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## **History, Law and Vernacular Knowledge: The Threat to Women's Collective Representation Under the Guise of Androgyny in Pakistan**

*Mohammed Subhan Hussain\**

*This Article examines the key issues surrounding the various accounts of domestic violence inflicted upon Pakistani women. The Ansar Burney Trust has approximated that seventy percent of Pakistani women have encountered some form of sexual and domestic violence. This Article takes a holistic approach in critically analysing the failures of the State of Pakistan to adequately redress the issues of domestic violence. The analysis of legal cases from the various provincial regions of Pakistan, highlights the semantic issues relating to the exponential rise in the occurrences of choola deaths (acid attacks) and honour killings. This Article further critiques the efficacy of the PAWLAs (Pakistan Women Lawyers Association) continued efforts to prevent the sociological, psychological and legal ostracization of women within the fabrics of Pakistani society and community. This Article concludes that although efforts have been made to counter-act the gross brutality faced by women; the rise of inequality at the hands of a society marred by a perverse ideology of hegemonic masculinity is still a deep-rooted and problematic matter. It is posited that for the egalitarian and polyversal implementation of women's rights the state must be willing to break the shackles of restraint and suppression that women are bounded by, thus enabling women's empowerment to prevail over gender inequality.*

Instead of asking if human rights are a good idea, [one should] explore what difference they make<sup>1</sup>

- Louise Brown

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\*Mohammed Subhan Hussain is a second year undergraduate in Law at SOAS, University of London. He would like to thank Charlotte Joy Trudgill, Emma Noehrbass and Daliah Lina Vakili for their patience and companionship throughout the writing process for this Article. He also wishes to acknowledge Dr Vanja Hamzic, Dr Federica Sona and Jonathan Bashi for their guidance and encouragement. This article is dedicated to Professor Werner Menski. Though Emeritus now, Professor Werner Menski and his work instilled in the author the spirit of questioning, and acknowledgment is due for that.

<sup>1</sup> Louise Brown, *The Dancing Girls of Lahore: Selling Love and Saving Dreams in Pakistan's Ancient Pleasure District* (Perfect Bound, New York 2005), p. 241.

## **1. Introduction**

"Speak, for your two lips are free; Speak, your tongue is still your own; This straight body still is yours; Speak, your life is still your own"<sup>2</sup>.

The Pakistani poet (*Shayr*) Faiz Ahmed Faiz truly encapsulates the persistent endeavour of Pakistani women to live in an androgynous society where women's empowerment shall prevail over gender inequality. However, the Pakistani legal system has failed to adequately respond to the socio-cultural bias in Pakistan against women and has enabled pseudo-religious misinterpretations of Islam, to further suppress the plight of women. The challenge for meaningful reform is indicative of Pakistan's "current hybridity - oscillating between antiquated colonial (ist) *corpus juris* and the conflicting theo-political visions of Islamic law"<sup>3</sup>.

This Article seeks to determine how instances of domestic violence, such as wife beating and *choola* deaths (acid attacks), has resulted in women to continuing "to suffer because of customs, traditions and laws that confine their freedom and ensure that they remain weak and subservient"<sup>4</sup>. It is dubious whether a legal Realist discourse can promote gender justice and gender *jihad*<sup>5</sup> in all spheres of Muslim life: communal, relational and personal.

This Article argues that although new and reformed legislation has empowered courts to punish violence against women, the extent of the effectiveness, implementation and multidimensional *vernacularisation* of such legislation must be questioned. The rising number of rape cases and tribal honour killings mirror the brutality against women conducted by Dictator Zia-ul-Haq's enforcement of the Hudood Ordinances, which "under the garb of Islamisation actually promoted violence against women and jeopardised their lives"<sup>6</sup>.

By placing emphasis on the relevant case law, data and legal literature, this Article seeks to determine the extent to which women's rights are effectively enforceable within Pakistan. The extent of recognition, enforcement and effectiveness of women's rights in Pakistan must be

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<sup>2</sup> V.G. Kiernan , *Poems by Faiz* (1st, Oxford University Press India , Delhi 1973) 54.

