression of the other.⁴²

The Ilbert Bill sought to empower native Indian judges to preside over cases involving European British subjects in India, at the district level. This would grant Indian judges’ judicial power over the non-white offenders as well, whereas before, only British judges could pass a sentence over British Indians. However, white women living in British India pushed to get the bill revoked. “The general opinion was that white women were far more vociferous in their opposition to the bill than their male counterparts.”⁴³ By protesting this bill, for the first time, white women entered the political arena.

As part of the imperialist structure, the white woman viewed the natives, as constructed by the empire, backwards and uncouth. “Anglo-Indians considered native civilians’ ‘effeminate’ and consequently unfit to try men and women of a more civilized race.”⁴⁴ Moreover, Indian men were characterized as barbaric and unmanly, bereft of sophisticated companionship that would allow them to understand the refined nature of European British women. The white women emphasized the backward nature of the Indian man by presenting the Indian woman as ignorant and superstitious. Sinha quotes the wife of an Anglo-Indian official as saying, “childish and ignorantly superstitious women by whom the native Magistrate has been, and may be still, surrounded ... deviate his ideas of

⁴² Chaudhry and Strobel, “Introduction,” 4.

⁴³ Sinha, “Chathams, Pitts, and Gladstones,” 99.

⁴⁴ Sinha, “Chathams, Pitts, and Gladstones,” 99.

our sex.”⁴⁵ This statement effectively used the native woman as a representation of native man. Such views propagated and abetted the idea of white women being an extension and representation of white men.

The other point of contention for white women against the Ilbert Bill being passed was the imagined threat of actual physical danger. White women feared they would become “victims of unbridled native lust.”⁴⁶ This unsubstantiated future misuse of power by the magistrates proved to be a major obstacle. White women used the imperial trope of native men as deceitful and dishonest, and Indian women as ignorant to weaponize “patriarchal racism.”⁴⁷ The image of pure, chaste white women targeted by lascivious natives was used to further persuade Anglo-Indian men to go against the bill.

British feminism “depended on the relative, if temporary, powerlessness of non-white women,”⁴⁸ who could be used as tools to realize the goals of white women and used as symbolic markers against which their own success could be gauged. Thus, a construction of the Indian woman as oppressed, ignorant, and backwards, was used to subjugate Indian man as well as women, by the collusion of white man and women.

2.3 Impact of Colonial Laws on Native Women in India

The laws that were introduced in India pertaining to women’s rights and emancipation were in line with the Victorian ideal of womanhood, “chastity, innocence, self-effacement, and passiveness,” which did violence to the notion of gender of the

⁴⁵ Sinha, “Chathams, Pitts, and Gladstones,” 100.

⁴⁶ Sinha, “Chathams, Pitts, and Gladstones,” 100.

⁴⁷ Sinha, “Chathams, Pitts, and Gladstones,” 105.

⁴⁸ Burton, “The White Woman’s Burden,” 152.

colonized people.⁴⁹ Instead of focusing on Indian women, the laws furthered the interests of colonial rulers, native elite men, and British feminists.

India was confined to a Eurocentric legal framework; its pluralistic legal tradition was erased to make it more scientific and logical.⁵⁰ “The territorial possession of India was at the same time an act of construction of authoritative knowledge, ‘compiled’ and ‘selected’ as Indian Law, by the rulers.”⁵¹ However, as Chitnis has outlined, the unification and reform of law during this time was due to cooperation between the colonial rulers and the local elites. It was to the benefit of the native elite to work with the colonial authority to gain access to the systems of power being implemented in the country. Moreover, the native elites wanted to have a say in defining the new parameters that defined what was ‘Hindu’, ‘Muslim,’ or ‘Indian’, also making them complicit in gender reforms being implemented in redefining colonial India.⁵²

Thus, the body of the Indian woman became the battleground on which the struggle to gain more control was fought among the colonial rulers, the native elites, and the British feminists; effectively rendering Indian women voiceless and silent. All these entities had a stake in controlling and defining the parameters to gain more control or authority, but the women for whose alleged benefit the laws were being implemented had no say.

The age of consent reform in Britain was introduced to curb prostitution, as prostitution was weakening the power of the Victorian wife in Britain. It was believed that

⁴⁹ Chitnis and Wright, “Legacy of Colonialism,” 1319.

⁵⁰ Said, *Orientalism*.

⁵¹ Bannerji, *Inventing Subjects*, 35.

⁵² Chitnis and Wright, “Legacy of Colonialism,” 1322.

young girls could not appropriately control their sexual behavior and therefore, they fell prey to prostitution. Thus, the age of consent was increased from thirteen to sixteen.

Age of consent arose in the context of prostitution in England because prostitution threatened efforts to curb sexual excess – a task taken on by Victorian wives, clergy, and middle-class men who equated sexual restraint with moral and civil superiority. These groups generally linked social stability with domestic stability, which they defined as compliance with norms of sexual restraint.⁵³

Age of consent laws travelled to India in the Nineteenth century, “in the context of prostitution and child marriage, respectively, which were social issues directly linked to Victorian notions of domesticity and sexual restraint.”⁵⁴ It was imported to India to remodel the Indian family structure and to align it within the Eurocentric conception of a family structure. The age of consent law not only highlights the significance of trying to assert control over the female body but also how religion, specifically notions of Christian morality, were used to construct the ideal Victorian subject. This idea highlights how religion as the basis of citizenship is an idea inherited from the West. Victorian ideologies made their way to the subcontinent based on Christian ideals. Citizenship in the West still operates on conservative ideals – Pakistan is not different or unique in using religion to create the ideal citizen, as chapter three will discuss in more detail.

The Age of Consent Bill 1891 changed the age of consent in India from ten to twelve.⁵⁵ The local elite men in India did not approve of the interference of the British in family matters. The colonial rulers were willing to accommodate the demands of the native elites provided they did not enrage the British public at home, while the native male was

⁵³ Chitnis and Wright, “Legacy of Colonialism,” 1330.

⁵⁴ Chitnis and Wright, “Legacy of Colonialism,” 1326.

⁵⁵ Chitnis and Wright, “Legacy of Colonialism,” 1328.

insistent on keeping the colonizer out of the private domain of his house. This bill posed a threat to the native man's control over the Indian family and his authority over women's sexuality and property.

The Indian woman was caught between the double patriarchy of the British colonist and the native Indian man. The Colonial rulers themselves were reluctant to interfere in Indian family law because "they did not want widows or single women falling on the welfare of the parish or the state because women generally were to be under the dominion of a man."⁵⁶ Therefore, the colonial rulers only changed the age of consent but did not change the age of marriage to appease the native elites, as well as British feminists. The colonial rulers framed this law as protecting young girls from sexual activity that could have adverse impact on their health. "The age of consent was raised without changing the age of marriage, the state was introducing the possibility of marital rape within Indian families at a time when England itself did not recognize the crime."⁵⁷ Rather than bringing any significant change, the British became complicit in further supporting the patriarchal structures of Indian society.

This position is further substantiated by Elizabeth Kolsky. In the "The Rule of Colonial Indifference," she highlights how the British viewed physical violence by native men against native women as a social problem that should be handled by the Indian men themselves rather than the colonial state. It did not merit the same attention as sensational crimes like sati, the self-immolation of widows, which was used to legitimize the civilizing

⁵⁶ Chitnis and Wright, "Legacy of Colonialism," 1331.

⁵⁷ Chitnis and Wright, "Legacy of Colonialism," 1329.

mission of the Empire within India. Rape was considered as a common criminal offence in the sense that it was found across cultures, worldwide.

Furthermore, “the establishment of colonial legal institutions unwittingly drew British authorities into policing domestic violence in ways that frequently reinforced native patriarchal authority and the state’s political power.”⁵⁸ This was substantiated by Governor-General Warren Hastings’ *Plan for the Administration of Justice* (1772).⁵⁹ He outlined a non-interventionist approach, which meant introducing new laws, but also keeping the old ones intact.⁶⁰ Hastings divided the law into two spheres, the private and the public, relegating family, succession, inheritance, and marriage to the private sphere, to be conducted according to religious and personal law. However, the public sphere, fell under the jurisdiction of the colonial state where non-religious law would be applied on commerce, taxation, and property.

By dividing the law into these two spheres, the British rendered invisible the native female. Since, Hastings’ plan abolished fines against crimes that were related to women, like, “adultery, fornication, seduction, rape, and other ‘offenses against morality’ on the grounds that such matters should not be publicly exposed in the courtroom.”⁶¹ This abolishment removed any repercussions that would be faced by the perpetrators of violence against women, thus, pushing women outside the protection of the state and law.

⁵⁸ Kolsky, “Rule of Colonial Indifference,” 1094.

⁵⁹ Kolsky, “Rule of Colonial Indifference,” 1095.

⁶⁰ Kolsky, “Rule of Colonial Indifference,” 1095.

⁶¹ Kolsky, “Rule of Colonial Indifference,” 1095.

Moreover, “until 1860, the criminal law of most of British India was a hybrid mix of Islamic law and Company regulations referred to as Anglo-Muhammadan law,” and early laws applying to rape were an integration of the two.⁶² One of the most important figures who defined rape in the eighteenth century was Matthew Hale. He defined it as “vaginal penetration by a man (or men) of a female above the age of ten years and against her will ... Hale was predominantly concerned with the perceived problem of false charges, and he framed rape victims as a special class of witnesses to whom special standards of truth applied.”⁶³

The Victorian distrust of the female seeped into the judicial construction of the rape law, where the victim was under scrutiny to prove a claim to innocence, rather than the accused having to prove his. Hale shifted the politics of the accused and the accuser, whereas before, “Islamic criminal law [was] organized around a principle of private justice in which individuals initiate criminal proceedings, subordinating the role of government and privileging the needs and wishes of the victim.”⁶⁴ Due to the shift in legal politics, women were seen as prone to lying and were framed as non-credible witnesses, this became known as the “Hale warning.”⁶⁵

The ‘Hale warning’ had a debilitating effect on native women, as they were viewed within an oriental framework. They were seen as doubly suspect, first for being women and second, for being Indian. In the case of native Muslim women, they were further maligned, as the British saw Muslims as promiscuous because of the acceptability of

⁶² Kolsky, “Rule of Colonial Indifference,” 1096.

⁶³ Kolsky, “Rule of Colonial Indifference,” 1096.

⁶⁴ Kolsky, “Rule of Colonial Indifference,” 1095.

⁶⁵ Kolsky, “Body evidencing the Crime,” 111.

polygamy in their religion. To explain this difference, Durba Mitra quotes the Deputy Magistrate of Madaripur as saying, “A Mohamedan, if he chooses a woman, can marry her today and renounce her tomorrow, a wife so given can marry another. His religion sanctions this. But the case is quite different with a Hindoo. His religion is very jealous in this respect.”⁶⁶

The legal situation further demerited the native women, along with the Hale warning, a new set of evidentiary requirements were introduced by the British. The evidentiary system was used to corroborate the claims made by the victim (Indian woman), based on scientific principles, which cast them as suspects. Through the introduction and evolving science of Medical Jurisprudence, truth was located in and on the body.⁶⁷ This entailed that the victim’s body should have sufficient evidence to support their claim. Moreover, the victim’s “class and caste status; prior sexual history; fresh complaint (lodging of charges); and evidence of resistance of the body evidencing the crime,” were scrutinized during the trial.⁶⁸ These four stipulations were seen as corroborative truths.

These colonial laws made women increasingly vulnerable to patriarchal structures and posed further difficulties in accessing justice within the frameworks of law. Even though these social reforms were introduced and implemented under the guise of helping native Indian women, however, the Indian woman was further classified based on her religious identity making it harder to prosecute a charge in court.

⁶⁶ Mitra, *Indian Sex Life*, 75.

⁶⁷ Kolsky, “Body evidencing the Crime,” 112.

⁶⁸ Kolsky, “Body evidencing the Crime,” 116.

2.4 Post-Colonial Legacies

Hastings gendered split of the public and private laws evolved into a division between the private and public domains. This idea was co-opted by Indian nationalists to promote and highlight the dissimilarity between the colonizer and the colonized.

