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**CONTESTING A COERCIVE ISLAM:
"WOMEN LIVING UNDER MUSLIM LAWS"
AND PAKISTAN**

by

Julie Anne Robertson, B.A.

A thesis submitted to the Faculty of Graduate Studies
and Research in partial fulfilment of the requirements
for the degree of

Master of Arts

Department of Sociology and Anthropology

Carleton University
Ottawa, Ontario
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"CONTESTING A COERCIVE ISLAM:
'WOMEN LIVING UNDER MUSLIM LAWS' AND PAKISTAN"

submitted by Julie Anne Robertson, B.A.
in partial fulfilment of the requirements for
the degree of Master of Arts

Jacques Chevalier, Co-supervisor

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Chair, Department of Sociology and
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ABSTRACT

The political prognosis for Muslim women is too often read off truncated understandings of Islam; whether it is presented as East or West, traditional or modern, fundamentalist or secularist, academic or activist, in the colonial or contemporary era, Islam is said to demarcate the parameters of women's political action. This thesis questions this presumption and explores the challenge presented to coercive uses of Islam by the international organization, *Women Living Under Muslim Laws*, with reference to Pakistan. By working from a more complex understanding of politicized Islam in Pakistan *Women Living Under Muslim Laws* is well on its way to offering relevant and effective means to support and strengthen women's oppositional movements in Muslim contexts.

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This thesis is dedicated to Brad Eastick, and to Nargis Virani, wherever she may be now.

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GLOSSARY

Culled from John Esposito (1988), Mohammad Asghar Khan (1985), Valentine M. Moghadam (1994b), and Khawar Mumtaz and Farida Shaheed (1987).

- Ahmadhis* - followers of Mirza Ghulam Ahmed Qadiani, a religious minority in Pakistan
- biraderi* - the corporate manifestation of *zat*, social networks determined at the lowest level of segmentation
- burqa* - long two-piece garment worn by women over the clothes, covering face and head
- chadar* - woman's garment covering head and body
- chador aur chardiwari* - an expression meaning "within the veil and the four walls of the home", often used to refer to *Purdah*
- dalit* - self-chosen term for "untouchable" caste members
- dar al-harb* - "house of war", infidel territory
- dar al-Islam* - "house of Islam", Muslim territory
- dhimmi* - non-Muslim subject of an Islamic state
- duppatta* - long rectangular piece of cloth draped over the shoulder(s) or pulled over the head, usually worn with a *shalwar kameez*, Pakistan's national dress
- fatwa* - ruling by an Islamic jurist on the legality of an action
- fiqh* - Islamic jurisprudence
- gharbzadegi* - Persian term denoting "westoxification" or excessive westernization
- Hadith* - a tradition of the Prophet
- haq-mehr* - payment made at a wedding from the groom's family to that of the bride
- hudud* - Islamic criminal punishments

ijmah - popular consensus

Ijtihad - to strive or intellectually struggle, independent reasoning, application of the *Qur'an* and the *Ahadith* to a set of problems

Islami Jamiat Talebat - women's branch of the *Jama'at-i Islami*

jihad - commonly, a war fought in the name of Islam

kafir - an unbeliever

Khawateen Mahaz-i-Amal - Women's Action forum (WAF)

Khalifat - Caliphate, succession of the leadership

l'aan - the case where a man on oath makes a charge of unchastity against his wife and she on oath refutes the charge, in which case her oath is given the status of evidence and she is absolved of the charge

madrassah - a Mosque school, Mosque-university

Majlis-i-amal - an executive council

Majlis-i Khawatin Pakistan - an Islamist women's political organization

Majlis-i-Shoora - consultative council, Islamic parliament, an appointed advisory body

maulvis - Muslim religious clerics

mohalla - district of a town or city

Mujahidin - term used to refer to Afghans fighting for independence against the Soviet Union after 1979

mullah - a theologian or scholar, often in a pejorative sense

panchayat - system of local political councils

pir - an elder man, teacher, religious leader

Purdah - the doctrine and practice of segregation of the sexes through the seclusion of women

- Qadianis* - derogative term used for *Ahmadhis*
- Qanoon-i-Shahadat* - the Law of Evidence
- qazi* - a judge of a Shari'a court
- Shari'a* - social-religious law of Islam, derived from the *Qur'an* and the *Hadith*
- shirk* - the offence of giving human beings and their works honour belonging to God
- Sunnah* - traditions surrounding the life of the Prophet Mohammad
- talaq* - divorce
- zat* - literally kind or genus, a hereditary non-corporate category of people or social network
- zina* - extra marital sex covering both adultery and fornication
- zina-bil-jabr* - rape
- ummah* - community or "nation" of Islam
- ulema* - learned religious authorities

INTRODUCTION

THE MEATLESS DAYS

The country was made in 1947, and shortly thereafter the government decided that two days out of each week would be designated as meatless days, in order to conserve the national supply of goats and cattle. Every Tuesday and Wednesday the butchers' shops would stay firmly closed, without a single carcass dangling from the huge metal hooks that lined the canopies under which the butchers squatted, selling meat, and without the open drains at the side of their narrow street ever running with a trace of blood. On days of normal trade, blood would briskly flow, carrying with it flotillas of chicken feathers, and little bits of sinew and entrail, or a bladder full and yellow that a butcher had just bounced deftly into the drain. On meatless days that world emptied into a skeletal remain: the hot sun came to scorch away all the odors and liquids of slaughter and shrivelled on the chopping blocks the last curlicues of anything organic, making them look both vacant and precise.

As a principle of hygiene I suppose it was a good idea although it really had very little to do with conservation: the people who could afford to buy meat, after all, were those who could afford refrigeration, so the only thing the government accomplished was to make some people's Mondays very busy indeed. The Begums had to remember to give the cooks thrice as much money; the butchers had to produce thrice as much meat; the cooks had to buy enough flesh and fowl and other sundry organs to keep an averagely carnivorous household eating for three days. A favorite meatless day breakfast, for example, consisted of goat's head and feet cooked with spices into a rich and unguual sauce - remarkable, the things that people eat. And so, instead of creating an atmosphere of abstention in the city, the institution of meatless days rapidly came to signify the imperative behind the acquisition of all things fleshly. We thought about beef, which is called "big meat," and we thought about mutton, "little meat," and then we collectively thought about chicken, the most coveted of them all.