<sup>3</sup> Vanja Hamzic, *Sexual and Gender Diversity in the Muslim World: History Law and Vernacular Knowledge* (IB Tauris & Co Ltd (2016) 182.

<sup>4</sup> Rashida Patel , *Women and Law in Pakistan* (1st, Faiza Publishers, Karachi 1979) 36.

<sup>5</sup> Amina Wudud, *Inside the Gender Jihad: Women's Reform in Islam* (Oneworld, Oxford 2007 [2006]), pp. 136-137.

<sup>6</sup> *Ibidem*, 38.

questioned, with respect to the willingness of the State to implement measures to eradicate an ideology which promotes hegemonic masculinity, whereby the continuing abuse towards women is deemed to be acceptable.

## **2. Domestic Violence**

Domestic violence towards women in Pakistan "not only devastates lives and destroys their potential, but also undermines the development and progress of all nations, especially towards equality and the possibility of women to exercise full citizenship"<sup>7</sup>. Rising instances of wife-beating and *choola* deaths (acid attacks) not only reinforces the tacit acceptance of social taboos in Pakistan but also highlights how the "brutality towards women surpasses cruelty towards animals"<sup>8</sup>. The case of *Bibi Zindagi v Amir Nawaz*<sup>9</sup> (Northern Area, Swat) illustrates the persistent verbal and physical abuse faced by victims. In this case, the defendant viciously attacked his wife and persistently fired shots towards her. Despite the victim filing a FIR (First Information Report) stating domestic abuse, the state's inability to intervene and recognise the consequential outcome of the continuation of such abuse resulted in the victim committing suicide. Thus in light of the violence against women (VAW) study in 1998, whereby "thirty percent of rural women and seventeen percent of urban women"<sup>10</sup> were estimated to be subjected to domestic violence, the state's willingness to enforce and implement measures to eradicate the magnitude and dynamics of domestic abuse must be questioned.

## **3. Statistics**

Despite the fact that "women's response to the abuse was to initially suffer in silence or cry"<sup>11</sup>, the Pakistani government has shown some solidarity with the victims of such hostility by supporting the PAWLA's (Pakistan Women Lawyer's Association) legal aid and outreach centres, where women facing domestic abuse problems come for advice. "From July 2006 to June 2007, 336 women approached the PAWLA legal aid centre, out of which 118 women had been subjected to physical abuse and mental torture by their husbands and the in-laws"<sup>12</sup>.

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<sup>7</sup> Rafia Zakaria, *The Upstairs Wife: An Intimate History of Pakistan Hardcover* (1st, Beacon Press, Boston 2015) 104.

<sup>8</sup> Noor Akbar, *Women Rights in Fata Pakistan* (1st, LAP Lambert Academic Publishing, Saarbrücken 2010) 63.

<sup>9</sup> *Bibi Zindagi v Amir Nawaz* PLD 2013, 2001 MLD 2527, p. 45.

<sup>10</sup> Neelam Hussain, *Engendering the nation-state : proceedings* (1st, Simorgh Resource and Publication Centre, Lahore 1998) 182.

<sup>11</sup> *Ibidem*, 182.

<sup>12</sup> Rashida Patel, *Women and Law in Pakistan* (1st, Faiza Publishers, Karachi 1979) 54.

Although the PAWLA's insurrectionary discursive practices provide legal recognition for women's rights and act as a voice of support for aggrieved women, recognition and support is not synonymous with enforcement. In light of "one-third of women suffering more severe forms of violence such as kicking, punching and suffocating"<sup>13</sup>, the Domestic Violence Bill (2005) was passed by the PPP-P (Pakistan People's Party Parliamentarian) which effectively declared domestic violence to be a crime. In spite of the introduction of such bill, enforcement and effectiveness still remain a pressing issue. Statistical data from 2005 demonstrates this:

There were 3,867 cases of physical abuse and 1,351 cases of sexual abuse reported by women in Pakistan in 2005. Out of this total of 5,218 cases, there were 1,574 cases of murder, 979 of rape or gang rape, 1,143 of injury, 564 of severe torture, 201 of assault, 351 of attempted rape, 128 of harassment, 67 of forced stripping, 22 of acid throwing and 189 of other forms of domestic violence.<sup>14</sup>

Therefore, "women are vulnerable because the laws are inadequate. Even though there have been some recent amendments in the laws, implementation continues to remain poor. The law enforcing agencies are biased; the patriarchal, male-dominated environment makes women vulnerable to violence"<sup>15</sup>.