The Muslim communities of India felt an impending triple threat of erasure of their identities, values, and culture. They viewed the dominant British values permeating Indian society in direct conflict with their socio-religious identities, being also wary of the new modes of imperial education that were being introduced along with the Hindu majority of India and their traditions and customs. In response to this, Indian Muslim nationalism was born to protect the Muslim identity.⁶⁹

Sir Syed Ahmad Khan introduced a modern Muslim nationalism, which reaped the benefit of western sciences and secular knowledge while also safeguarding Muslim tradition and culture. The false binary that had been constructed in colonial rule between tradition and modernity was used to navigate the changing political stratosphere. He co-opted the private – public divide to preserve an authentic Muslim Identity. The private domain was to be protected from the outside influence of the colonizer and the Hindu. Thus, Sir Syed stated, “A young woman should not even open her mouth in front of an unrelated man. She must not even stand in a place where a stranger might see her.”⁷⁰ The woman was relegated to the private domain. Just as the British law had rendered her invisible, now Sir Syed proposed to do the same. However, to steer the changing politics

⁶⁹ Saigol, *Pakistan Project*.

⁷⁰ Saigol, *Pakistan Project*, 51.

of the nation and present a progressive front, Sir Syed supported gendered education. He proposed that women were to be given a traditional, domestic education that would help them become good upstanding wives and mothers, reinforcing the role of women as guardians of the spiritual realm. He contained the role of women in the nation state by restricting their participation to being only mothers and wives, whereas Muslim men had to attain secular knowledge so they could help the nation develop and advance. Muslim Womanhood was constructed to safeguard Muslim manhood: “women protected the precarious and fearful masculinity of Muslim Males by assuring them that they protected them!”⁷¹

The divide between the spiritual/material, private/public, home/outside was based on gendered conceptions of womanhood. “The feminization of the colonial man at the hands of the colonial power was matched by the vigorous assertion of masculinity in the home; a masculinity proved and redeemed only by an equally exaggerated femininity.”⁷² To assuage this nationalist anxiety, control and authority over women and the sanctified inner sphere of the home became more stringent. As Partha Chatterjee outlined in the “The Nationalist Resolution of the Women’s Question,” home became a haven, protected from the impure presence of the colonizer, a sanctuary that protected the spiritual domain of the community.⁷³

In line with the ghar/bahir or home/outside divide, at the promised inception of Pakistan, the Muslim clergy started to re-define its role as well. “Islam that emerged in the

⁷¹ Saigol, *Pakistan Project*, 53.

⁷² Saigol, *Pakistan Project*, 52.

⁷³ Chatterjee, “Nationalist Resolution of Women’s Question.”

twentieth-century British India, while a response to colonialism and Hindu Nationalism, was also, a fundamental challenge to centuries-old beliefs and practices of Islam in South Asia.”⁷⁴ Abul Ala Maududi, the leader of the Muslim reformist movement and the *Jamaat-e-Islami*, intertwined religion with politics. Maududi, believed that politics had an essential part to play in religion, that they were inextricably linked together⁷⁵. If the Muslim nation is to succeed, Muslims should apply themselves to politics. However, he did not include women within this mandate, as women’s role was to be confined to the private.

Conclusion

Tracing a trajectory of the re-defined Muslim identity through history, provides us with insights on the cause and effect of imperial policies and Orientalist constructions on the lives of the Muslim women. Moreover, the shaping of the legal system based on gendered secular and religious laws is still in practice in Pakistan. The patriarchal exclusionary tactics that are practiced, are rooted in the country’s colonial past. There are echoes of colonial ideological framing of the woman as deviant and other, embedded in the justice system, framing its gendered readings as protectionist or patriarchal.

The colonial construction of womanhood by British colonizers (both male and female) changed the conception of gender in India. The harmful stereotypes propagated by the British that labelled the native man as effeminate, and native woman as ignorant and less than a white woman did violence to the colonized. It enforced a hierarchy based on race as well as gender. This stratification was superimposed on the psyche of the native

⁷⁴ Jamal, *Jamaat-e-Islami*, 35.

⁷⁵ Jamal, *Jamaat-e-Islami*.

population disrupting their notions of gender and gender norms, in response to which the Indian man embraced the hyper-masculine and further endorsed the public/private divide. The oppressed became the oppressor by instating conservative reactionary politics, using the bodies of Muslim women to conceptualize a separate homeland based on Muslim values which were made in opposition to those of the West (expanded in chapter 3).

Chapter 3. Putting ‘Islam’ in the Islamic Republic of Pakistan

The idea for an Islamic Republic of Pakistan has been justified by tracing it back to 711 AD when Muhammad bin Qasim, an Umayyad general, conquered Sindh for the Umayyad Caliphate. Over the years, the state has actively re-enforced its Muslim identity by tracing its roots back to Muhammad Bin Qasim’s conquest and the spread of Islam in the Indian peninsula. Colonial historians like Richard F. Burton (1821- 1890) have also corroborated this in their writings on the history of Muslims in South Asia.

Other historians like Edward B. Cowell, Mountstuart Elphinstone and Henry Miers Elliot have built upon Burton’s narrative and added to it by linking the advent of Islam in the sub-continent to the Ummayad General, Muhammad bin Qasim. Muslim nationalists took the colonial historian’s legitimization of the past in their books *The History of India: The Hindu and Mahometan Periods* by Cowell and Elphinstone and *The History of India as told by its own Historians: The Muhammadan Period* by Elliot to reify the primordial relationship between India and Islam and later Pakistan and Islam.⁷⁶

On 11 August 1947, the founder of Pakistan, Muhammad Ali Jinnah, in his first address to the constituent assembly of Pakistan stated, Pakistan will not be a theocratic state but a place where all its inhabitants will be granted equal rights.

I cannot emphasize it too much. We should begin to work in that spirit and in course of time all these angularities of the majority and minority communities — the Hindu community and the Muslim community — because even as regards Muslims you have Pathans, Punjabis, Shias, Sunnis and so on and among the Hindus you have Brahmins, Vashnavas, Khattris, also Bengalese, Madrasis and so on — will vanish. Indeed, if you ask me this has been the biggest hindrance in the way of India to attain its freedom and independence and but for this, we would have been free peoples long long ago. No power can hold another nation, and specially a nation of

⁷⁶ Cowell and Elphinstone, *History of India*; Elliot, *History of India, as Told by its Historians*.

400 million souls, in subjection; nobody could have conquered you, and even if it had happened, nobody could have continued its hold on you for any length of time but for this. (Applause.) Therefore, we must learn a lesson from this. You are free; you are free to go to your temples, you are free to go to your mosques or to any other places of worship in this State of Pakistan. You may belong to any religion or caste or creed — that has nothing to do with the business of the State.⁷⁷

Even in his later speeches, Jinnah uses a homeland for Muslims narrative and Islam as a legitimizing force for its creation, but according to Muhammad Qasim Zaman, Jinnah did not mean that Pakistan should commit to Islamic law in its entirety as Ulema like Abul Ala Maududi wanted.⁷⁸

Jinnah's successor Liaquat Ali Khan drew heavily on Islam to fortify his position as a Muslim leader. In 1949, under Khan, the constitution of Pakistan's purpose was being drafted in the Objectives Resolution by the constituent assembly. The Objectives Resolution started with impressing that the "Sovereignty over the entire universe belongs to Allah Almighty alone ... Wherein the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam shall be fully observed ... Wherein the Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam as set out in the Holy Quran and the Sunnah."⁷⁹ However, as Amina Jamal highlights different strands and understandings of the Quran existed in the subcontinent. But Maulana Maududi made Islam rigid, inflexible, and codified it.⁸⁰ He sought to institutionalize a mode of Islamic life that drew heavily from Saudi Arabia's Wahabism and its legalistic traditions, thereby undermining South Asia's brand of "classical Sunni Islam sometimes referred to as Barelivi and/or Sufi

⁷⁷ National Assembly Pakistan, "Jinnah's Speech."

⁷⁸ Zaman, *Islam in Pakistan*, 56.

⁷⁹ National Assembly Pakistan, "Objectives Resolution."

⁸⁰ Jamal, *Jamaat-e-Islami*, 3.

Islam today.”⁸¹ Thus, the parameters of who and what characteristics are embodied by a Muslim were not demarcated by the constitution. According to the label of Muslim, Shias and Ahmadis also identify as Muslims, but the latter group is pushed outside this label by the state, and the former by the majority of Sunni Muslims of Pakistan.

In 1953, the Basic Principles Committee (BCP) which was established by Khawaja Nazimuddin on the 12 of March 1949, at the behest of Liaquat Ali Khan, then Prime Minister of Pakistan, reiterated that in the future, legislation had to be in accordance with the Quran and Sunnah.⁸² As the BCP’s job was to determine the principles on which the future constitution and legislature of Pakistan would be built, it also added a clause that stated the Head of the State should be Muslim. The standard consensus of the parties was largely that a non-Muslim could not be the Prime Minister of a Muslim state like Pakistan. Even though, the idea of a secular state was promoted initially, very quickly being a Pakistani and a Muslim became intertwined identities.

Even with these religious amendments added to the BCP, right wing leaders wanted Ahmadis to be declared as non-Muslims by the state. During the All-Pakistan Muslim Parties Convention held at Lahore in 1952, the clergy demanded that Ahmadis should be removed from all bureaucratic positions, as they were non-Muslims. Their allegiance to the state of Pakistan was suspect because of their faith.⁸³

In 1974, under the leadership of Zulfikar Ali Bhutto, the Ahmadis were declared non-Muslims, as the state succumbed to extremist pressure. And, in April 1984, under

⁸¹ Jamal, *Jamaat-e-Islami*, 2.

⁸² History Pak, “Basic Principles Committee.”

⁸³ History Pak, “Basic Principles Committee.”

President Zia Ul- Haq, Ordinance XX was issued which “provides for prison terms of up to three years or unlimited fines for any member of the Ahmadi, Lahori, or Qadiani faith who in any way poses as a Muslim or refers to himself as a Muslim.”⁸⁴ Moreover, it stated, “Pakistan requires every passport applicant and national identity card applicant to make a declaration of faith and requires any citizen who wishes to be known as Muslim thereon to make a declaration denouncing Ahmadi Muslims as non-Muslim.”⁸⁵ The laws and boundaries of who was a Muslim became narrower and narrower, over time.

3.1 Islam, a Cultural Interpretation

Who gets to be a Muslim is a political game in Pakistan. In 1964 elections, Fatima Ali Jinnah, the sister of Muhammad Ali Jinnah, wanted to stand in elections as a Presidential candidate and was met with support from all opposition parties, even Jamaat-i-Islami. It’s interesting to note that the premise of Maududi’s Jamaat-i-Islami party was based on purdah for women, which does not only mean wearing a veil but also that there should be purdah between the outer domain and the inner domain (as discussed in Chapter 2). Thus, Maududi’s support for the candidacy of Fatima Ali Jinnah was not in line with the religio-political ideology he had been preaching to his party and followers, but a purely politically motivated move for his own benefit. It is important to highlight that Maududi had been jailed by the government of Ayub Khan, the second President of Pakistan. Thus, Maududi’s support of Fatima Ali Jinnah’s candidacy was in part driven by antagonism toward Ayub Khan’s regime, but he backed his position with religious interpretation declaring that:

⁸⁴ “Information on the Mohajjirs.”

⁸⁵ “Passport and Identity Card.”

The question of nominating Mohtarma Miss Fatima Jinnah as Presidential candidate is necessitated by sheer circumstances which are a result of extreme deterioration in the spheres of religion, morality, politics, and economics. In these circumstances it is incumbent on us to save the country from further chaos and confusion and set up a candidate who is selfless, determined, incorruptible, upright, and fearless. These things are found in Miss Jinnah and, therefore, the Jama'at decided to support her. But this support should in no way create a precedence that a woman can become head of state.⁸⁶

However, religious leaders that enjoyed favors of Ayub Khan's government, for example Jamaat-i-Ulama, and others that had been appointed in an official capacity as members of the Advisory Council on Islamic Ideology, opposed this stance vociferously. Furthermore, they organized an All-Pakistan Sunni Conference in which "650 clerics from different schools of thought congregated and issued a *Fatwa* (a formal ruling or interpretation on a point of Islamic law given by a Muslim religious leader) against Fatima Jinnah, stating that it is haram (forbidden) for a woman to be the head of the Islamic State."⁸⁷

History here teaches us an important lesson; religious interpretation is politically motivated and is neither static nor set in stone. Supporters of Fatima Ali Jinnah and Ayub Khan both, used religion to justify their political position, using opposing readings of Islam that lent credibility to the rule. Fissures in opposing religious parties with different political motivations bring this point to the fore. The same happened in 1990 with Benazir Bhutto, leader of People's Party Pakistan (PPP), who was declared non-Muslim by Syed Abdul Qadir Azad, a prominent Muslim religious leader.⁸⁸ In the 1990's, PPP's main oppositional party was Pakistan Muslim League- Nawaz (PML-N) which used gender and religion to turn the masses against Benazir Bhutto. PML-N started a smear campaign against Bhutto

⁸⁶ Pirbhai, *Fatima Jinnah*, 227.