Like the institution of the Meatless Days, General Zia ul-Haqq's Islamization¹ programme in Pakistan (1979 - 1988) was a government-sponsored attempt to change the thoughts and practices of the populace, implemented when parliamentary forces were inoperative, and the constitution on hold. And, as with the Meatless Days, not only did Islamization's homogenizing discourses² serve to highlight differences in society, particularly those between the "haves" and the "have-nots", but it failed to create an atmosphere of abstention in the cities - in fact it actively fuelled the opposite. Focusing in particular on the conduct and thoughts of women, the Islamization programme and the regime itself "seemed fixated on moral and sexual offenses" (Moghadam 1991:128). It was instrumental in creating in Pakistan an atmosphere "palpably hostile to women" (Mumtaz 1991:101).

The politicization of Islam, and the presence of Islamic discourse in the politics of Pakistan are not new phenomena, nor are they ones restrained to South Asia alone. What distinguishes Zia ul-Haqq's Islamization from other Muslim religio-political movements in the area is its systematic implementation of a highly selective and singular vision of Islam in the context of Martial Law, its use of state resources to openly sponsor an Islamist party, the *Jama'at-i-Islami* (hereafter, *Jama'at*), and its use of Islam as a tool of subjugation by a military regime. Through a series of Constitutional Amendment Orders between 1977, the year of his *coup d'état*, and 1988, the end of his regime (Mumtaz 1991:102), Zia ul-Haqq altered the system of rule in Pakistan from parliamentary to presidential, banned for many years political party formation and competition, and thus promulgated this legislation without popular

mandate.

WOMEN'S RESPONSES TO ISLAMIZATION

Zia's programme focused to a large extent on women's behaviour, thoughts and role in Islamic society⁴. How did Pakistani women make sense of and respond to Islamization? For at least a century women in South Asia have been involved in national and regional-level politics, participation often neither welcomed nor encouraged by their male contemporaries. But although this history of political activism by women has always been directed towards social injustice, in the late 1970s the severity of oppression, the amount of hostility directed towards women, and the degree of legally sanctioned inequality brought about by Zia's Islamization programme, was decidedly different from discrimination women had experienced in the past.

To ask about women's responses to Islamization, however, requires differentiating among Pakistan's diverse female population. Never a homogenous group, during General Zia's era the diversity of women's experiences in Pakistan demanded recognition⁵. Pakistani historian Ayesha Jalal notes,

But then Pakistani women are not of a piece. As in other parts of the world, rural-urban differences, not to mention social, economic, and regional disparities divide women quite as much as the weight of religious precepts and local customs separate them from men (1991:78)

Because of this diversity, women did not experience Islamization in a uniform manner.

CONTESTING A COERCIVE ISLAM: WLUMI

I focus here on women in Pakistan who are opposed to state-sponsored Islamization in both its legal and extra-legal manifestations, many of whom were

galvanized into political action in the mid 1980s when the effects of Zia's policies were being fully realized.

This thesis explores the critique of Islamization in Pakistan by the international organization, **Women Living Under Muslim Laws (WLUMI)**⁶, and its Lahore affiliate, non-government organization **Shirkat Gah**⁷. Formed in 1984, by 1989 WLUMI was off the ground and actively pursuing its commitment to provide information and support to women throughout the world wrestling with the diverse social and political aspects of life under Muslim laws (see Appendix 1-1, and 1-2).

In this thesis I pursue what Burke (1988) calls the "new cultural theory" of Islam or what anthropologist el Zein terms the "theological paradigm" (1977), namely an approach which continues to use as its entry-point, carefully contextualized, the Islamic dimension of social change. Unlike Clifford Geertz, I am hesitant to define "religion", however some clarification of my use of "Islam" is necessary. I am working from an understanding of Islam as a rich and internally diverse religion, its shared tradition understood and expressed differently by Muslims throughout the world. The term Islam here encompasses individual faith, it is a means of understanding and forming one's identity and place in the world, it is a manifestation of local customs, and it is a metaphor and motivator for political action. As the first component, that of faith or belief is difficult to describe let alone analyze, this thesis focuses on the latter three, related but more traceable, aspects of Islam.

In Chapter One I examine Pakistan's historical trajectory to understand under what socio-economic circumstances Muslim Personal Laws have been used to (re)define

collective Muslim identity, and thereby to foster a particular system of gender relations in Pakistan. Noting that Muslim Personal Laws have also been used to understand and/or predict Islam's role in the modernization process, in Chapter Two I explore three analyses of contemporary Islam and social change; that of the *Jama'at-i Islami* religio-political party of Pakistan, as articulated by its founder, Maulana Maududi⁸; academic writing on Islam; and writers involved with the women's movement⁹ working in Muslim contexts.

Using WLUML Newsheet case-focused coverage of rape, honour killings, and divorce in Pakistan, I explore in Chapter Three how these issues, all of which are influenced by and/or fall under the jurisdiction of Muslim Personal Laws, depict women's experiences of Islamization and speak to the wider agenda of WLUML.

In Chapter Four, I use cases of blasphemy in Pakistan as an entry-point into a discussion of the broader issue of Islamic "fundamentalism"¹⁰. Exploring WLUML's recommendations and priorities for political struggle, I argue that the transnational feminist praxis¹¹ of WLUML represents a clear and quite comprehensive understanding of politicized religion in its varied contexts, a critique that could be taken further still.