#### **4. Choola Deaths (acid attacks)**

*Choola* deaths (acid attacks) are also suggestive of the degrading physical abuse faced by women on a reoccurring basis. "According to a research report by the Progressive Women's Association (PWA), in "*choola* Death" cases, the area of the body burnt by acid always exceeds 30 percent and can be as much as 60, 70, or 90 percent"<sup>16</sup>. The infamous case of *Fakhra bibi v Bilal Khar*<sup>17</sup> whereby the defendant threw a full container of strong acid on his wife's face; causing her to be extensively burnt, her lips to fuse together and one eye to be severely damaged, is evocative of the animalistic nature of such heinous crimes. "The

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<sup>13</sup> Rashida Patel , *Socio-Economic Political Status and Women and Law in Pakistan* (1st, Faiza Publishers, Karachi 1991) 166.

<sup>14</sup> Muhammad Jahanzeb Noor, *DAUGHTERS OF EVE: Violence Against Women In Pakistan* (Massachusetts Institute of Technology May 2004) 35.

<sup>15</sup> A. K. Brohi , *Fundamental Laws of Pakistan* (1st, Din Muhammadi Press, Karachi 1958) 23.

<sup>16</sup> Javaid Rehman , *Religion, human rights and international law : a critical examination of Islamic state practices* (1st, Martinus Nijhoff Publishers, Boston 2007) 75.

<sup>17</sup> *Fakhra bibi v Bilal Khar*, PLD 2000, Lahore 121, p. 128.

frequency with which these "accidents" occur provide circumstantial evidence of a grim pattern; that these women are burnt not by accident, but are victims of deliberate murder"<sup>18</sup>. Although Section 174A has been included in the Criminal Procedure Code 1898, which requires police stations to "report a burn case to the nearest magistrates"<sup>19</sup>, the police show deplorable indifference to burn case victims. Instead of assisting women to seek justice, the police create obstacles in the way of such victims, further promulgating the "corruption and gender bias dominating investigation and prosecution of the perpetrators of violence against women"<sup>20</sup>. The tacit normalization of gender inequalities further results in the widespread re-victimisation committed by law enforcement agencies.

According to *Madadgaar*, of the 31 cases of rape reported in 2002, there were 21 cases of sexual abuse in custody (11 of which occurred in Sindh alone). Nearly always, the police officers are only "suspended" and a mere departmental inquiry is ordered meanwhile. When a case of rape is actually registered and police are also involved in abuse, the victim's family is often pressured and threatened to shift residence. In other instances, social harassment compels victims' families to change their residence. As a result, families stop legally pursuing the case and almost all the rapists are released on bail.<sup>21</sup>

Despite the enactment of laws providing respite to women, enforcement remains increasingly problematic, whereby police officers and law enforcers do not consider wife beating a crime or wrong. As a result, the *re-binarisation* of gender taxonomies within a geopolitical locus in Pakistan remains increasingly dubious. In the case of *Fakhra bibi v Bilal Khar*<sup>22</sup>, at first the Station House Officer (SHO) refused to question the husband on the basis that the abuse faced by the victim was not a conspicuous offence. This not only highlights the inadequacy of the police force but also the lack of cohesion between the Family Law Court's willingness and the police forces inability to redress the incidences of domestic violence against women. It must be posited whether a *recalcitrant particularity*<sup>23</sup> towards such sexual

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<sup>18</sup> Rashida Patel, *Women and Law in Pakistan* (1st, Faiza Publishers, Karachi 1979) 78.

<sup>19</sup> Criminal Procedure Code 1898 17 November 2001 s LXIV.

<sup>20</sup> Neelam Hussain, *Engendering the nation-state : proceedings* (1st, Simorgh Resource and Publication Centre, Lahore 1998) 49.