⁸⁷ Pirbhai, *Fatima Jinnah*, 227.

⁸⁸ UCA News, "Muslim Religious Leader."

that painted her as an immoral anglicized woman, who existed outside the stereotypical chaste Muslim circle. Even as her social rank and privilege provided a shield, her gender and her alleged non-Muslim conduct made her a target. Doctored pictures like the one below was circulated throughout the country, and the slogan “Coca Cola Pepsi, Benazir Taxi” was chanted in political rallies to cast aspersions on her character.⁸⁹



Fig. 1. The headline reads: Benazir’s undress and character’s unconcern.⁹⁰

⁸⁹ Khurshid, “Sadiqs and Ameen.”

⁹⁰ “Benazir’s Undress.”

Moreover, as the case was with Fatima Jinnah, Muslim clerics trying to win favor with PML-N issued a Fatwa against Benazir, declaring her as a non-Muslim, and Maulana Abdul Qadir Azad, the head of ‘Badshahi Mosque,’⁹¹ went as far as to say, “all her supporters who believed her to be Muslim, and thus conducted business with her or backed her political campaign will exit Islam, and will not be allowed to enter heaven.”⁹²

However, Benazir’s party enlisted the help of Yemen’s chief Imam who said there is written nowhere in Islam that a woman cannot be the head of a state and issued a Fatwa in favor of Benazir’s governance.⁹³

Benazir Bhutto was quoted in the article “Bhutto’s Fateful Moment” by the New York Times, in 1993.

The generals were followed by the mullahs, who had already begun to shriek with despair at the evils that would befall a nation with a woman at its head. “They’d been saying the most audacious things,” Benazir told me this summer. “They issued *fatwas* that I must be stopped, and they circulated pamphlets saying that the Holy Prophet was weeping tears of blood: ‘Oh, why, why, a woman elected Prime Minister?’ Some of them even rushed off to Saudi Arabia to seek advice. Clergymen from Yemen to Egypt pulled out their holy books. I must say, my election did trigger a great debate in the Islamic world.” During the campaign, the mullahs, assisted by Sharif and General Gul, had also air-dropped thousands of leaflets featuring doctored photographs of Benazir dancing in a Paris night club, and her mother, in a sequined Western evening gown, waltzing at the White House with President Gerald Ford. “Anti-Islamic” was scrawled across the leaflets in thick lettering.⁹⁴

Benazir describes a concerted effort by the Muslim clergy along with the opposition party to supplant her political leadership based on her gender and alleged non-Islamic

⁹¹The mosque was built by the sixth Mughal Emperor Aurangzeb and is the second largest mosque in Pakistan. It is in Lahore one of the most economically affluent cities of the country, which makes the position of its imam more important and powerful.

⁹² UCA News, “Muslim Religious Leader.”

⁹³ Shafi, “PTV Refused.”

⁹⁴ Weaver, “Fateful.”

conduct. Even with the privilege of class and rank, Benazir still had to perform as a good Muslim woman to be thought of as a candidate to be elected as a leader of a Muslim state. As mentioned in chapter 2, a good Muslim woman was the opposite of the prescribed qualities bestowed on the Western woman, occupied the inner domain (*ghar*),⁹⁵ was modest and dressed traditionally. Even as Benazir was bending norms and traditions by contesting an election and being visible in the outer domain, she still had to play the part of a traditional, virtuous Muslim woman. Her marriage to Asif Ali Zardari was arranged by her mother Nusrat Bhutto, and when she joined the political arena, her attire was chosen to appeal to the nationalist and religious sentiments of the people. As her close friend Dr. Hamida Khuhro told the New Yorker reporter Mary Ann Weaver:

People were expecting a liberal, Western-educated woman with forward-looking programs,” I was told by Dr. Hamida Khuhro, who is a formidable woman herself—an Oxford-educated friend of the Bhutto family but a political opponent in the feudal Larkana constituency. “When Benazir came to power, she could have set the trend, but the first thing she did was to shroud herself in a chador, the most obstructionist, outward manifestation of Islam, and begin praying incessantly at saints’ tombs, the most superstitious part of Islam. She’s vastly superstitious, and it shows. She could have been a reformer, but she wasn’t she did nothing for women, which she could have done. And, with her education and her background, she simply has no excuse...Benazir later told me, ‘There are some who would have liked me to solely champion women’s causes. As a political leader, I can’t’.⁹⁶

Even though women were encouraged to participate in the economic growth of the nation and to fulfill their role as valuable additions to the growing state by becoming consumers and workers, they remained marginalized. Benazir’s performative Muslimness cemented the idea of the good Muslim woman. Her rule “exposed how far Pakistani women were expected, often as much by themselves as by others, to maintain what was felt to be

⁹⁵ House in Urdu

⁹⁶ Weaver, “Fateful.”

a 'proper' balance between their duties as 'daughters' and 'mothers' of the new nation and their individual rights as its citizen."⁹⁷ Jafar explains this process by quoting Kandiyoti, "the fact that women were no longer secluded or veiled might have mandated new forms of Puritanism that could be activated as a symbolic shield in a society where femininity was incompatible with public presence."⁹⁸ Moreover, Najmabadi, reiterates this position by underscoring that when women in Iran gained access to the public domain, they themselves imposed stringent checks on their behavior and stringently regulated their conduct, hence de-sexualizing and sanitizing their presence and language.⁹⁹ In this context, Benazir Bhutto did the same. She tried to distance herself from Western imaging of a woman through the use of language, religion, and attire.

Even though the nationalist struggle provided the stage for women to change the gender roles prescribed to them and challenge the public and the private domain, as Mumtaz and Shaheed argue, "Muslim women broke through traditional rules and restrictions, cast off their veils, left their homes, approached strangers, confronted police, and entered politics."¹⁰⁰ However, once the crisis had passed, women's participation was again limited to roles that were linked to those of mothers, wives, caretakers, and nurturers. The concurrence of old values and modernistic sensibilities in history highlights patriarchy's ability to reshape and adapt to its time, appropriating language, and cultural norms. Benazir Bhutto's life provides an example of these contradictions, highlighting how the idea of a good Muslim woman is tied to historical and socio-political understandings

⁹⁷ Ansari, "Polygamy, Purdah and Political Representation," 1461.

⁹⁸ Jafar, "Women, Islam," 38.

⁹⁹ Jafar, "Women, Islam," 38.

¹⁰⁰ Mumtaz and Shaheed, *Women of Pakistan*, 47.

of that time. Benazir straddled the traditional and the modern world but still was the target of ire from both sides. For the traditionalists she was not conservative enough and for the modernists, she was provided a platform to lead, which she could have used for female emancipation.

3.2 Zia Ul-Haq and Islamization

After declaring martial law in 1977, Zia-ul Haq came to power becoming the 6th president of Pakistan. Gender and religion became inextricably intertwined under Zia's rule, heralding a bleak era for women and minorities in Pakistan. He established himself as a righteous leader, overthrowing the government of Zulfikar Ali Bhutto by declaring it un-Islamic. Religion had been used to justify the rule of governments since Pakistan's inception but no government before had used it as lethally as Zia. He legitimized his coup by being a champion of Islamic values. In his address to the nation in 1979, he said: "It is not easy to reform a degenerate society. It requires courage, time, and continuous struggle. Those who think this work can be done in a day or a week are ignoring the reality."¹⁰¹

Women, who had recently gained visibility in the public sphere became Zia's target. As mentioned in Chapter 2, the Muslim community in the subcontinent felt that their identity was under threat by both the British colonists and by the Hindus; the *ghar/bahir* divide was enforced to protect the values and traditions of the Muslim community. Thus, Muslim women were labelled the guardians and symbols of Muslim identity, and Zia capitalized on this sentiment by labelling women occupying public spheres as westernized

¹⁰¹ Jafar, "Women, Islam," 39.

and anti-Islamic.¹⁰² As Zia had fashioned himself as the champion of Islam, Islamic revival meant going back to the traditional/patriarchal social structures. But trying to appeal and appease Islamic fundamentalists resulted in the exclusion of women from society.

History disseminated through educational institutions in Pakistan would have us believe that Zia's was the only government that pushed women to occupy a peripheral position in society. Shahnaz Rouse challenges this linear historical narrative which portrays Zia's era as the only time in the country's history where Islam was used to uphold and endorse patriarchal attitudes about women. In her essay the "Outsider(s) Within: Sovereignty and Citizenship in Pakistan", she highlights how such attitudes had been present since the country's inception and how women and the minorities (the weakest factions of the society), had been used to bolster the support of the previous governments.¹⁰³ Zia had only brought the patriarchy and bigotry from the private domain of the house to the public realm of the outside.

Religion has been used to disempower women; women have also used it to empower themselves; "The demarcation between the pre- and post-Zia periods becomes less pronounced if we introduce gender into the picture. Not only the state but women's groups have also sought to employ religion on their behalf. Thus, women's groups themselves fought for the Sharia to be introduced as to permit women's inheritance rights."¹⁰⁴ Moreover, changes like Ayub Khan's Family Law Ordinance were not to curb gendered abuse in the private sphere but to regularize and restrain the excesses of the

¹⁰² Jafar, "Women, Islam," 39.

¹⁰³ Rouse, "Outsider(s) Within."

¹⁰⁴ Rouse, "Outsider(s) Within," 54.

community. It was also used to bring the private sphere under the surveillance and control of the government.

3.3 The Hudood Ordinance

Zia targeted the demographic that would have the most visible impact on sending his message, i.e., women. He popularized the slogan '*chadar and chaar diwari*' which translates into the veil and the four walls of the house. This was one of the first steps he took to enforce his grandiose project of Islamization. He also propagated the idea of establishing his version of *Nizam-e- Mustafa*, meaning the *system of the Prophet Muhammad*.¹⁰⁵ To assist him in this mission, he formed the Majlis-e-Shura which consisted of individuals that could support his Islamization project. He further used the clergy to introduce the Hudood Ordinance into the Pakistan Penal Code in February 1979.

The Hudood Ordinance encompassed crimes related to theft, consumption of alcohol, adultery, and slander.¹⁰⁶ Under the Ordinance, zina (adultery) and zina-bil-jabr (rape) become intertwined terms. Zina constitutes:

Willful sexual intercourse between man and woman without being married to each other, and Zina-bil-jabr (zina by force) constitutes intercourse between a man and a woman who are not married and is against the will of the individual and is non-consensual. Without consent means consent obtained under duress (fear of death or hurt) or is gained under false pretenses (i.e., "when the offender knows the offender is not validly married to the victim and that the consent is given because the victim believes that the offender is another person to whom the victim is or believes herself or himself to be validly married."¹⁰⁷

¹⁰⁵ Rehman and Ghosh, "Plight of Minorities," 49.

¹⁰⁶ The word "*hudood*" is the plural of "*hadd*," a term denoting the Islamic legal categorization of crimes for which the definition and punishment is set by God.

¹⁰⁷ Quaraishi, "Rape Provisions," 406.

The evidentiary requirements made it next to impossible for rape to be proved in court as it mandated that proof exists when “the accused makes before a Court of competent jurisdiction a confession of the commission of the offence; or at least four Muslim adult male witnesses, about whom the Court is satisfied, having regard to the requirements of *tazkiyah al- shuhood* [credibility of witnesses], that they are truthful persons and abstain from major sins (*kabair*), give evidence as eyewitnesses of the act of penetration necessary to the offence.”¹⁰⁸ Moreover, if the ‘victim-survivor’ of zina-bil-jabr fails the evidentiary requirements for proving force, she/they are convicted of *Zina*.¹⁰⁹

Hence, a tradition of silencing the victim began; a woman must have 4 male witnesses or eight female witnesses to prove that she was raped. The woman’s testimony in evidentiary law cases came to hold half the weight of that of the male by tracing it to the Quranic verse 2:282,

And call to witness two witnesses from among your men \hat{I} and if there are not two men [to do so], then one man and two women \hat{I} from among those whom you approve, so that if one of them [the women] errs, the other [of the women] can remind her. And let not the witnesses refuse whensoever they are called upon [to testify]. And do not be averse to writing it, whether small or large, to its term.”¹¹⁰

This 2:1 ratio was established by using a gendered interpretation of the Quranic verse, and as Hina Azam explains, cannot be applied to crimes. According to her, even by using a traditionalist interpretive lens, crime and contracts cannot have the same evidentiary requirements, as the victim or the witness would be unaware of the crime about to take place and thus it would be impossible for them to meet the evidentiary requirements.