END NOTES

1. As Patrick D. Gaffney has noted (1994:83), the term *Islamization* is used by Muslim activists "to indicate what they envision as the total transformation of society in conformity with the Shari'a". Although Gaffney writes that "this view inevitably presupposes the political control of the state by qualified Muslims fully dedicated to this cause" (Ibid), author T. Abdou Maliqalim Simone uses the term to also refer to struggles by various Muslim organizations to mobilize *against* nation-states (Simone 1994:122), for as a counter-strategy Islamization has been quite effective. In the case of Pakistan under General Zia ul-Haqq, where Islamization was implemented as formal state policy, I think the term also encompasses an increase in practices, ranging from sartorial to scriptural, identified with Islam, manifested, as Richard T. Antoun notes, in a "proliferation of state-sponsored institutions explicitly identified with official religious authority..includ[ing] not only mosques and shrines, but also courts, schools, festivals, and pilgrimage tours" (in Gaffney 1994:83).
2. Echoing John Bowen's (1993:8) use of this Foucaulian term, "discourse" here refers to three levels of social practice; the micro-level production of texts (such as particular acts of legislation or treatises); the social and political meaning of performances (involving particular contexts in which various cultural idioms and references are combined and/or juxtaposed) and a large-scale authorizing conglomerate of discourses, or what some call a "discourse field". Thus, here "the focus is on the field of debate and discussion in which participants construct discursive linkages to texts, phrases and ideas held to be a part of the universal tradition of Islam" (Ibid).
3. Pakistan has a number of *Islam-pasand*, or religiously-defined political parties (Mumtaz and Shaheed 1990:9) aside from the better-known *Jama'at-i Islami*, such as the *Jami'at-i Ulema Islam*, the *Jami'at-i Ulema-i Pakistan*. For differences in leadership, organization, doctrine, and involvement in Pakistani electoral politics see Seyyed Nasr Vanguard of the Islamic Revolution, The Jama'at-i Islami of Pakistan (1994) Berkeley: University of California Press.
4. Terms such as "Islamic" and "Muslim" and nouns like "Islam" are often problematic, for their seemingly interchangeable use often obscures the diversity of practices they encompass, such as everyday aspects of living, the diversity of practices within that range, and the ways in which these terms are variously used and interpreted according to circumstances and social actors. I use (both without italics) "Islamic society" to refer to the social formation to be brought into effect through Islamization, or a society fully organized around Islamic norms and practices, and "Muslim society" to refer to any society in which self-identified Muslims constitute the majority, regardless of sect/individual practices and beliefs. This use is similar to that of R.I Cole (1992) who sees "Muslim" as an ethnic construction of identity, one based on

cultural heritage rather than religious belief. In the case of Pakistan this definition therefore includes communities such as the *Ahmadhis* and all *dhimmi* (non-Muslim subjects living under Muslim law).

5. Of the most widely-discussed women's organizations that began to participate in national-level debates during this period, differences seem to stem from class and ethnic identities, and from differing conceptions of Islam's role in Pakistani society. Fauzia Gardezi (1991), and Mumtaz Khawar and Farida Shaheed (1987) provide extensive and succinct coverage of the origins and development of the secular-democratic *Khawateen Mahaz-i-Amal*, the Women's Action Forum (WAF), formed in response to the first conviction under the Hudood Ordinances (Jalal 1991:103). For the Islamist *Majlis-i-Khawateen* (MKP) and *Islami Jamiat Talebat*, see Seyyed Nasr (1994) and Khawar Mumtaz (1991); for Sindh's Marxist/nationalist *Sindhiani Tehrik* (ST) also see Khawar Mumtaz (1991) and Fauzia Gardezi (1991).

6. To avoid extreme repetition, I use both "Women Living Under Muslim Laws" or WLUML, and "the Network" to refer to this organization. Both terms are used by WLUML in their publications.

7. As outlined in a WLUML Dossier (3:38), Shirkat Gah is a "non-hierarchical non-political organization of women who work to encourage, support and programme the participation of women in national development". Organized during the UN-declared International Women's year of 1975, Shirkat Gah engages in research and data collection (for example, self-help health care and literacy training manuals, library and bibliographies on issues of concern to Pakistani and other Muslim women) and works with other South Asian and international (particularly Canadian) non-government organizations on rural development programmes. As part of its commitment to networking on an international level, Shirkat Gah's Karachi head office provides material for WLUML on South Asian issues, Pakistan in particular.

8. Throughout this thesis I use the Urdu rather than the Arabic spelling of Maududi's name, except in instances of direct quotation.

9. For the sake of convenience, the term "women's movement" is used to refer collectively to groups of people working to improve women's autonomy and enable their self-determination, in personal, sexual, political and economic matters.

10. I chose "fundamentalism" out of the plethora of terms addressing contemporary politicized religion to emphasize the centrality of "returning to the fundamentals" of a religion to the agenda of groups such as the *Jama'at-i-Islami*. However my use is pejorative in the sense that I see fundamentalism as the use of these selected fundamentals to legitimate and/or conceal a pursuit of political and economic power.

11. This phrase is borrowed from Caren Kaplan and Inderpal Grewal (1994).

CHAPTER ONE

ISLAM IS IDENTITY? MUSLIM PERSONAL LAWS IN PAKISTAN'S HISTORY

While politicized Islam has held great salience for South Asian Muslims for close to a century, Islamization under General Zia ul-Haq cannot be understood as the culmination or even the predictable outcome of that discourse. In an article, "The Preferential Symbol for Islamic Identity: Women in Muslim Personal Laws" Marie-Aimee Helie-Lucas, Paris coordinator for Women Living Under Muslim Laws, has argued that fundamentalists have identified only one area of life as the essence of Islamic identity, a condensation of all other identities, namely the personal laws and the status of women (1994:392). This process of narrowing Muslim identity is evident in the historical trajectory of Pakistan, as presented in this chapter.