<sup>21</sup> Muhammad Jahanzeb Noor, *DAUGHTERS OF EVE: Violence Against Women In Pakistan* (Massachusetts Institute of Technology May 2004) 63.

<sup>22</sup> *Fakhra bibi v Bilal Khar*, PLD 2000, Lahore 121, p. 128.

<sup>23</sup> Sally Engle Merry, "Transnational Human Rights and Local Activism: Mapping the Middle" (2006) 108 (1) *American Anthropologist* 38, p. 39.

and gender subjectivities may mobilise the *vernacularisation* of social reform within the *corpus juris*. Or whether historical repositories of human rights which promote *vernacularisation* may camouflage epistemologies in which "local social actors have picked apart and appropriated only some aspects of human rights discourse"<sup>24</sup>.

## **5. Rape**

The rising cases of rape totalling "3077 (2002-2006)"<sup>25</sup> and instances of custodial rape is reminiscent of the double standards of morality and law present in Pakistan. Police participation in custodial rape, despite the enactment of the Protection of Women (Criminal Law Amendment) Act VI of 2006, which seeks to protect women in cases of *zina-bil-jabr* (rape), highlights the hypocrisy of the social justice system. The case of *Afroz Sharif and Husna Ali v Station House Officer (SHO)*<sup>26</sup> is evocative of the discrepancies present in the enforcement of women's rights. The plaintiffs were illegally detained over a 72-hour period and repeatedly harassed, raped and psychologically tormented by the SHO. Notwithstanding numerous pleas made by the plaintiffs the SHO further continued with his deplorable actions. Thus legislation can only be deemed to be effective when it is stringently enforced and adhered to as well. Despite the state's role being confined to protect the victims of violence, "custodial violence and illegal detentions by the police, slow dispensation of justice, insufficient and inadequate judicial officers, along with the lacunae in the laws, allow perpetrators of crimes to be free from trial and punishment"<sup>27</sup>. The encouragement of masculinised and misogynist behaviour towards women, tied in with the inherent deficiencies of perverse law enforcement agencies, further highlights the frail and defunct nature of state machinery to adequately redress the victims of violence<sup>28</sup>.

The infamous rape case of Mukhtaran Mai, where the victim was gang raped by fourteen men on the orders of a village council (*panchayat*) in Mirwala (Southern Punjab), exposes the grotesque nature of such heinous atrocities and the prevalent ando-centric tribal mind set where women are objectified as subordinate sex slaves. However, the case of Mukhtaran Mai, where the "fourteen men accused were tried by an anti-terrorism court of which six were

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<sup>24</sup> Mark Goodale, "Locating Rights, Envisioning Law between the Global and the Local" in Mark Goodale & Sally Engle Merry (eds), *The Practice of Human Rights: Teaching Law between the Global and the Local* (Cambridge University Press, Cambridge 2007), p. 30.

<sup>25</sup> Shanti Jayasuriya, *Women and Development - The Road from Beijing* (1st, Har-Anand Publications Pvt. Limited, Delhi 1999) 179.

<sup>26</sup> *Afroz Sharif and Husna Ali v Station House Officer (SHO)*, PLD 2003, SC 56, p. 73.

<sup>27</sup> Liliana Corrieri, *The Law, Patriarchy and Religious Fundamentalism: Women's Rights in Pakistan* (1st, Asian Legal Resource Centre (ALRC) & Asian Human Rights Commission, Hong Kong 2013) 132.

<sup>28</sup> *Ibidem*, 132.

convicted for gang-rape and awarded the death penalty in 2002"<sup>29</sup>, reflects how government intervention can be a catalyst for social justice and the *praxis* of human rights to prevail. Although the Pakistani government recognised and effectively enforced the rights of Mukhtaran Mai, the ubiquitous nature of reoccurring cases of *karo kari* (honour killings) totalling "4212 (2002-2006)"<sup>30</sup>, highlights the persistent failures of the state to implement measures to eradicate cultural ideologies which glamorize violence and the subjugation of women.