¹⁰⁸ Quaraishi, “Critique of the Rape Laws,” 290.

¹⁰⁹ Trauma based counseling suggests that the term victim or survivor should not be used in reference to individuals. That they should be asked their preference. Individuals that have been raped prefer the term victim-survivor as it does not negate the crime committed against them and validates that they are survivors and so much more how than the term ‘victim’ would suggest

¹¹⁰ Azam, “Exclusion of Women,” 136.

Nor would the criminal commit his crime in the open, rather he/she would try to hide the crime and would commit it in secrecy and obscurity, making it harder to be convicted. Thus, Azam states that it would be impossible and detrimental to apply these standards for the crimes of rape, theft, brigandry, or murder.¹¹¹ Moreover, this ratio effectively legalized women's second-class position in society by making the worth of her testimony half of that of a man's.

However, as Qureshi points out, the context of Zia-Ul-Haq's introduction of the Ordinance was to bring Zina in line with the Quran and the Sunnah, but the patriarchal and cultural interpretation of the text resulted in a skewed enforcement of it in Pakistan. The Quran expressed displeasure with the individuals committing zina (adultery), but the quadruple witness testimony needed to prove that sexual intercourse took place was to deter and minimize worldly punishment for the crime by the people and the state.¹¹² This point is further enforced by looking at the evidentiary restrictions which are that a) the witness has to be mature, sane, and with a morally upstanding character, b) if in any way the defendant's privacy had been violated, then the testimony would be invalid. Moreover, a statute of limitations has also been prescribed for Zina, based on the Hedaya (a twelfth century text by the leading Muslim jurist Burhan al-Din al-Marghinani).¹¹³

Under the British Common law which was practiced before the implementation of the Hudood Ordinance, "rape was a crime punishable against men, to be lodged against the husband of the woman, against the man who violated her."¹¹⁴ A hierarchy was built in the

¹¹¹ Azam, "Exclusion of Women," 145.

¹¹² Quaraishi, "Rape Provisions," 409.

¹¹³ Quaraishi, "Rape Provisions," 409.

¹¹⁴ Quaraishi, "Rape Provisions," 411.

law, the woman coming after the man, as his possession rather than his partner. Quraishi underscores how the Hudood Ordinance subsumed Zina-bil-jabr as a category of Zina, but how unequivocally incorrect this position is; nowhere in the Quran are adultery and rape addressed together. They are very different crimes. Rape (zina-bil-jabr) is the responsibility of the people and the state to prevent; it is an act of violence against an individual. Adultery, by contrast, is a consensual act between adults. Moreover, Zia ul-Haq's Islamic postulation would have Pakistanis believe that the rape law is rooted in Quranic injunctions or is based on Hadith, but the language is borrowed from British Criminal Law (specifically, the old common rape law) before the Hudood ordinance was implemented.¹¹⁵ The verbiage is an exact replica of the old law, with just the addition of the evidentiary requirements proposed for Zina. Where in the Quran the evidentiary requirements for Zina were used as a deterrence for the state or people to accuse women or punish them, the Zina Ordinance conflated rape with adultery, and labelled it as a *hadd* offence with the same evidentiary requirements as zina, making the ordinance a tool to silence and subjugate women. It presents an inaccurate interpretation of Islamic law.

The Zina Ordinance shifted the burden of proof that the crime of rape had happened onto the victim rather than on the rapist to prove that it had not. The innocent until proven guilty stance taken by the courts of law in rape cases in Pakistan became an added impediment for victims to access justice; if the victim could not prove that they had been raped, they were tried for Zina and in most cases were charged as being guilty.

¹¹⁵ Quaraishi, "Rape Provisions," 413.

The Ordinance was weaponized to regulate and police women's bodily autonomy and sexuality. "It enabled husbands to accuse wives of adultery to exact revenge for their seeking divorce or to use it as pretext for contracting second marriages themselves. Law enforcement officers extorted bribes from couples who could not prove their marital status. Activists were confronted by many allegations of physical abuse and rape during police custody of the women accused of committing *zina*."¹¹⁶ In Shahnaz Khan's essay on women incarcerated based on Zina laws in Pakistan, she highlights the impossibility of finding any woman who had been incarcerated under the Zina Ordinance and was free to talk about her experiences. There are two major reasons for this; First, "Women who go back to their families after being released are prevented from making outside contact."¹¹⁷ In most cases their families are the ones who have charged them with Zina and going home would be a death sentence, so they disappear and start a new life for themselves somewhere far away. Second, the process of incarceration destroys the woman's place in society by labelling her as immoral and impure, thus, the women try to distance themselves from their past.¹¹⁸ They become the silenced, invisible victims of the state and society. The women's "axis of power" which is based on their class and social capital is defined by the severity of the punishment meted out by the state and society.¹¹⁹

Conclusion

Since Pakistan's inception parameters of religion have been politically shifted and reinterpreted by different governments and opposition parties to benefit themselves. There

¹¹⁶ Zia, "Sex and Secularism," 198.

¹¹⁷ Khan, "Locating the Feminist," 669.

¹¹⁸ Khan, "Locating the Feminist," 669.

¹¹⁹ Yural-Davis, "Belonging and the Politics of Belonging," 199.

is no static understanding of Islam that has been used to form the legal or cultural understanding of what the religion constitutes. Historical, patriarchal, and culturally misogynistic interpretations of Islam have been applied to gain maximum power and win the right to rule, which is mostly based on the exclusion of women and religious minorities. Muslimness was formalized through its constitution as a foundational part of the state of Pakistan.

The intertwining of gender and religion became more pronounced during the electoral politics of 1964, by Fatima Ali Jinnah and later in Benazir Bhutto's case in 1990. In both cases, the Muslim clergy presented views on female leadership that benefitted them, highlighting the fact that religious interpretation is politically motivated and is neither static nor set in stone. Moreover, to gain political clout Benazir Bhutto as the first female Prime Minister of Pakistan, embraced the patriarchal and narrow definition of womanhood that had been promulgated under Zia's regime by overtly performing her Muslimness. As Farida Shaheed reasons,

In essentialist identity politics, symbols and signifiers resonating with people's lived realities, or collective identities, are harnessed to promote political agendas frequently couched in a religious idiom, but also in the idiom of ethnicity, culture, and race. If many are seduced by the discourses, many others may hesitate to reject such an agenda because to do so feels like rejecting essential parts of their own identity (e.g., faith or culture). Both tendencies are visible in Pakistan.¹²⁰

Zia- Ul- Haq's Islamization project utilized religion to legitimize his rule. Under the Zina Ordinance, zina (adultery) and zina-bil-jabr (rape) became intertwined terms. Shahnaz Khan describes the Zina Ordinance as existing between religion, politics, and culture. This mixture of religion, with politics and culture, also redefines how it is practiced

¹²⁰ Shaheed, "Contested Identities," 860.

in real life. In turn, there is an “overwhelming emphasis of politico-religious elements on punitive law [to] pare down the faith of Islam to Muslim jurisprudence.”¹²¹ Khan emphasizes that the Zina Ordinance is not only against the “constitution of Pakistan, but as many [scholars] have argued, the spirit of Islam.”¹²² The Ordinance is used as a mechanism to exert more control over the lives of women (expanded in chapter 4). Hence, to truly understand the plight of women, focus must shift to their stories in their own words. By using the lens of situated citizenship, the lived reality of rights given, and rights performed can be highlighted.

¹²¹ Shaheed, “Contested Identities,” 862.

¹²² Khan, *Zina, Transnational Feminism*, 10.

Chapter 4. Systems of Oppression

There are systems of oppression on the micro, meso and macro level at play in Pakistan, institutionalized in patriarchal norms that normalize and legitimize explicitly or implicitly violence against women. These systems range from the domain of the family to community, social, legal, and political, disadvantaging and reinforcing the secondary status of women as citizens. These oppressive regimes are embedded in the very fabric of the country, performed through the laws and language of the country.

Women as independent individuals threaten the pre-determined social order and are disciplined and punished for deviating from the stereotype of a good Muslim women by the state and society. Women taking autonomy of their sexuality destabilizes the neatly demarcated categories of nation, state, home, and family. Women in different social locations and existing on different axes of power highlight how citizenship is situated in different contexts. Current Feminist scholarship posits that women's sexual agency is seen as a threat to the middle-class notion of home and family. Daughters' refusal to submit to patriarchal control of their fathers and brothers in marriage poses a challenge to the cultural hierarchy inherent in state and society. Amina Jamal uses M. Jacqui Alexander's concept of 'erotic autonomy' to delineate the state's role in controlling the private as well as the public domains of an individual's life, and based on this, different categories of citizens and woman are constructed.¹²³ Women are not a monolithic category as discussed in previous chapters; social markers delineate their position in society. A woman who

¹²³ Jamal, "Gender, Citizen," 284.

transgresses social boundaries of class, kin, sect, religion to exercise her own sexual autonomy is categorized as a major threat to the state and society.

Shahnaz Khan's fieldwork (1998-2002) in which she conducted interviews of inhabitants of a *Darul Aman* (a woman's shelter), reiterates this point.¹²⁴ She highlights how women incarcerated under Zina are impossible to reach as in most cases their families are the ones that have filed a case against them. The father of seventeen-year-old GulBaden Bibi sold her in marriage to a fifty-year-old landlord for 20,000 rupees when she was 15. This is her story in her own words.

He used to beat me and yell at me and call me names. So, my father helped me obtain a divorce and paid back the 20,000 to Akram. Then I married my cousin and father consented. Father drinks alcohol and gambles and takes opium and has a lot of debt. So he now wants me to divorce my cousin and marry a man in Karachi who is willing to pay for me. This way father can pay off his debt. I refused. I want to stay with my husband Qamar. Father said that there is no marriage between my cousin and myself as I no longer have his permission to be married to Qamar. So, he charged me with *zina*. I came to *Darul-Aman* voluntarily. I was afraid of what my father would do to me [as I have not agreed to his demands].¹²⁵

The story of 21-year-old Salima is much like that of Gulbaden. Salima's mother and brothers promised her in marriage to an older man as a way of paying off a debt. They beat her to make her acquiesce to their wishes, but she resisted and ran away. She says:

I refused and they beat me more. So I ran away and stayed with a friend for four days. I hid in her balcony and her parents did not know I was in the house. In those days I had no food only what my friend was able to sneak in, mostly tea and some bread. My friend was afraid of her family finding out...I want to live with my aunt [father's sister] and she says that she will take me in. My mother and brothers have told me that if I don't come home, they will charge me with theft and *zina*. I have no lawyer and I have no money. If I go home, they will kill me. I am happy here

¹²⁴ Khan, "Locating the Feminist."

¹²⁵ Khan, "Locating the Feminist," 671.

and I will live out my life in *Darul-Aman* if I must. I will show my family that I can survive.¹²⁶

Gulbaden and Salima's story underline the consequences women face when exercising sexual autonomy. Women's bodies are claimed under the guise of law and morality. The Zina Ordinance is weaponized by the patriarchy to stifle women's sexual autonomy. The woman's right to choose her own partner categorizes her as licentious and promiscuous, at odds with the pure, domesticated woman, who should be devoid of desire and want.

4.1 Parallel Legal Systems at Play - Mukhtaran Bibi's Case

Pakistan's legal system is a mix of secular and religious laws. The multiple and parallel legal systems in place, systematically build impunity for crimes against women, making it next to impossible for them to get justice. By focusing on the primary data collected, trajectories of injustice can be traced to highlight the uneven experience of democracy by women on ground. Mukhtaran Mai's experience sheds light on the failed promise of equality.