I argue below for a four-tiered understanding of Islamization in Pakistan; first, Islamization may be understood as one stage, albeit the most controversial, in an ongoing debate among South Asian Muslims over Islam's proper role in their lives, individual and collective. Second, the Islamization programme represents the expression of politico-economic interests of an allied military regime and several religious parties. Third, the issue of Islamization can be interpreted as the fulcrum of urban class competition and conflict in Pakistan, fostered by the country's uneven course of development. And fourth, Islamization represents the enforcement by the state, backed

by a hefty military-bureaucracy, of a strand of Islam said to be opposed to both the democratic process and to women's autonomy.

THE SEARCH FOR POLITICAL IDENTITY: MUSLIMS IN COLONIAL INDIA

Indian scholar Prema Kurein (1994) has used the term "ethnogenesis" to refer to the creation/intensification of religious, sectarian or ethnic identity in colonial contexts. Kurein's argument is that British colonial policy, particularly on legal reform and selective patronage, played a central role in the reallocation of the decision-making power, leadership, mandate and membership of formerly amicable religious and ethnic communities in India.

Drawing on Kurein and focusing here on the Muslim community, I argue that during the early parts of this century Indian Muslims effectively drew on assumed cultural commonalities to assert a coherent group identity as a form of anti-colonial protest. However, in doing so, Muslims faced a dilemma of needing to reconcile this single vision with the varying aspirations and circumstances of their diverse population. Two contentious issues arose out of this diversity; the role and type of Islam to be used as a political platform and the proper role of women in Islam.

British Legal Reform and Muslim Personal Laws

The highly uneven and pragmatic re-codification of British law in India, conducted as early as 1790 (Shaheed 1986:38), was designed to facilitate colonial exploitation by bringing only the most lucrative and politically strategic aspects of

governance under British control.

Because of this logic, the British administration pursued a policy of non-interference in religion, using legal reform to create an arbitrary division between a public sphere of formal political activity and a private sphere relating to matters of religion, family and custom.

In the new colonial legal system, British criminal law replaced religious and customary law in areas of revenues, land tenure, theft, evidence and court procedure (Mumtaz and Shaheed 1987:37). Muslim religious law remained in place for issues of marriage, divorce, maintenance, child custody, succession, inheritance, and disposition of property by trust or gift, resulting in what is now usually referred to as the Muslim Personal Laws or the Personal Status Laws (Ibid). By legalizing this arbitrary division the British curtailed the purview of religious law and confined the role of Muslim *ulema* (religious legal authorities) to decision-making only in the realm of personal and family relations. The *ulema* in South Asia have tended to demonstrate a fierce protectiveness over this shrunken sphere of activity. As Helie-Lucas has argued, because the Muslim Personal Laws became the area of Indian Muslim lives on which *ulema* authority and influence is predicated, these leaders presented the laws as embodying the essence of Muslim identity.

This emphasis on inter-personal relationships as the core of Muslim identity seems to have been exacerbated by British patronage of Hindu and Christian communities at the expense of Muslim ones, following the prominent Muslim role in the 1857 War of Independence (Mumtaz and Shaheed 1987:38). Facing a loss of political

power and economic opportunities, the fate of the community was discursively linked by some Muslim leaders, such as Sayyid Abu'l'A'la Maududi and his newly-formed *Jama'at-i Islami* (Nasr 1994:3), with the moral attentiveness of Muslim women. The Muslim community in India apparently turned inwards on the issue of women, who became symbols of 'tradition' and of 'culture' (Chhachhi 1991:199), the final reservoir of Muslim identity, untouched by the contaminating influence of outsiders. Partha Chatterjee (in Jayawardena 1989:361) argues that the Muslim community asserted its own division of the private and the public, the private representing the "inner spiritual self, our true identity" and the public representing alien territory. According to this narrative, the British had dramatically affected the economic and political standing of the Muslim community,

...but it had failed to colonize the inner, essential identity of the East which lay in its distinctive, and superior, spiritual culture..No encroachments of the colonizer must be allowed in that inner sanctum (Ibid).

As the "bearers of the collective" (Yuval-Davis 1980), that is, the Muslim collective, women were placed as the preservers and passers-on of traditional culture, a logic that provided justification for "protecting" women through mechanisms of gendered social control. Amrita Chhachhi (1991:165) has argued that perceived threats to Muslim "manhood/community/family" in India resulted in the use by Muslim men of language and practices aimed at control of one's "'own' women's" labour, fertility and sexuality, as if, as Tanika Sarkar argues, "through a steady process of regression this independent selfhood has been folded back from the public domain to the interior space of the household..[the] chaste pure female body" (in Jayawardena 1989:164).

A common mechanism of gendered social control in South Asia is the institution of *Purdah*, the segregation of the sexes by the seclusion of women¹. In the issue of *Purdah* one can see a convergence of effects from British legal reform and this turning-in of the Muslim community, in that both worked to curtail women's autonomy and access to both financial resources and spheres of political activity. For example, by replacing systems of rights to till or tax land with absolute ownership of land, the British denied Muslim women their right under Islamic law to inherit agricultural property (Mumtaz and Shaheed 1987:36). Although protests by Muslim women resulted in a later amendment of inheritance laws (the 1931 Muslim Inheritance Bill), by that time British policy had served to strengthen tribal/landlord power in what became Baluchistan and the Northwest Frontier Province (NWFP) of Pakistan, areas where "the most rigid forms of *Purdah* and social control of women are enforced" (Shaheed 1986:40). It was to this dialectic between legislation (both British and Islamic) and social customs, rarely working in their favour, that Muslim women in India began to direct their political action.

In The Name of Islam? Women Question Rights and Legislation

Khawar Mumtaz and Farida Shaheed write that as early as 1903 "Muslim women distinguished between Islam and what was being usurped or denied by religious orthodoxy in the name of Islam" (1987:38). They challenged legislation and customs negatively defining their financial, physical and personal autonomy and agitated for rights to education, to vote, and to actively participate in the "public" political sphere. The last they did by organising in large numbers during the 1916-1917 *Khalifat*

Movement (Mumtaz and Shaheed 1987:38).