In regards to rape and emotional abuse, many girls in Pakistan are literally slaves without even knowing. A grassroots movement in primary and secondary schools for all children must be introduced, so that girls especially are educated in terms of what their rights are, so they know when their rights are being abused.<sup>31</sup>

Tied in with the ineffective adherence to and implementation of legislature, it must be questioned whether "the greater cause of violence against women may be government inaction. There appears to be a permissive attitude, a tolerance of perpetrators of violence against women, especially when this violence is expressed in the public and private spheres (the home)"<sup>32</sup>.

## **6. Honour Killings**

The state's circuitous support for honour killings, whereby under Section 302 of the Pakistan Penal Code 1860, "a man is considered justified in killing a woman of his family if she is involved in *karo kari siya kari* (illicit sexual relationship)"<sup>33</sup>, highlights the lack of concerted efforts made by the state to widely disseminate the true representation of women's rights in Islam. The authorisation of the *sarkari jirgas* (village council) by the Frontier Crimes Regulation (FCR) to consent to honour killings if the man's *izzat* (honour) is violated, is indicative of "the characteristics of male domination and feudalism, exercising control over women as a matter of honour and prestige. This attitude is not confined to tribal *jirgas*

<sup>29</sup> Nicole Pope, *Honor Killings in the Twenty-First Century* (1st, Palgrave Macmillan, United States 2011) 121.

<sup>30</sup> Amir Jafri, *Honour Killing: Dilemma, Ritual, Understanding Hardcover* (1st, Oxford University Press Pakistan, Lahore 2008) 61.

<sup>31</sup> My interview with Mohammad Adil Shabbir, London, England, 8 April 2016. Adil is a final year undergraduate Economics student at the School of Oriental and African Studies (SOAS), with specific focus on *macroeconomics* and gender within a global perspective.

<sup>32</sup> Cathleen Miller, *Champion of Choice: The Life and Legacy of Women's Advocate Nafis Sadik* (1st, University of Nebraska Press, Nebraska 2015) 97.

<sup>33</sup> Pakistan Penal Code 1860 s 302(2)(c).



(village councils), it is an attitude which finds expression all over Pakistan"<sup>34</sup>. The case of *Mir Nigar v Daulat Khan*<sup>35</sup>, where the defendant stabbed his wife 11 times after her illicit sexual relations with another man were revealed, is representative of the espousal of defective customary, tribal and statutory laws, which gives rise to the objectification of women as the property of men. The current domestic legal system can be argued to be *not vernacular enough*, whereby an alienating *ratio juris* underlined by a tribal Muslim theo-political provenance presents itself to be adversative to the wider international spectrum of human rights. Although the epistemological primacy for *translated vernacular values* may promote a reform process with an optimistic outcome, however:

International human rights documents cannot be used here to lobby the government or the domestic human rights institutions. I think the *Yogyakarta Principles* can be used as an empowerment tool, for people to realise that these are also the rights that they might want to claim [...]. But as far as the other structures in Pakistan are concerned, well, they don't care anyway.<sup>36</sup>

The unwillingness of the Pakistani government to interfere in the tribal *jirgas* administration of *zan, zar, zamin* (women, money, and land) has resulted in women facing more despotism, whereby "the curve of honour killings has risen in parallel to the awareness of rights"<sup>37</sup>. As highlighted by the Bureau of Research and Development, Ministry of Interior, Government of Pakistan, the number of reported honour killings is as follows:<sup>38</sup>

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<sup>34</sup> Rashida Patel, *Gender Equality and Women's Empowerment in Pakistan* (1st, Oxford University Press Pakistan, Lahore 2010) 167.

<sup>35</sup> *Mir Nigar v Daulat Khan*, Shariat Decision (SD) 1997, p. 115 at p. 118.

<sup>36</sup> Vanja Hamzic, *Sexual and Gender Diversity in the Muslim World: History Law and Vernacular Knowledge* (IB Tauris & Co Ltd (2016) 185.

<sup>37</sup> Dr. Riffat Hussain, "Muslim Women and Post-Patriarchal Islam" in *After Patriarchy: Feminist Transformations of the World Religions* (1st, Orbis books, Maryknoll 1991) 37.

<sup>38</sup> *Ibidem*, 37.