On June 22, 2002, Mukhtaran Bibi was gang raped by four men and paraded naked in her village Meerwala, Pakistan. This was done on the order of the elders of a tribal council in revenge for her younger brother's alleged affair with a woman from the affluent Mastoi tribe. Bibi's brother was twelve at the time of the incident. He claimed the accusation was an attempt to silence him from revealing that he had been sodomized by Mastoi men. Moreover, Bibi's family from the poorer Gujjar tribe maintained that their son

¹²⁶ Khan, "Locating the Feminist," 672.

had committed no wrong. In my interview with Mukhtaran Bibi, she said, “My father gave me to them [Mastoi men] to save his son.”¹²⁷

On August 31, 2002, the Anti-Terrorism Court (ATC) found six of the twelve accused guilty of the gang rape of Mukhtaran Bibi. Sentencing one of the accused to the death penalty. However, as death penalties are subject to appellate review, the Lahore High court stepped in and exonerated all but one of the accused, who had admitted to being married to Mukhtaran Bibi and had failed to present any evidence to support this claim. The High Court awarded him a life sentence based on this. “After the Lahore High Court rendered its decision, a justice of the Federal Shariat Court (FSC) stepped in suo moto and suspended the High Court’s decision. He did so because the High Court had interfered with the FSC’s constitutional jurisdiction over questions of Hudood.”¹²⁸ The Supreme Court (SC), Pakistan’s highest legal authority stepped in to stem a jurisdictional battle over a highly visible case. Mukhtaran Bibi’s case had created an uproar nationally and internationally. Thus, the state wanted to deal with it quickly.

Much to the horror of the world, the Supreme Court agreed with the High Court’s decision and acquitted all but one. The Court stated that the five who had been acquitted “enjoy a triple presumption of innocence without ever defining the term or explaining the burden of proof it entails.”¹²⁹ However, there was a positive, the judgment passed by the Supreme Court was upheld two to one. The two judges, Justice Saqib Nisar and Justice Shakirullah Jan reiterated the points of law that emphasized the weakness of the prosecution’s case, highlighting the eight-day delay in the filing of the case, the absence of

¹²⁷ Mukhtaran Bibi, interview by author, June 9, 2022.

¹²⁸ Azmi, “Patchwork Pakistani.”

¹²⁹ Amnesty International, “No Justice for Gang Rape.”

medical evidence, and the lack of ‘ocular evidence.’¹³⁰ Thus, it couldn’t be established if Bibi had been raped by one or many men. Moreover,

The SC majority judgment further based its acquittal on the inconsistencies and improvements in the statements of prosecution witnesses suggesting that they had been tutored by the council. The court pointed out the contradiction between the statements which weakened the prosecution's case. Most of the discrepancies and inconsistencies in the statements revolved around whether Bibi emerged from the room naked, or semi-naked and whether her clothes were torn, and her trousers were in her hand or on her body. There was a detailed cross-examination over whether she was handed her trousers inside the room after the rape or outside, if she had them on or not and whether her clothes were stained with semen. Bibi had to reply to humiliating and demeaning questions about being nude, whether her trousers were torn on the sides and if the string of her trousers had broken during the rape. She was asked whether or not the accused had pulled her trousers down before being raped if it was true that her father had thrown her clothes on her and so on.¹³¹

This despicable line of questioning acts as a major deterrent for women to report rape crimes. The victim-survivors are forced to relive their trauma and forced to defend themselves in front of a patriarchal audience. The judges discredited Bibi’s statements based on the encoded logic of the legal system of social-cultural imperatives and evidentiary requirements.¹³² Thus, effectively silencing and rejecting Bibi’s own experience of violence. By doing so the judicial system failed her on multiple levels as a citizen, by denying her justice and placing her within the category of the unreliable female witness.

Moreover, the state legitimized violence against Bibi by granting acquittals to all but one of the accused. Moreover, it reinforced the power of the informal channels of authority like jirgas and panchayats. There is an “implicit collusion between the multiple

¹³⁰ The Judges stated that there was no electricity in the village and the crime was committed in a dark room, thus, Bibi could not know who or how many her assailants were.

¹³¹ Saigol, “Multiple Legal Systems,” 229.

¹³² Saigol, “Multiple Legal Systems,” 230.

and parallel systems that came into play in various judicial forums or centers of power. Starting from the all-male jirga council of village elders, the anti-terrorist court the Lahore High Court, and the Supreme Court, to show that impunity is systematically produced by the legal system.”¹³³

Nevertheless, Muktharan Bibi’s case negates the usual “scripted narrative” by highlighting a particular moment in time.¹³⁴ Her case got a two-to-one Supreme Court judgment, the majority judgment followed the pre-given evidentiary script but the judgment by the dissenting justice Nasir-Ul-Mulk proved that this script could be challenged and changed.

The judge, Nasir-Ul-Mulk emphasized the need to situate the case within the cultural and social context and focus on the axis of power on which Bibi’s case was located that are caste, class, financial, and gender-based rules; that added to the delayed filing of the First Information Report (FIR) as well as the evidentiary flaws in the case.¹³⁵ His judgment shows that there is a path forward, a path where women can be humanized. Mulk challenged the static nature of law in Pakistan by contesting the evidentiary norms of the case and stating the need to assess each case within its particular context. By doing this, he “centered Bibi’s experience of violence, and averred that as a victim of the crime (the woman) is the most informed and credible witness of the incident.”¹³⁶

Bibi’s case highlights the on-ground reality of the hurdles and obstacles women face to access justice that range from the social, to the civil, to the political. Maria Tahir’s

¹³³ Hussain, *Disputed Legacies*, xlv-xlvi.

¹³⁴ Hussain, *Disputed Legacies*, xlv.

¹³⁵ Hussain, *Disputed Legacies*, xlv.

¹³⁶ Hussain, *Disputed Legacies*, xvii.

rape case took place in 2015, thirteen years after Bibi's but there has been little to no change in the patterns of violence committed by the state to silence women. Here is her truth.

4.2 A Close Look at Maria Tahir's Case

The conviction rate in cases involving rape is under three percent. Formal and informal avenues are used to silence victims. Maria Tahir, who was gang-raped in 2015, sheds light on this through her lived experience. Maria Tahir was born and raised in Multan and was wed to a family residing in Azad Jammu and Kashmir (AJK). One of the main reasons for staying in Bhimber, a town in Azad Kashmir, was Tahir's commitment to education, as she states that in the village there is no access to quality education and teachers do not come to the school for months at times.¹³⁷

In 2015, Tahir was gang raped by men affiliated with the minister of AJK. According to her, it is an organized crime ring that gang rapes women, makes video tapes of the act and then blackmails them using the videos. The rapists threatened to circulate her videos online and to show them to her husband; besieged by terror, she complied with their demands and kept sending them money. Their demands kept getting bigger and bigger starting from PKR 200,000; they reached up to PKR 1.5 million when they kidnapped her son threatening to kill him if she failed to meet their demands. She paid them the money by selling her jewelry and borrowing money from her father, but the demands kept on coming. Her spirit broke and she tried to commit suicide; she miraculously survived. This is when she finally confided in her husband.

¹³⁷ Maria Tahir, interview by author, June 11, 2022

Trust in Pakistan's judicial systems is next to non-existent, thus Tahir and her family decided to approach one of the rapist's uncles who was a Major in the Pakistan Army. Tahir said that her husband told her, "We will not get justice through the courts, because these are powerful people."¹³⁸ By following an informal channel of justice, they had hoped to get the perpetrators punished swiftly and have the blackmail money returned to them soon. The Major said that this would be resolved in 5 days.

However, on the fourth day Tahir and her son were kidnapped and taken to Gujrat, a city almost an hour's drive away. Tahir was beaten and raped by 2 men again as a punishment for speaking up against them. She begged them to let her go, the rapists acquiesced on the condition that she take back her allegations and never speak of them again.

Tahir says that they threw her and her son on a road where she begged a bus driver to take her back to Bhimber. She called her husband to pick up their son, and that she had given up and would commit suicide. Her husband begged her to stay put and arrived with the police. The police took her directly to the police station; in a dark room, the Sub Inspector Tariq Sulehriya, conducted Tahir's interrogation alone. She said, "He would remove my chador to see the torn clothes below, he made a spectacle of me."¹³⁹ Tahir stated that her husband said that taking her to the police station in that condition was akin to dishonoring her twice.

After her interrogation, she was taken to the hospital to have her medico-legal examination done. The hospital asked her to pay a fee of PKR 22,000 to have an urgent examination conducted. The medico-legal examination is supposed to be done free of

¹³⁸ Tahir, Interview.

¹³⁹ Tahir, Interview.

charge; asking Tahir to pay such a high fee (which many won't be able to pay) is an added deterrence in victim's access to justice.

MEDICO LEGAL CENTRE JINNAH POST GRADUATE MEDICAL CENTRE, KARACHI
SEXUAL ASSAULT CERTIFICATE

M.L NO. _____
Date/time of examination _____
Police Station/ FIR No. _____
Brought By _____
Marks of Identification _____
1 _____
2 _____
1. Vaginal/anal Swabs for Chemical /DNA _____
2. Blood for DNA Test _____
3. Urine/Blood for pregnancy _____
4. Ultrasound Examination: _____
5. Clothes _____
6. Misc: Samples: _____
Consent of Examinee / Parents _____
Signature /Thumb Impression _____
Disposal: _____
OPINION: _____

Name _____ D/o, W/o _____ Age about _____
Address: _____
History _____ on _____ date of arrest /recovery /return _____
Height _____ Weight _____ Teeth _____ Menarche _____ L.M.P. _____ Breast: Developed/Developing/Undeveloped _____
Mark of Violence _____

- Clothes of incident: Changed /unchanged
- Bath: Taken /Not Taken
- Hygiene: Good /Satisfactory /Poor
- Urine: Passed /Not Passed
- Stool: Passed /Not Passed
- Private Parts: Washed /Unwashed
- Marital Status: Married /Unmarried /Divorced
- Number of Children: _____
- Mode of Delivery: Normal /LSCS
- Gait: _____

PRE-VAGINAL EXAMINATION

- External Genitalia: _____ Public Hair: _____
- Labia Majora: _____ Post. Commissure: _____
- Labia Minora: _____ Fourchette: _____
- Vestibule: _____ Vulva: _____
- Vagina: _____ Hymen: _____
- Bleeding P/V: _____ Discharge P/v: _____

PER-ANAL EXAMINATION

- Separation of Buttocks: Painful /Not Painful _____
- Peri-anal Region /Rugosities: _____
- Tone & Shape of Anal Orifice: _____
- Digital Anal Examination: _____
- Bleeding P/A: _____

SIGNATURE & SEAL OF WOMAN MEDICO LEGAL OFFICER
JINNAH POST GRADUATE MEDICAL CENTRE, KARACHI

Fig.2. The medical legal form to be filled as evidence of rape.¹⁴⁰

They went back to get an FIR (First Incident Report) written, but the police officers delayed them by saying, we will write it when the Deputy Superintendent comes. When finally, the DSP arrived, he called the main accused, Haroon Rashid, and instead of treating him like a criminal, talked to him with deference, calling him 'Sir' as a sign of respect. Affiliated with the current minister of AJK Chaudhry Tariq Farooq, a mob of around 25

¹⁴⁰ Maher, *Medical Legal Form*.

men came to the police station to take her to a *panchayat*.¹⁴¹ Tahir did not want to go to the *panchayat*, but she says “Bhimber police dropped off, me, my husband and all our family to the panchayat. Regardless of our wishes.”¹⁴² They knew no justice would be meted out there.

The panchayat lasted for nineteen days during which Tahir’s videos were shown to the crowd on two different laptops and the rapists admitted that they did rape her. But after the nineteen days, the panchayat, along with the Bhimber police, forcefully made them sign a ‘*Raazi Nama*’ which the Bhimber police stamped with their official seal.¹⁴³

Tahir fought for justice for seven long years, trying all channels to get justice. However, it was all to no avail. Tahir stated “Pakistan has failed me as a citizen. The state instruments colluded with the criminals to silence me.”¹⁴⁴

Tahir’s harrowing story highlights the denial of equal citizenship. By using situated citizenship, one can see the lived reality of the gap between rights given and rights performed. Tahir went from police officers to bureaucrats to courts, and even went through informal channels to get justice, but she was repudiated at every turn.

4.3 Control and Honor

A Muslim female citizen must contend with a hierarchy of control, starting with the state and moving on to family, community, and society. There is a clear trend observed in the primary data collected, of the state colluding with formal courts of law along with

¹⁴¹ Tribal Council, consisting of an all-men tribunal.

¹⁴² Tahir, interview.

¹⁴³ A form stating that a compromise was reached between the defendant and the accused.

¹⁴⁴ Tahir, interview.

multiple and parallel legal systems (like jirgas and panchayats) to uphold and re-enforce patriarchal practices which legitimize the secondary status of women as citizens.