Legislative changes during the pre-colonial period were a mixed bag for women. Women's protests led to promulgation of the Child Marriage Restraint Act in 1929, which set a minimum marriage age for women (fourteen years), and the Dissolution of Marriages Act of 1939², which granted women the right to sue for divorce in court (Ibid:57), both of which remained in place until General Zia came to power in Pakistan in 1977. However the Muslim Personal Laws, part of the 1937 *Shari'a* Application Act, were less beneficial to women; while they affirmed women's right to inherit property, agricultural holdings were excluded from the definition of inheritance (Chhachhi 1991:160). Chhachhi views this exclusion of women from a source of lucrative inheritance as a diplomatic concession by Muslim leaders of the time to wealthy landlords of the later Pakistan, whose support was needed in the anti-colonial Pakistan Movement (Ibid).

Islam in Anti-Colonial Agitation: Preludes to Pakistan

That Islam became the rallying point for anti-colonial struggle among Muslims in India is not surprising; as I have argued, the roots of politicized religion lie in British colonial policy³. Pakistani sociologist Ayesha Jalal writes,

The theory of non-interference in religion did not as such preclude the British from adopting policies which indirectly, if not directly, affected the cultural lifestyle and religious practices of its subject populations. Nor did this prevent the overlapping of the two spheres in so far as the expression of religious and cultural concerns was deemed permissible in an otherwise closely monitored public arena. Far from editing politics from the realms of religion and culture, the colonial state did much to bring these spheres closer together (Jalal 1995a).

It brought them together because political resistance, prohibited in its overt forms,

manifested itself instead in a variety of every day, ostensibly apolitical forms of protest, namely, in the area of religion⁴.

Anthropologists Sandra Freitag (1988) and David Gilmartin (1988) have written about protest movements against the British in India during the 1910s and 1930s, in which the commonality of Islam was used by Muslim political leaders to mobilize their communities. In Freitag's study, Kanpur Muslims protesting British interference with the festival of *Muharram* emphasized the overtly public aspects of that religious celebration as a way to criticize British interference with Muslim decision-making. Gilmartin writes of the public use of Islamic symbols and discourse by Muslims in Lahore contesting the British take-over of the Shahidganj Mosque. In both studies the unifying force of Islam was undermined by individual Muslim *biraderi*, *panchayat*, and *mohalla* loyalties, traditional sources of economic and political support. Freitag observes,

...the expectations raised by success in 1913 presented more problems than solutions, for there remained a basic disjuncture between the perception of community as a symbol - an abstract, emotive identity - and the attempted expression of that community in a concrete program (1988:122).

Similarly, Gilmartin concludes that "different groups not only had different definitions of the political meaning of *Islamic community* but, at times, different definitions of *politics* and of *Islam* as well" (1988:147). I think Gilmartin's italics emphasize the very crux of issues that have plagued Pakistan since its inception, namely, what in Islam is common to all Muslims? What should be Islam's role in politics? These questions also faced the western-educated Mohammad Ali Jinnah, who in the late 1940s needed to unite India's diverse Muslim population under the single cause of creating Pakistan.

The Indian Muslim population in 1948 differed by language use, ethnicity, material situations and political outlook. Sociologist Hamza Alavi distinguishes eight different ideological-political positions in this population, corresponding to geo-political circumstances (1983:70-79). In discussing class differences, Alavi asserts that a prominent 'salariat' educated class was well established by 1948 in Bengal, the Gangetic Plain (later the Indian states of Uttar Pradesh and Bihar), and the Indus plain, what became Pakistan, but to a lesser degree in the Punjab, Sindh and Baluchistan (Ibid).

Ethnic/linguistic and class differences were reflected in the mode of political expression used during the pre-colonial period. For example, this salariat class by 1948 was suffering in the face of the economic success of neighbouring Hindu communities, and was positioned well to tap into resources and power offered by the creation of Pakistan (Ibid). In Muslim minority areas this class defined its political agenda around the distinctiveness of Muslim identity vis-a-vis other Indian populations. Specifically "Muslim" political platforms therefore arose in these minority areas⁵, including what Alavi calls "Islamic traditionalism", an approach further divided along sectarian lines between Barelvi and Deobandi schools of thought, "Islamic fundamentalism", personified by Maududi and the *Jama'at-i Islami*, "Islamic modernism", characterized by Sir Syed Ahmad Khan and Mohammad Iqbal, and the "secular Muslim nationalism" of Jinnah himself (Alavi 1983:79). Non-communal⁶ political positions were put forth in the Muslim majority states of Sindh, Bengal and the NWFP (Ibid).

Thus in 1948 the population that became Pakistan was deeply segmented along linguistic, ethnic and class lines as well as being divided over the relationship between

Islam and politics. As the next section explores, they were also in disagreement over the role of women in Islam.

THE SEARCH FOR POLITICAL COHERENCY: THE NATION-STATE OF PAKISTAN

Many authors comment on the suddenness of Pakistan's genesis; it was "propelled into existence" (Noman 1988:6) with a speed that rendered details, at the time, seemingly irrelevant. In retrospect it may have occurred too quickly. Sociologist Ziaul Haque argues that at the time talk of "an Islamic 'system'" evoked in many minds a society of equality such as that which existed under the Prophet and the Caliphs, but

...how these principles were to be carried out in a modern industrial society, what would be the form of economic system of this independent Islamic state, and who would control the means of production in the Islamic economic system, were important questions which were left unanswered in the frenzy of the political struggle for independence (1983:375).

They were also left unanswered in the scramble for power and resources that occupied the Pakistani leadership during the first ten years of the country's history. The later turn to Islamization must be understood in relation to a repeated pendulous swing of Pakistan from democratic, parliamentary rule to military dictatorship, which began during this early period.