<b>Karo Kari (honour killings) statistics</b>							
<b>Year</b>	<b>Punjab</b>	<b>Sindh</b>	<b>NWFP</b>	<b>Balochistan</b>	<b>Islamabad</b>	<b>Northern Areas</b>	<b>Total</b>
1995	345	125	49	39	1	7	566
1996	322	143	67	45	0	8	585
1997	354	116	56	32	0	5	563
1998	356	133	48	48	2	13	600
1999	357	138	72	52	3	12	634
<b>Total</b>	<b>1734</b>	<b>655</b>	<b>292</b>	<b>216</b>	<b>6</b>	<b>45</b>	<b>2948</b>

Tied in with the failure to implement a multi-pronged strategy to counter the atrocities of honour killings, the state's role as *agent provocateurs* in consenting to such brutality must be also questioned. The enforcement of *rajm* (stoning to death), whereby under Section 8 of the Hudood Ordinances (1979), "if four credible males witness the commission of the offence of *zina* (sex without marriage) and provide evidence in court"<sup>39</sup>, the accused will be stoned to death; exemplifies the state's willingness to perpetuate grotesque violence. The deep-rooted compliance with *rajm* (stoning to death) as a legitimate state controlled practice in the Zia regime, not only reinforces the prevalent gender bias against women but also the preponderant nature of failed justice. "The Zina Ordinance in reality promoted violence against women and jeopardized their lives. Any innocent women could be accused of adultery or fornication by a complaint on oath to the police. The accused women would remain in prison for several years pending trial, as it is a cognizable offence, but was often found not guilty and released, yet tarnished for life"<sup>40</sup>. However, the case of *Shano and Daulat Khan v Khwezai Baezai (FATA) Qazi Court*<sup>41</sup>, where the appellants were wrongfully accused of *zina* (sex without marriage) and subsequently sentenced to stoning to death by the *qazi* (tribal judge), illustrates the judicial power disposition present in Pakistan. The *jirgas* (village council) honour codes of *riwaj*, *mayar* and *pakhtoonwali* (tradition, honesty and way of life), take precedence over the true and objective dispensation of justice. Despite the extinguishing of Hudood Ordinance No. VIII of 1979, which gave police officers the "right to

<sup>39</sup> Hudood Ordinance 1979 s 8(3)(b).

<sup>40</sup> Saqiba Ansar, *Military In Pakistan Politics: A Case Study of Zia Regime* (1st, LAP Lambert Academic Publishing, Saarbrücken 2012) 109.

<sup>41</sup> *Shano and Daulat Khan v Khwezai Baezai (FATA) Qazi Court*, SCJ 119, pp. 121-3(c).

register a complaint of *zina* (sex without marriage) by any person and detain the accused in question"<sup>42</sup>, the state's passive acceptance of deaths relating to *rajm* (stoning to death) rising "five-fold between 2000-2012"<sup>43</sup>, epitomizes how the perpetual inaction and unwillingness of the government to redress the situation for victims of abuse has adversely tainted the rights, roles and position of women in Pakistani society.

### **7. A Feminist Critique: The Equality of Men and Women in the *Qur'an***

Wife beating and *choola* deaths (acid attacks) are not only representative of the gender inequality and torment faced by women but they also run contrary to Islamic teachings on women's rights. Obscurantist *mullahs* have distorted the teachings of The Holy *Qur'an*, allowing pseudo-religious misinterpretations to justify domestic violence as excusable. This false conception is based on the misinterpreted verse 4:34 of The Holy *Qur'an*:

"...As to those women  
On whose part ye fear  
Disloyalty and ill conduct,  
Admonish them (first)  
(Next), refuse to share their beds,  
(And last) beat them (lightly);  
But if they return to obedience,  
Seek not against them  
Means (of annoyance)".<sup>44</sup>

In light of this verse, Yusuf Ali states that "in case of family disputes four steps are mentioned, to be taken in that order: (1) Perhaps verbal advice or admonition may be sufficient; (2) if not, sexual relations may be suspended; (3) if this is not sufficient, some slight physical correction may be administered; but Imam Shafi'i considers this inadvisable, though permissible, and all authorities are unanimous in deprecating any sort of cruelty, even of the nagging kind, as mentioned in the next clause; (4) if all this fails, a family counsel is

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<sup>42</sup> Hudood Ordinance 1979 s 8 (1)(b).