In 2021, based on police reports, there were 5,279 rapes (including gang-rape) and 478 honor killings registered in the country. Women are confronted with violence in both private and public domains. The idea of honor has been deeply intertwined with the psyche of Muslim manhood since pre-partition times. Muslim Womanhood was constructed to safeguard Muslim manhood; “women protected the precarious and fearful masculinity of Muslim Males by assuring them that they protected them!”¹⁴⁵ The idea of women seen in relation to men has been historically ingrained in the cultural consciousness. Ideas of nation, home, and Muslimness are entrenched in the honor of the woman which is attributed to her chasteness. It becomes the family’s and patriarch’s duty to protect the honor of their women, hence legitimizing the use of force and coercion to obtain this goal.

Protection of honor means complete control over the choices of women. This ‘protection’ effectively encompasses every facet of the woman’s life to make sure it falls within the parameters of acceptable behavior in society. Education, mobility, clothes, inheritance, choice of partner all fall within this purview. “When the honor of a man, his family, tribe or the community is vested in the actions of the woman, strict control over her becomes a necessity, and any deviation, real or perceived, has to be crushed immediately and decisively.”¹⁴⁶

¹⁴⁵ Saigol, *Pakistan Project*, 53.

¹⁴⁶ Khan, “Sexual Violence,” 5.

Even though the honor of the nation/family is vested in the woman, she has no authority over her own actions. Her lot in life is to follow the dictates laid down by her family and society; any aberration from the rules will get her severely punished or even killed. Once the family's perceived honor has been tarnished, whether the woman is guilty or innocent of any transgressions becomes secondary, and the only way of restoring honor is by killing the one who impeached it (i.e., the woman).¹⁴⁷ Therefore, in most cases of violence against women, the victim's family is behind it.

The case of Qandeel Baloch is one such example. Qandeel Baloch, erroneously dubbed as 'Pakistan's Kim Kardashian,' was famous for stirring up controversy by posting provocative content on social media. However, this label blurs the context from which she operated. Coming from a small, labor class family situated in Southern Punjab, she did not have wealth or social capital protecting her. Moreover, she financially supported her family.

Qandeel made headlines after she promised to do a strip tease online if Pakistan won the T20 Cricket World Cup. She, along with the Islamic scholar Mufti Qavi, made an appearance on a show where the host goaded the cleric to react to Qandeel's promise. The cleric maintained a stoic show of religiosity and asked to meet Qandeel if she was ever in Karachi. A few weeks after this, pictures of Qandeel and the Mufti Qavi surfaced together. In a short video shot by Baloch using a selfie stick, the mullah says he is happy to have

¹⁴⁷ Khan, "Sexual Violence," 5-6.

been visited by the model and hopes to offer her “guidance on issues related to religion...I will be guiding Qandeel Baloch, and I am hopeful she will listen to me,” Qavi declared.¹⁴⁸

Pakistan and its people were transfixed by Qandeel Baloch and the remarkable refutation of values and religious sentiment of the people. The media rabidly reported on the cleric Qavi’s and Qandeel’s meeting, which ultimately got him removed from his position on the *Ruet-e-Hilal* committee (Moon sighting committee which announces the sighting of the moon for an end to the holy month of Ramazan and fixes the date for Eid ul-Fitr). Qandeel went on to expose the cleric’s fake religiosity to the AFP reporter Issam Ahmed. She said, “He is a blot on the name of Islam...Who is he to claim to be a guardian of the faith?”¹⁴⁹

After this, Qavi hinted in an appearance on national TV that Qandeel Baloch was using an alias and she hailed from Multan. This led to her real name and her community being exposed. Her family and village were hounded by media personnel. Now that the entire country knew which community the young starlet was from, a lot of vitriol was thrown their way. Members of the community ostracized and mocked Qandeel’s family as having their honor besmirched. Not just the Baloch family, but the name of the entire community had been tarnished.

When a woman exercises independent freedom to act, she disturbs this conception, and the male responsible for controlling her becomes ‘ungendered’. A man may be considered effeminate by his peers if he does not take authoritative action to re-assert his authority over a transgressing woman; it is through an act of violence toward the woman that he demonstrates the power of his masculinity.¹⁵⁰

¹⁴⁸ Boone, “Feared No One.”

¹⁴⁹ Boone, “Feared No One.”

¹⁵⁰ Khan, “Sexual Violence,” 6.

Shortly after her identity was revealed in 2016, Qandeel's brother Waseem Azeem killed her, confessed on national television to strangling her to death in her house, in the name of honor. When Waseem was questioned if he was ashamed of his crime, he remorselessly replied, "No, we are Baloch."¹⁵¹ According to him, he had restored the honor of the Baloch tribe and of his family. Policing a woman's sexuality by using violence is justified for the reason of maintaining a morally pure society based on norms and traditions of the community.

The state is also complicit in this, as it aids and abets the violence by turning a blind eye to the legal loopholes that allow the criminals to go free. "The boundaries of the legal system in force within Pakistan are blurred because of its interaction with a host of other factors that include custom, culture, and religion. This interplay manifests itself both in the enactment of legislation and its subsequent interpretation and enforcement by the state."¹⁵²

The honor-killing law was seen as an ineffective tool to stop this crime. An amendment to the law was added two months after Qandeel's murder. This amendment stipulated that the murderer could not be pardoned by the victim's family and that it was a crime against the state, whereas before the family of the victim (in this case Qandeel's own family) could simply pardon the killer, her brother. After serving less than six years in prison for her murder and confessing to the murder, Waseem Azeem has been acquitted.¹⁵³

The story of Kainat Soomro shows another side to the imagined dishonoring of the community and family, underscoring the effects of deviating from the patriarchal norms.

¹⁵¹ "Life Too Short."

¹⁵² Khan, "Sexual Violence," 8.

¹⁵³ George and Suliman. "Man Murdered."

Kainat Soomro, a 13-year-old girl was gang-raped on her way back from school in 2007.

Here is Kainat's story in her own words is as follows:

After I escaped and returned home, my brother took me to the police station to file a complaint and get these men arrested. At first, the police sided with the village leaders and refused to act. In our village, we have a tribal justice system run by powerful village leaders. They said they wanted to declare me an 'outlaw'. Then they warned my brother and father that they should kill me.¹⁵⁴

Rape victims are also considered as bringing dishonor to the family/community, as they are considered impure and defiled. However, defying the customs and traditions of their community, Kainat's family refused to cast her out of their home, or to kill her or settle the matter in the local *jirga*.¹⁵⁵ Instead, they supported her fight for justice. To silence the victim-survivor, Kainat's older brother Sabir Soomro was flooded with threats to kill his sister in the name of honor.¹⁵⁶ Sabir Soomro said, "They told me I am not a real man. They said, 'You failed to follow your traditions', 'You failed to kill your sister', 'You should have followed our customs!'"¹⁵⁷ The society emasculated Sabir Soomro for not choosing violence against his sister. According to their community, there was more honor in killing Kainat than in supporting her legal battle.

The logic behind this reasoning is that by taking this case to court, they would expose the entire community to shame and disgrace, and that the perceived dishonor tarnishing Kainat's family would transition into dishonoring of the whole community. By accepting criminal behavior like that of Waseem Azeem, the society/ state enables rapists

¹⁵⁴ "Outlawed In Pakistan."

¹⁵⁵ Tribal council

¹⁵⁶ Trauma based counseling suggests that the term victim or survivor should not be used in reference to individuals. That they should be asked their preference. Individuals that have been raped prefer the term victim-survivor as it does not negate the crime committed against them and validates that they are survivors and so much more how than the term 'victim' would suggest.

¹⁵⁷ "Outlawed in Pakistan."

and murderers. When there is any deviation from the tradition of silencing the victim, as happened with Sabir Soomro, the victims or their family pays the price. Kainat's brother Sabir Soomro was killed by unknown personnel three years after Kainat's case had started. Kainat and her family allege that the murderers of her brother are her rapists.

Thus, failing to conform to the role of a hyper-masculine, neo-colonial man is also fraught with danger. Hyper-masculinity is rewarded and accepted by the state and society. Waseem Azeem and Sabir Soomro's fates were decided based on the principles of communal honor and their reaction to its tarnishing.

4.4 Deconstructing Language

Women's inability to receive justice is clouded by the terminology embedded in our social fabric. Language reveals the multi-faceted biases and internalized prejudices within us. Even while resisting the exclusionary inclusion of the state/ society, we operate from within this paradigm which inevitably leads to a repetition and re-enforcement of patriarchal attitudes.

My interviews with Tahir and Mukhtaran Bibi shed light on this phenomenon. During the 1 hour and 30-minute interview with Mukhtaran Bibi, not once did Bibi frame the events by calling it a gang rape.¹⁵⁸ In our conversation, she referred to it as a '*waqya*' (an incident). The concept of shame is deeply intertwined with rape in society, as most victims are expected to commit suicide rather than to live with the continued shame and stigma attached to them. Mukhtaran Bibi and Maria Tahir both tried to commit suicide at one point in their struggles.

¹⁵⁸ Mukhtaran Bibi, interview by author, June 9, 2022

By opting to use ambiguous language, Bibi tried to distance herself from the stigma. "While the alleged rapist is innocent in the eyes of the law till proven guilty, the victim is presumed to be guilty until she proves her innocence."¹⁵⁹ Even though Mukhtaran Bibi's rapists were convicted by the Anti-Terrorism court in 2002, 5 men out of 6 (4 rapists and 2 of the jurors of the panchayat) have been acquitted over the course of the years on grounds of insufficient evidence.¹⁶⁰

Tahir also started the conversation with calling her rape, '*ijtimai zayati*'¹⁶¹ a term colloquially used for gang rape; its literal translation is 'collective wrong-doing'. In the qualitative survey conducted of 46 people (31 women and 15 men), when asked about the terminology or words used for gendered violence against women in everyday life, the respondents shared terms such as '*Izzat lootna*' (loss of honor), '*Izzat cheen li gyi*' (honor taken away), '*Izzat pe haath daal diya*' (an idiom that means to attack someone's honor), '*zayati*' (wrong-doing), '*zina bil-jabr*' (fornication by force). All these terms obfuscate the reality of the crime and criminal, leaving the victim-survivor to grapple with the enormity of the crime committed against them. Even the words become taboo. As Tahir stated:

ہمارا جو معشرا بیٹا اگر میرے ساتھ کچھ برا ہوا ہے تو وہ لوگ برا کہیں گے۔ مجھے اتنا مجبور کر دیں گے کہ میں کچھ بولوں ہی نا۔ سب سے جو بڑا قصور وار بیٹا وہ ہے ہمارا معشرا جو ہمیں کچھ بولنے ہی نہیں دیتا۔ ہمیں کچھ کہنے ہی نہیں دیتا۔

If something bad happens to me, our society will blame me for it. They will push me to such an extent that I will not be able to speak. The main problem in our society is that we are not allowed to speak. We are not allowed to talk.

¹⁵⁹ Jahangir and Jilani. *Hudood Ordinances*.

¹⁶⁰ Bibi, interview.

¹⁶¹ Tahir, interview.

Moreover, Tahir's language was couched within the patriarchal structure. By evoking the imagery of the investigating police officer's mother and sister, she was reinforcing the accepted notion of honor interlinked with women. She said, "I asked the police officer, don't you have a mother or sister at your home?" She further stated that when she asked the police to look at her bank statements to show the payments made as she was blackmailed, she questioned them which woman would have such financial transactions with men and for what purpose? Statements like this underline the strictly demarcated segregation of the sexes and how inconceivable it is for women to operate within the public sphere.

When I asked Tahir, if any cases had been registered by any one before her, she averred "*Sharif gharanay ke larkiyaan kuch nahien kehti*" (the girls of respected households don't say anything).¹⁶² We are socially taught a good woman is one that is invisible. This deeply ingrained social belief has been normalized in the local vernacular as '*Ghar ke baat ghar mein rahay*' (what happens inside the home should remain private), "*ghar ke izzat*" (the respect of the household). It is used, as one respondent says, "as a way to manipulate, isolate and attempt to brainwash or gaslight women," while another shares, "It's one of many cultural norms used to control and subjugate women. Yes, women in my social circle have experienced this attitude."

Ninety percent of the female respondents said that they have experienced such internalized misogynistic attitudes and that it is prevalent in society or that they know of someone who has been silenced by using such tactics. The male respondents all

¹⁶² Tahir, interview.

condemned the culture of silence except one who said, “I suppose so. I think everybody would like to keep the dark closets in their life private/closed.”¹⁶³

There is a trickle-down effect of the attitudes exhibited in our society; when politicians normalize rape and paint women as conniving, deceitful creatures, there are on ground repercussions for them.