Many sociologists support the argument (Alavi 1988; Rashid 1985; Mumtaz and Shaheed 1987; Gardezi 1992) that Pakistan moved from a country with a broad-based, relatively heterogeneous leadership in 1948 to a situation by 1956 where a triad of elites, buttressed by a massive military-bureaucracy, dominated the political process and

economic resources. While this process of centralizing power took place roots were not planted for a strong democratic process and independent parliament in the country, resulting in what Saeed Shafqat describes as a "political culture characterized by disharmony between democratic ideals and the autocratic reality on the ground" (1990:420).

Alavi has devoted significant analytical time to understanding this development of Pakistan towards authoritarian rule. Alavi argues that due to its colonial history, Pakistan demonstrates what he calls "peripheral" or "colonial capitalism" (Alavi 1988:43) wherein groups of national elites, despite diverse sources of revenue, come together to form a power bloc whose internal interests are both mediated and met by the state infrastructure. The triad of powers Alavi identifies includes a landowning class, strengthened by land take-overs during the massive 1948 population exchange with India, an indigenous bourgeoisie, weak at independence but infused with development dollars from the Pakistani state and from foreign (primarily American) investment (Ibid), and third, a "metropolitan capitalist" class representing foreign (again, predominantly American) loans, credit and banking interests (Ibid:56).

Alavi further argues that the Pakistan civil bureaucracy that grew out of the colonial Indian Civil Service, was the most organized decision-making body in 1948 (Ibid:43), and therefore gained political powers far beyond its formal mandate. The civil bureaucracy apparently formed tight links with the military and as a team began to arbitrate the varying demands of the power triad, hence the hyphenated term "military-bureaucracy".

It was eight years after independence before Pakistan inaugurated its first constitution, and the negotiation of legislation during this time period reflects the jockeying of various interest groups vis-a-vis the triad of elites and the military-bureaucracy. Vested interests also played a central part in the legislation of Pakistan's Personal Status Laws.

Pakistan's Legislation of the Personal Status Laws

Many *Ulema* and the *Jama'at* leader Maulana Maududi had opposed the creation of Pakistan as unIslamic, yet relocated to the country upon partition (Ahmed 1991:466). Once in Pakistan, they realized how different were their perceptions from other political leaders over *whether* Islam would be implemented by the Pakistan state and *where* in the lives of Pakistanis that implementation should occur.

Confrontations arose in particular over Muslim Personal Laws. The *Jama'at*, unlike secularism-minded political leaders like Jinnah, envisioned a complete fusion of religion and state:

In Mawdudi's eyes, just as safeguarding Muslim political concerns required turning to Islam, so enacting the dicta of Islam would ipso facto lead to political action. Religion had no meaning without politics, and politics no lustre if divorced from religion (Nasr 1994:9).

Maududi's political actions from 1948 onwards were geared towards wresting control of the entire state infrastructure, and creating the ideal Islamic state. As Seyyed Nasr writes, "Mawdudi had simply decided that he should be the one to found and lead the Muslim state of Pakistan if there had to be one" (1994:6). The *Jama'at* therefore actively pursued positions in Pakistan's army, bureaucracy, educational institutions, media

structures and mosques (Hassan and Rashid 1983:121), a policy that brought them, until General Zia, into constant confrontation with other political leaders⁷.

Many of the demands voiced by conservative *ulema* and the *Jama'at* centred around women's status in an Islamic nation. For instance, they asked that women be excluded from contesting and participating in elections and pushed to legislate what Jinnah called the "obviously discriminatory" practices of traditional society, such as veiling, polygamy and seclusion (Jayawardena 1986:9). They also requested that separate elections be held for Muslims and non-Muslims, and that a Ministry of Religious Affairs be established to ensure these provisions were implemented (Mumtaz and Shaheed 1987:9).

It is important to note, however, that the *ulema* were not in complete accord over how Pakistan should be brought into conformity with Islam; Chief Justice Mohammad Munir's Court of Enquiry into Pakistan's first wave of anti-*Ahmadhi* agitation revealed that "no two *ulema* agreed upon something so basic as who may be defined as a Muslim" (Mumtaz 1990:10). They *did* agree, however to accept the 1956 constitution although it laid the bases for a parliamentary democracy, perhaps because the official name of the country was the *Islamic Republic of Pakistan*, and *ulema* were given an advisory role in the legislature (Ibid:19). They may also have been in favour because Personal Status Laws under the 1956 constitution remained in their provide.

Farida Shaheed argues that while negotiating through a slew of (often contradictory) legal and social practices the transplanters of Islamic law to South Asia operated with a strong patriarchal bias⁸:

An examination of customary and religious personal laws practised in Pakistan today reveals that whereas those aspects of Muslim jurisprudence promoting the predominance of men have been accepted, Islamic injunctions protecting or promoting the rights of women have been systematically rejected. Inversely, customs which contradict Islam but which ensure the supremacy of men have been accepted and continue to operate (1986:39).

This androcentric selectiveness is especially pronounced in matters relating to women's economic self-determination, such as women's control over the *haq-mehr*⁹, inheritance and their right to work, own business and receive maintenance (Shaheed 1986:40). The Muslim Personal Law of Shariat 1951, ratified by the 1956 Constitution, again excluded agricultural property from women's inheritance, an omission particularly damaging to women's autonomy; an estimated seventy to eighty percent of rural women were involved in agricultural labour at the time (Ibid:24). It is one of Pakistan's great ironies that personal status legislation more favourable to women was promulgated after the democratic process was terminated in 1958 by the country's first military regime, that of army Commander-in-Chief, General Ayub Khan.

The Muslim Family Law Ordinance

I think the dialectic between legislation and wider social customs is brought most clearly into relief by the contradictory policies pursued under Ayub's "liberal-west" military regime (Mumtaz and Shaheed 1987:11). With Ayub a trend begins wherein gains for women secured in one area of society, in this case the Muslim Family Law Ordinance (MFLO), are undermined by actions taken in another, namely Ayub's state policies and his use of *pir* support for his personal and autocratic pursuit of power (Noman 1988:34).