<sup>43</sup> Shahid Javed Burki, *Pakistan Under the Military: Eleven Years of Zia Ul-Haq* (1st, Westview Press, Colorado 1991) 25.

<sup>44</sup> Quran 4:34, Oxford World's Classics edition.

recommended"<sup>45</sup>. It is quintessential to examine feminist and gender pluralist hermeneutics of Islamic law in Pakistan when determining whether the physical abuse faced by women is dichotomous to a *polyversal* message proposed in the *Qur'an*. The calling for a race, class and sexually sensitive interpretation of the *Qur'an*, whereby the "ethic of pluralism, for God creates diversity as an ethical challenge to meet the other, care for the other, and understand the other as a way of coming to fully know oneself"<sup>46</sup>, epitomises the essence of Islamic humanism to strive for a "forward-looking" and proleptic hermeneutic. In conformity with a diverse modernist approach adopted by *ahl al-ra'y* ("rationalists"), despite the prevalent *ahl al-hadith* ("traditionalist") narrative promoting a veracious and socio-politically motivated discourse on gender diversity; "the *umma* (global community of Muslims) must rekindle its long-lost touch with the trans-temporal *peace* of the Muslim faith"<sup>47</sup>. If social oppression is to be branded as a perverse blockade inhibiting social justice and the *polyversal* transcendence of women's rights to prevail, then the "true spirit of Islam should be followed which requires women to be treated with consideration and protected from domestic violence"<sup>48</sup>.

## **8. Conclusion**

Despite Article 25 (2) of the Constitution of Pakistan stating that "there shall be no discrimination on the basis of sex alone"<sup>49</sup>, the latter cases depicted in the article highlight the failures of a dilatory judicial system, which circuitously propagates the belligerent abuse towards women. The ineffective implementation and enforcement of new and reformed legislature, tied in with the "anti-women sentiment compounded by pseudo-religious factions"<sup>50</sup>, further jeopardises the lives of Pakistani women.

Like many parts of the world we go to school, dress up, play sports etc. But there are limitations. Using the public transport or even walking down the street without being stared at in some parts of the city is frustrating. Even

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<sup>45</sup> Anita M. Weiss, *Interpreting Islam, Modernity, and Women's Rights in Pakistan* (1st, Palgrave Macmillan, United States 2014) 98.

<sup>46</sup> Scott Siraj al-Haqq Kugle, *Homosexuality in Islam: Critical Reflection on Gay, Lesbian, and Transgender Muslims* (Oneworld, Oxford 2010), p.41.

<sup>47</sup> Vanja Hamzic, *Sexual and Gender Diversity in the Muslim World: History Law and Vernacular Knowledge* (IB Tauris & Co Ltd (2016) 137.

<sup>48</sup> *Ibidem*, 98.

<sup>49</sup> National Assembly of Pakistan, *Constitution of Pakistan* (1st, National Legislative Bodies / National Authorities, Islamabad 10 April 1973).

<sup>50</sup> Rashida Patel, *Women and Law in Pakistan* (1st, Faiza Publishers, Karachi 1979) 209.

though gender divisions socially are improving many a times you just have to give in to the system.<sup>51</sup>

Similarly, the derogatory and discriminatory Hudood laws adopted during the Zia regime not only reinforced the ideals of hegemonic masculinity but also preyed on the vulnerability of women, exposing them to repression and punishment. Although "the work of women's rights group, and a greater degree of mobility have seen the beginnings of awareness of women's rights seep into the secluded world of women"<sup>52</sup>, the state must be willing to break the shackles of restraint and suppression that women are bounded by, thus enabling international human rights standards to withstand the domination of indigenous customs over women's rights.

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<sup>51</sup> My interview with Maheen Sheikh, London, England, 12 February 2016. Maheen is a final year undergraduate law student at the School of Oriental and African Studies (SOAS). Maheen self-identifies as a victim of misogynistic societal norms amidst the perennially gender-ambivalent surroundings of Karachi.

<sup>52</sup> *Ibidem*, 209.