In 2005, Mukhtaran Bibi’s case was getting a lot of international attention, in an interview with the Washington Post, the 10th president of Pakistan, General Musharaff, said, “You must understand the environment in Pakistan ... This has become a money-making concern. A lot of people say if you want to go abroad and get a visa for Canada or citizenship and be a millionaire, get yourself raped.”¹⁶⁴ These attitudes about women as liars and unreliable narrators predates the creation of Pakistan (Chapter 2) and has seeped into the fabric of the nation itself. The attitudes of the bureaucrats and individuals in power are reflective of the ideologies of the masses.

Women are branded as sexual deviants and blamed for the rise in sexual violence against them. In an interview with ‘Axios on HBO’ Pakistan’s Prime Minister, Imran Khan, said, “If a woman is wearing very few clothes, it will have an impact on the men, unless they are robots. It’s just common sense.”¹⁶⁵ In his tenure he repeatedly put the onus on women for stopping rape against them saying on national TV, “Women should remove temptations for men, because not everyone has will power.” He went on to say, “women should observe purdah.”¹⁶⁶

¹⁶³ Questionnaires.

¹⁶⁴ “Musharraf’s Remarks.”

¹⁶⁵ “Woman will wear.”

¹⁶⁶ “Imran Khan criticized.”

Such language casts women as seductresses, tempting men from the righteous path. Thinking like this magnifies violence against women as any transgression from the social norm merits punishment. And those who deviate from the defined parameters are seen as fair play.

Conclusion

By looking at the stories of women on ground we can see the failed promise of equality and the state's legitimization of violence against women by granting impunity to the perpetrators. The stories of women discussed highlight a relational identity of women. Women like Mukhtaran Bibi are found culpable of crimes of their male kin. They are refused by the state and the community to be seen as autonomous individuals under the idea of male ownership of female bodies. Zina is used by male patriarchy to exert their control over the agency of women. Sexual violence and honor killing can be seen as an extension of this control. The state colludes with the perpetrators by ensuring leniency "in the form of reduced sentences and even exemptions for individuals accused of honor crimes...the formal justice is complicit in reinforcing mechanisms of control that on occasion also contravene women's rights."¹⁶⁷

While such tragic stories highlight the plight of women in a deeply patriarchal society like Pakistan, there are also other stories out there. In these cases, women shed the role of passive, helpless observers assigned to them, and instead take on the part of active participants in movements that have great consequences for their own involvement in both public and private affairs. Sometimes this takes the form of lone rangers fighting it out in

¹⁶⁷ Khan, "Sexual Violence," 41.

pursuit of justice, other times it takes the form of an entire movement, a collective jointly bargaining for their rights and their place in Pakistani society.

Chapter 5. Reclaiming Citizenship

Even as the odds are stacked against female citizens in Pakistan, we can see that women are working towards reclaiming their rights as equal citizens by looking at movements where women play a critical part in advancing a narrative of strength. They are resisting and pushing to gain autonomy and agency, sometimes through religion and at others by collective organization. Women led movements are discredited in Pakistan by being labelled as the domain of the privileged. My research proves that this is not true, women from all spheres of life are agents of change and are actively resisting the status of second-class citizens in their own social context.

5.1 Women as Agents of Change

The lived reality of gendered citizenship in Pakistan has led to some interesting outcomes and alliances, as women try to claim more agency and autonomy in their everyday lives which has led to curious unions. One such instance is the early support a cleric named Mullah Fazlullah garnered from women in his demand for the imposition of Sharia law across the Swat valley in Pakistan. This seems on the face of it counterintuitive, since most of the burden and restrictions of such a system falls on women themselves, but the support was meaningful.

In her book *Faith and Feminism in Pakistan: Religious Agency or Secular Autonomy?* Afiya Zia uses the takeover of the Swat region of Pakistan by Mullah Fazlullah – his demand for imposition of Sharia Law, an act later sanctioned legislatively by the Pakistani Parliament – to argue against the simplistic narratives advanced by certain authors to explain this seminal event. Zia extensively quotes Nazish Brohi's firsthand

research, including interviewing the women of Swat to push back against the ideas advanced by Humeira Iqtidar, who relies on secondary sources research to frame Mullah Fazlullah “as a kind of Che Guevara, leading a revolution that resonated with the historical peasant uprisings in the region.”¹⁶⁸

Women were early supporters of Mullah Fazlullah, nicknamed ‘*Mullah Radio*,’ for his use of an illegal radio station to broadcast his message across the Swat valley. However, the distinction between religiosity as an abstract notion and its actual implementation as a rigid set of rules mostly detrimental to women is an important one. As stated by Zia, women’s early support for Fazlullah stemmed from the former abstract notion, as they failed to grasp the real-world consequences of the system proposed by the cleric, once it was implemented. This view is reinforced by the fact made plain by Nazish Brohi’s interviews of local women in Swat. Brohi notes that the women, some of whom had prior experience in local governance by way of being councilors, “had not read any literature on the Sharia and were not familiar with any Islamic scholars on the subject or the debates over interpretations.”¹⁶⁹

Nazish Brohi’s interviews show that many women saw the application of Islamic law as an opportunity to gain agency in everyday affairs, using the framework of religious law. Mullah Fazlullah, through his broadcast, spoke directly to them and won their support through promises of more independence within the domestic sphere. For these women, the demand for Sharia “also symbolized a stand-in for justice, development, progress, and peace ... Fazlullah convinced them that the Sharia law provides for this in literal terms.

¹⁶⁸ Zia, *Faith and Feminism*, 159.

¹⁶⁹ Zia, *Faith and Feminism*, 160-161.

For these women, Islamic history held the promise of economic prosperity and social cohesion for Muslims.”¹⁷⁰

Another reason for women’s support of Fazlullah was his acknowledgement of their contributions to the movement early on. Women felt seen and heard. Fazlullah “would announce the contributions to his cause that women had collected together in his radio broadcasts, as well as acknowledging individual contributions, whether of gold or money.”¹⁷¹ Such public recognition led to women achieving a status in the wider community that had never been accorded to them before and gave them importance that had been denied to them within their own households, since all important decisions were made by the men. This was in direct contrast to the message of Fazlullah who “created a discourse in which women were positioned as the most important decision-makers.”¹⁷²

Fazlullah’s reign in Swat, which was codified legislatively by the Parliament in the form of *Nizam-e-Adl regulation*,¹⁷³ came to an end when the military was forced to intervene. When the influence of Sharia Law began to spread beyond the Swat region, Taliban were showing up to enforce Sharia law in adjoining areas, including Buner region, situated an hour’s drive from the Capital Islamabad. Brohi followed up her initial research in 2011 when she returned to Swat, two years after the military operation to oust Fazlullah and his militia had ended. Views had changed drastically by then:

They spoke of the horrors and brutality they had witnessed against their family and community and said that “such ruthless tortures could not have been inspired by religion and that its invocation was a farce.” They referred to Fazlullah as “the *fitna* (chaos) who had brought *azaab* (tribulations) onto them.”¹⁷⁴

¹⁷⁰ Zia, *Faith and Feminism*, 161.

¹⁷¹ Zia, *Faith and Feminism*, 163.

¹⁷² Zia, *Faith and Feminism*, 163.

¹⁷³ The *Nizam-e-Adl Regulation* (Order of Justice) was a controversial act, passed on April 13, 2009, of Pakistan's central government that formally established Sharia law in the Malakand division

¹⁷⁴ Zia, *Faith and Feminism*, 162.

Brohi concluded that “through discussions among themselves, they were able to state in hindsight that a significant motivation for them was being given the public recognition as important actors – the notion of agency.”¹⁷⁵

This chapter of female participation in the public realm presents a remarkable account of the notions of gendered citizenship. The routine situation was that the women of Swat were invisible, as in much of the rest of the country, but a change in political environment had enabled them to find a voice and have a say in public affairs, at least initially. Even though this took the form of an Islamist system based on misogynistic interpretation and enactment of Sharia law, the motivations of women in supporting this system had little to do with religion. The support stemmed from being given a greater role in both the public and private sphere.

Another point of interest here is that while men were found to support Mullah Fazlullah because of his promise of speedy justice, for women this point was irrelevant, as they had rarely, if ever, gotten the chance to seek justice using the State apparatus. Their disagreements were almost always settled at home, and when they did try to protest, they were quickly silenced. Their support of this short-lived experiment thus stems from getting a greater say in the running of the household, the potential for greater prosperity, and a more stable future where they could claim more ground and be relatively more autonomous, it allowed them greater agency. To achieve this, they were willing to give an Islamic system a chance, even though they would pay the highest price for this experiment.

¹⁷⁵ Zia, *Faith and Feminism*, 162.

5.2 Reclaiming Power through Organization

Far from being passive actors, women in Pakistan have always taken the chance to claim agency and some measure of control over their lives when presented with the opportunity to do so. One such opportunity presented itself with the Local Government Ordinance 2001. It was introduced by Pervez Musharraf, a military dictator who later appointed himself President. This law reserved 33% of seats at all tiers of local government for women. It further reserved 17% of seats for women in Provincial and National Assemblies. It was a very promising measure for women to become part of the governance at the local level as well as in the legislative process. Increasing the representation in the public domain would allow greater visibility and access to opportunities for the larger female population. Thus, 36,105 women became part of the formal local government in the first round of elections in 2002.¹⁷⁶

There were numerous critiques of these measures. It was pointed out that women were being used to project a liberal image of a military dictator, that many women acted as proxies for their male relatives also involved in the political process, i.e., supported the males by shoring up their power, and that lots of women simply had no experience when it came to the affairs of state and how to run them.¹⁷⁷ Women also faced a lot of resistance by male politicians whom they had to work with every day, and who were still in a majority. However, the Local Government Ordinance was unprecedented in its scale as it led to the opening of the public sphere to women in a way unimaginable before.

Women themselves were acutely aware of such shortcomings, which led to the formation of the Women Councilor's Network (WCN), an organization akin to a union

¹⁷⁶ Zia, *Faith and Feminism*, 167.

¹⁷⁷ Zia, *Faith and Feminism*, 16

which allowed all women in local governance to speak with a collective voice. The WCN also played other important roles, allying with NGOs to become a source for capacity building and training. Over time, the women through those collective forums also began to voice opinions on laws and matters not strictly related to their jobs in local governance. The members of this organization “began to link patriarchal obstructions with state policies (which included the discriminatory Islamic laws and procedures in cases of violence against women) and they protested against the absence of state interest or policies for women’s social, political, or economic equality.”¹⁷⁸ They attended rallies, carried out protests and essentially tried to bring women’s issues to the forefront of national politics.

The freedom with which they were allowed to do so in Punjab, the Pakistani heartland, forms a dramatic contrast to the experience of women councilors in Northern Pakistan, where an overlap of patriarchal, religious, social, and tribal customs allowed them little room to make their voice heard. As Afiyah Zia argues,

In fact, before the elections in 2005, religious parties ruling the province of Khyber Pakhtunkhwa convened a meeting where an election agreement was signed by the representatives of different parties to keep women away from contesting the polls. In Swabi, Mardan and Dir districts, women were not just prevented from filling their nomination paper but from even casting votes. In the Malakand division, religious leaders gathered to declare that the Nikah (solemnization of marriage), *Namaaz-e-Janaza* (funeral prayers) and all other religious rites of any women candidates and/or, woman voter would be boycotted. Some women councilors in Dir were prevented from carrying out their duties and the male relatives of these women would attend council sessions on their behalf.¹⁷⁹

This point highlights how gendered citizenship is experienced differently depending on social locations and positionalities such as prevailing customs, norms, age,

¹⁷⁸ Zia, *Faith and Feminism*, 16

¹⁷⁹ Zia, *Faith and Feminism*, 169.

ethnicity, gender, and religion. These positionalities (as stated in chapter 1) are structured around an axis of power subject to change historically. The meaning attached to these positionalities is fluid and contested, and often based on multiple social markers, and the meaning attached to these terms varies widely in Pakistan as it is home to many ethnicities each with their own customs that in many cases override the actual law of the land as can be seen in the case of Mukhtaran Bibi and Maria Tahir.