Reflecting Ayub's dislike of the *ulema*, (Ayub jailed Maududi in 1963 [Mumtaz and Shaheed 1987:11]), the MLFO brought the family and personal relations under the jurisdiction of the state, rather than the religious hierarchy. It did this by requiring all changes in personal status be registered with arbitration councils, such as in cases of maintenance disputes (previously conducted in criminal courts), men requesting polygyny (the MFLO stipulates that the first wife must be in agreement), all marriages, and cases of divorce through mutual consent (Ibid 1987:58). It also raised the minimum age of marriage for women from fourteen to sixteen (Ibid).

The Ordinance strengthened women's right to assert financial and personal independence; for the first time in Pakistan, women were given the right to initiate divorce without coming before the court, they were provided some protection for access to their *haq-mehr*, and, because the Ordinance denied Pakistani men the unilateral right to divorce their wives in a single sitting, affirmed women's right to participate in marital decision-making (Ibid). In another about face, agricultural property was made inheritable by women in consonance with Islamic law (Rouse 1986:32).

Application of the MFLO is, however, another matter. As I explore in Chapter Three while the MFLO provides some safeguards for women, it also contains loopholes enabling individuals and the judiciary to avoid its stipulations. Such evasion is justified by some people because since 1961 many *ulema* have declared the MFLO unIslamic (Mumtaz and Shaheed 1987:59).

In the 1960s the Ordinance was undermined by Ayub's policies in areas of

religion and economics. In a gesture towards restoring democratic secular rule, Ayub accompanied the Ordinance with a revised constitution in 1962, in which the word "Islamic" was dropped from the nation's title (only to be replaced by his hand-picked parliament the same year) (Mumtaz and Shaheed 1987:11). However he created the Advisory Council for Islamic Ideology to *recommend* "ways for organizing life according to Islamic principles" (Ibid). Given government sanction, this body became stronger with time and was taken over by Ayub's *ulema* contenders, those men voicing what might be termed an anti-women Islam (Ibid).

Finally, the regime is known for its rapid expansion of state powers and centralization of wealth; sixty-six percent of the country's industrial capital lay in the hands of an infamous "Twenty-Two Families" (Weiss 1991:2). Encouraging entrepreneurial risk, a competitive financial market, and state centralization, Ayub's policies acted to strengthen neocolonial economic and military alliances in the country, pursuing the "objective of economic growth regardless of any considerations of social justice" (Gardezi and Rashid 1983:9). These policies undermined an already weak democratic foundation, and brought few improvements to the economic situation of the vast majority of Pakistan women. Dissatisfaction with Ayub was great, and became exacerbated during Pakistan's 1965 war with India over Kashmir, and conflicts between East and West Pakistan. Widespread demonstrations against Ayub did not result in a return to democracy, however, but the implementation of Martial Law in Pakistan for a second time in 1969 under General Yahya Khan.

URBAN FRAGMENTATION AND THE RISE OF BHUTTO

It is in reference to changes in Pakistan's political economy during the 1970s that I put forth my argument that Islamization represents the pivot of urban class conflict. During this decade the face of Pakistan's national politics changed significantly, as it splintered by ethnic, faction, religious and gender concerns.

In the national elections of 1970 Z.A. Bhutto and his Pakistan People's Party (PPP) won by a clear margin, despite the vocal "Islam in Danger" election campaign by the *Jama'at* and fourteen other religious parties (Mumtaz and Shaheed 1987:12). Bhutto was detained from taking office until January 1972 due to the 1971 war with East Bengal, now Bangladesh.

Pakistan was well in need of Bhutto's "Islamic socialism" as it was both economically and morally depressed, and the nation received a further setback in the wake of the 1973 oil market boom in the Middle East (Qasir 1991:112). Faced with a recession, western sources of financial aid to Pakistan dwindled just as Pakistan's national economy lost its impetus (Jalal 1994:167). Pakistan turned to Saudia Arabia and the U.A.E. for replacement of the dried-up American financial aid, and in 1974 Bhutto held a national conference for Islamic heads of state (Metcalf 1987:133).

Inside Pakistan, a large - and constantly growing - urban population was seeking the benefits promised but as yet undelivered by the earlier "development decades". Income disparity by city and region fuelled conflicts in already tense urban environments. The Punjab, for instance, has played an increasingly prominent role in Pakistan national politics and econornics since 1948. Although the hugely lucrative

Green Revolution had worked to displace many rural workers, people found employment in Punjab's major cities and in Gulf countries (Weiss 1991), leading to the development of a middle-level entrepreneurial class. At partition, Punjab had absorbed over eighty percent of West Pakistan's refugee population (Ahmed 1988:33); at present the province contains fifty three percent of the country's population condensed into the largest urban centres (Mumtaz and Shaheed 1987:22). There have been few specifically Punjabi political parties in Pakistan, perhaps because this sector of the national population has consistently been well represented in existing political parties.

The province of Sindh has not fared so well since 1948. Sindhi separatist movements gained momentum in the 1960s, and despite an increase in employment with the military-bureaucracy (Bhutto himself came from Sindh) continued to give support to political parties such as the Marxist-nationalist *Sindhi Awami Tehrik* in hopes of strengthening the region's political voice in the capital and thereby improving its economic status (Mumtaz 1991:109). Sindh demands for greater autonomy were undoubtedly fuelled by the growth of *Muhajir* (immigrant) politics among Pakistanis with Indian refugee backgrounds, who form about twenty percent of Sindh's population (Mumtaz and Shaheed 1987:34). Many *Muhajirs* gave support to the *Jama'at* prior to the creation of their own party, the *Muhajir Quami Mahaz* (MQM) in 1984 (Ibid:86).

The highly rural and tribal provinces of Baluchistan and the NWFP have gained the least from national growth policies. In many areas of Pakistan, but in these provinces particularly, a rise in politics orientated around faction and/or *biraderi*

membership rather than ethnicity, has occurred (Donnan and Werbner 1991). Michael Fischer writes that *zat* and *biraderi*

...remain important categories in town where socially and geographically mobile strangers create new viable relations with one another based on a locally emergent social order, while competing with one another for honour, status and prestige (1991:121).