The Okara Peasant Movement of 1999 also highlights women's role as active agents of change. This movement originated from a dispute between tenant farmers in Okara and the military who oversaw the lands farmers operated on. The military tried to change the status of the farmers, who had been tilling the land for generations, from "sharecropping tenant farmers and convert them to contract renters."¹⁸⁰ The farmers felt the change in status left them not much better off than wage laborers, and with a lease term set in the new status contracts, they could be easily evicted on short notice. The former agreement was for the tenants to work the land and be paid a percentage of the crop harvest. The new agreement "would also strip the peasant tenants of the protection that they enjoyed under the Punjab Tenancy Act 1887, which among other things, gave the first right of purchase to those who had tilled the land for more than two generations for over 20 years, whenever the land is sold or leased."¹⁸¹

The first protest against the new proposed arrangement was in October 2000, with the farmers adopting the slogan '*malkiyat ya maut*' (ownership or death). Shortly after this, the men of the community were harassed and picked up by law enforcement agencies, which is when the women stepped up to continue the movement and breathed new life into

¹⁸⁰ Zia, *Faith and Feminism*, 172.

¹⁸¹ Zia, *Faith and Feminism*, 173.

it. As a result, almost a million farmers rose to challenge the might of the largest, most powerful agent in Pakistan – the military. This is more remarkable since farmers are one of the most powerless sections of society in Pakistan. The State initially responded by unleashing the Rangers, a paramilitary force, on the protestors and detaining the men, at which point “it was the women who responded by arming themselves with *thapas* (thick sticks flattened at one end used for washing clothes) and pots and pans blocking police parties . . . Soon these women’s groups came to be known as the ‘thapa force’.”¹⁸²

This ‘*thapa* force’ routinely protested illegal detentions of their relatives, encircled a police station, lay down in front of police vans, attended court hearings, travelled to multiple cities to plead their case in front of the public by taking part in seminars and conferences. There were also injuries when law enforcement agencies responded, with one recorded casualty. Despite being a conservative place, the women of Okara came out to fight in place of the men, without their participation the movement would likely have petered out. Okara also has a significant Christian population, a divide which was overcome when women of both religions came together to participate in the protest movement. Rubina Sagiol, as quoted by Zia, states, “when survival is at stake, religion can take a back seat in human affairs.”¹⁸³

The ‘thappa brigade’ became a woman’s collective that was inducted into the Anjuman-e-Mazareen Party (AMP) and formed the women’s wing of the party. They started dealing with matters not strictly related to the Okara Peasants Movement. “According to Naz’s [secretary of the AMP] testimony, the women’s wing members of the AMP are called when a beating occurs, and they help resolve the dispute and warn the men.

¹⁸² Zia, *Faith and Feminism*, 173.

¹⁸³ Zia, *Faith and Feminism*, 175.

As a result, there has allegedly been a lessening of domestic physical abuse.”¹⁸⁴ Despite their increasing importance in driving the Okara Peasants movement, the women are still not consulted when making major decisions within the AMP. They are at once negotiating and experiencing ‘exclusionary inclusion’ in multiple domains of the private and the public.¹⁸⁵

5.3 Autonomous Women’s Movement in Pakistan - Challenges and Obstacles

Considering the separate movements discussed above, all of which were triggered by independent events within a local context, it is important to ask whether there is anything approaching a uniform, overarching movement advocating for women’s rights – a movement to improve the reality of women living their lives as second-class citizens due to the reality of patriarchal, tribal, and regional customs which invariably push the rights of more than fifty percent of the population to the background.

In *Feminism and the Women’s Movement in Pakistan: Actors, Debates and Strategies*, Rubina Saigol interviews people at the forefront of feminist causes to find the answer. There is a distinction made between native movements responsive to and conscious of issues faced by local women, the most visible of this being the Women’s Action Forum (WAF) during Zia-Ul Haq’s era and Non-Government Organizations (NGOs), whose agendas, while overlapping with feminist practice, are mostly donor driven and are also wary of antagonizing the State and inviting repercussions.

WAF was initially formed to respond to the implementation of the Hudood Ordinance during the tenure of Zia-ul-Haq; its agenda was later expanded to advocate for

¹⁸⁴ Zia, *Faith and Feminism*, 176.

¹⁸⁵ Behl, *Gendered Citizenship*.

women's causes and position in society. Tahira Abdullah, a well-known women's right activist, argues that WAF was the only organization that was made along feminist lines in its functioning and ideology and can be called a movement.¹⁸⁶ However, according to her, some chapters of WAF, such as in Lahore and Islamabad, have become dormant, while others, such as in Karachi, Hyderabad, and Peshawar, remain active. Thus, even within WAF, a distinction needs to be made geographically. She also argues, that while there are many different organizations fighting for women's rights, not all of them are necessarily functioning on feminist principles, and in any case, are quite splintered without a unity of command structure or message, with most being isolated to geographic pockets. While Ms. Abdullah does not consider NGOs to be autonomous or a movement in any sense, she goes on to say:

NGOs are not movements (autonomous or otherwise) as they are mostly donor-funded with donor-driven agendas, and they are usually not free to select either their geographic areas or thematic sectors of work ... movements are run with passion, commitment and dedication, and with the spirit of volunteerism – not as a salaried nine to five projects. Internally, Pakistani women's movements are scattered, fragmented, divided, competitive and inclined to rivalry, turf wars and territoriality, and are neither organized nor cooperative. Many activists succumbed to NGOisation, some out of need.¹⁸⁷

However, “a few comparatively autonomous and independent NGOs, for example, the Human Rights Commission of Pakistan, ASR (Applied Socio-economic Research Resource Centre), Shirkat Gah, and Simorgh which challenge social, political, and economic structures of inequality and patriarchy, are seen as unacceptable by the state and have been subjected to all kinds of retaliation by governments.”¹⁸⁸ Even the few

¹⁸⁶ Saigol, *Feminism and the Women's Movement*, 37.

¹⁸⁷ Saigol, *Feminism and the Women's Movement*, 37.

¹⁸⁸ Saigol, *Feminism and the Women's Movement*, 37.

organizations based on feminist agendas run up against the State, and the asymmetry of power between the two means that the former must toe the line or get shut down, as was the case with ASR. Thus, while issues such as “micro-credit or bringing/integrating women into the market is not contested ... the right to abortion or even a survey on domestic violence becomes highly contested.”¹⁸⁹ The former touches on feminist issues and women’s empowerment without it being specifically linked to a gender specific policy. Thus, it does not run into the kind of resistance that a cause such as advocating for the right to an abortion does, an issue particularly fraught with risk in a conservative country like Pakistan, where the State often colludes with the religious right, thus becoming a perpetrator in the oppression of women.

This fact also brings up the balancing act any organization lobbying for women’s rights must perform. It needs the State to pass laws specific to women’s issues while actively being persecuted by the State itself on certain issues. The conservative nature of the State and population at large also shows up in feminist organizations such as the WAF itself. As artist Lala Rukh points out, “the discourse on patriarchy has been weak even within WAF, perhaps due to the presence of a number of conservative and religious women uncomfortable with the term feminism.”¹⁹⁰ Before the War on Terror, most of the opposition to such organizations had come from the conservative nature of the State and population and the patriarchal bureaucracy post 9/11. Now, a new element of religious fanaticism has been added to the mix, where NGOs are targeted for being foreign funded and spreading a Western agenda in Pakistan. The consequences of taking a bold stance on women’s rights can lead to violence and fatwas (religious edicts) declaring such

¹⁸⁹ Saigol, *Feminism and the Women’s Movement*, 37.

¹⁹⁰ Saigol, *Feminism and the Women’s Movement*, 38.

organizations and its members as spreading sin, which in turn encourages violence against them.

A Path Forward

By focusing on the women of Swat, Thapa brigade, NGOs, and the others in different social locations and positions, we see that resistance to patriarchal norms is not just the domain of privileged women. As Shaheed aptly reiterates “women do not comprise of a homogeneous collective with identical interests. They are divided by class and privilege and distinguished by culture, upbringing, personal experiences and life choices, to name but a few differences.”¹⁹¹ We need to broaden the conception of what empowerment and resistance means for different women. The notions of equality and inclusion of the Thapa Brigade might be different from those working in NGOs, but one’s struggle against the chokehold of patriarchy is not more valid than the others.

Moreover, we need to reconceptualize the notion of political, as the women in Swat problematize the divide between the private and public, as some secular notions designed for inclusion can exclude while the religious can act as inclusive space. These movements highlight a path forward showing that women are active agents of change, and that resistance and autonomy take various forms dependent on context.

¹⁹¹ Shaheed, “Contested Identities,” 865.

Conclusion

Citizenship is a multifaceted, multivalent concept with a relational impact on individuals and groups based on various affiliative factors that range from gender, class, religion to political, social, and ethnic divisions; based on these factors, power dynamics between the state and the citizen change. By using situated citizenship, one has an intersectional close-up view of the lived experience of the female Muslim citizen in Pakistan. It provides insight into the rights given by the state and the citizen's ability to claim and perform these rights based on socio-religious impact of norms and informal rules. The state of Pakistan's failed promise of equality for all its citizens is embodied by the on-ground gendered relationship of its females with the state as unequal and second-class citizens.

Looking at gendered violence against women through the situated approach of citizenship, a "continuum of sexual violence"¹⁹² can be observed, which is historically ingrained in the very fabric of the country. Under colonial rule, the Muslim community of India felt an impending threat of erasure to their values and norms. In response to this, national/political difference were drawn on the bodies of Muslim women. "The feminization of the colonized male at the hands of the colonial power was matched by the vigorous assertion of masculinity in the home; a masculinity proved and redeemed by an equally exaggerated femininity."¹⁹³ Thus, Muslim womanhood was constructed to

¹⁹² Kelly, "Continuum of Sexual."

¹⁹³ Saigol, *Pakistan Project*, 52.

safeguard Muslim manhood along the line of religious and cultural difference, which turned women into victims of, and symbols of, their own cultures.

In Pakistan, Islam is co-opted by the state and political parties to present the version most beneficial to them, to define the parameters of citizenship based on religion. The political, civil, and social all become sites of contestations of rights given and rights performed in the milieu of religion. Women become the emblem of regime changes as their status and role is re-defined in conjunction with the state. This status has evolved over time, but the enforcement of gendered laws, such as the Hudood ordinance, is used to silence and punish women; they are forced outside the ambit of state protection. The state itself legitimizes the secondary status of women by discouraging them to pursue justice against the crimes committed against them. This, in turn, acts as a deterrent for women to enact their rights as full citizens of the Islamic Republic of Pakistan.

A close look at the life of a female Pakistani Muslim citizen within the parameters of history, politics, community, and home presents an intersectional view of violence being perpetuated against them. The lived reality of the Muslim woman bridges the gap between theory and praxis. Maria Tahir and Mukhtaran Bibi, along with the research participants, presented the on-the-ground truth of how women accessing justice were silenced or punished further by state and society. Moreover, the primary data collected highlights the social ideology that ties rape crimes to honor and control, rather than justice.

However, there is hope! This disingenuous label of the ‘victim’ disempowers women and takes away their stories of resistance and resilience. As Spivak states, Western intellectuals use knowledge about marginalized groups to give them voice, thus rendering

them silent, as the subject does not have the agency to speak for themselves.¹⁹⁴ Keeping this in mind, I drew from primary sources such as interviews, questionnaires, documentaries, and newspapers, to highlight the voice of women as visible, autonomous beings. Fighting to bring about change, rebelling against the patriarchal chokehold of the state, where the mere presence of women is seen as a threat, being visible is also resistance. But moments in Pakistan's timeline have shown that even within a heavily rigged patriarchal structure, women from Swat, women in the Thapa brigade, women like Mukhtaran Bibi and Maria Tahir and so many more, are all fighting for change, for equal access to social, political, and civil rights. The struggle and resistance of the women of Pakistan highlights the "fluidity of citizenship, which is determined, in part, through complex and contradictory, daily lived experience... [by moving beyond] notions of citizenship as narrow formal legal status and [by] adopting a definition of citizenship as legal status *and* embodied intersectional social relation."¹⁹⁵

Before my interview with Mukhtaran Bibi, I had thought of using my interview with her to highlight the victimization through injustices visited upon women by state, community, and family. Women became one-dimensional characters viewed through an internalized male gaze, defined only by their sexuality. Yet Mukhtaran Bibi was so much more than a rape victim-survivor. The label bestowed upon her made me envision a woman stuck in a moment; but when I spoke to her, I realized she is achieving so much, she IS so much; her strength and humor shine through. Women speaking their truth is resistance; it opens sites of contestations and negotiations within a highly patriarchal structure where they were once voiceless and invisible.

¹⁹⁴ Spivak, "Can the Subaltern."

¹⁹⁵ Behl, *Gendered Citizenship*, 25.

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