They are also competing for resources, and Pnina Werbner asserts that *biraderi* networks represent traditional sources of financial support and patronage (1991:88), providing financial security where the state cannot. Henry Korson and Michelle Maskiell (1985:598) argue that the vernacular press in Pakistan has assisted *biraderi* politicking by publishing the extended kin group connections of electoral candidates.

There are several indications that urban politics have polarized along gender lines as well, particularly over the issues of women working and the rise of the women's movement. Statistics on women's labour activities in Pakistan, as in many countries, are lamentably low, in part because biases against women financially providing couple with a popular myth that women do not work, and are reflected in skewed census questions and results. Shahnaz Kazi and Bilqees Raza note that while official statistics depict a marginal increase in the number of women in professional employment, and a small increase of women in managerial and clerical work, informal studies indicate the number of women involved in both formal and informal market employment has increased dramatically in Pakistan over the last twenty years (1991:3). This inflated number consists mainly of women who have not worked before, regardless of socioeconomic class (Ibid). Women play a prominent role in industries (particularly food and garment factories), agriculture, and home-based piece work.

It is important to note, as does Qasir, that all governments in Pakistan have directed their reforms for women towards only this *urban* population, ignoring the majority of women who are involved in public agricultural labour;

The reason is simple: it is the urban man, and not the woman, who is being indirectly addressed through these reforms; it is he who is being courted and pandered to, since it is the urban areas in the Third World which hold the concentrated power of agitation and organization (Qasir 1991:118)

The urban areas also hold the wealth, or more specifically, increasing access to wealth by a fledgling middle class, an increasingly vocal political force.

Prior to General Zia, calls for reforms directed towards the urban woman seem to come most strongly not from the government but from these urban men. Fatima Mernissi has written extensively on industrialization and urbanization in Morocco (1982), observing that

a society having difficulty creating jobs for men tends to fall back on traditional customs that deny women's economic dimension and define them as sexual objects - and to write these customs into law (in Chhachhi 1991:165).

Whether it is called Islamic or not, the enforcement of *Purdah* has been demanded by urban Pakistanis (primarily men) and the result is that working women have had to "operate in an increasingly hostile and constricted space" (Mumtaz and Shaheed 1987:15), subjected to harassment and violence.

Increases in the number of working women and matri-weighted households throughout South Asia (Chhachhi 1991:165) has meant that women's economic activity in urban areas is both more visible and more frequently undertaken in the male/public sphere traditionally denied women by the institution of *Purdah*. Underlying *Purdah* is the concept of *izzat* (male virility/honour/prestige) predicated upon a male individual's

ability to exercise control over other members of the community, starting with that individual's female kin (Fischer 1991:199) and his ability to economically provide (Chhachhi 1991:153). Both of these aspects of *izzat* are being challenged by women working in the formal sector.

Although the call for *Purdah* has arisen out of ethnic and factional politics, it is strongest in the discourse of religious political parties such as the *Jama'at-i Islami*. The *Jama'at*'s social base of support has consistently been the newly-urbanized and upwardly mobile lower-middle class (Nasr 1994)(Mumtaz 1994:231), what Mumtaz Ahmad calls the "traditional petty bourgeoisie"¹⁰ (1991:496), a class with social roots in rural feudal society (Rouse 1986:43). Members of this class of clerks and lower-level professionals are in the frustrating position of being relatively well educated but unable to find adequate or suitable employment, and as Mernissi argues, might hope to benefit by calling for women's removal from the formal work force¹¹.

However, Pakistani working women have been increasing their demands for resources, political expression, education and employment. "Middle class women have come into their own in the latter half of the twentieth century" Valentine Moghadam writes in her conclusion to Modernizing Women (1993:250), and although she writes of the Middle East this seems to be the case in Pakistan as well. Leadership in the women's movement during the 1970s shifted from the elite class, characterized by charitable organizations such as the All Pakistan Women's Association (APWA), to working women most affected by job competition and the calls for *Purdah* (Rouse 1986:42).

Members of the women's movement came into conflict with the *Jama'at* for asserting women's rights and for supporting left political groups/agendas in Pakistan¹², particularly on university campuses. Seyyed Nasr writes that conflict between the *Jama'at's* student branch, the *Islami Jami'at Tulabah* (IJT) and the left Democratic Student Federation and National Student Federation escalated during the 1970s and exploded during the Zia era; he estimates that eighty student leaders from these groups were assassinated between 1982 and 1988 alone (1994:69).

While previously the gender debate in Pakistan had been cross-class, namely between lower middle class men, and women from the older professional middle class and dominant elite (Mumtaz and Shaheed 1990:14), during the 1970s and early 1980s the debate was increasingly conducted by segments of the population with similar educational, financial and employment status, namely a lower to middle-level social strata.

The diverse political interests of these groups were also brought into sharp relief in the period just prior to Zia's take-over, during Bhutto's contradictory term in office. Alternately called a charismatic populist (Shaheed 1986:13) and "a staunch feudal-type landlord" (Sherani 1991:234), Bhutto directed his rhetoric of "Islamic socialism" towards peasants, radicals, white-collar workers, professionals, liberalist secularists, landlords, and large industrialists (Ibid:234; Shaheed 1986:13) - in other words, a diverse mix of Pakistanis united only by their dissatisfaction with the country's political economy. In the end, Bhutto alienated the disadvantaged sections by not providing the promised "food, clothing, and shelter" for all (Rashid 1985:88), the triad of elites through land

reforms and talk of a mixed economy, the political left by his sudden turn to Islamic discourse, and the religious parties with the use of the word "socialism". He alienated women and members of the political left through his not-so "cosmetic" (Mumtaz and Shaheed 1987:14) concessions to the *ulema*:

He passed a law approving minority status for the *Qadianis*, allowed the *Jama'at* a relatively free hand in educational institutions to keep radical groups from becoming irritants to the government and, in a final effort to appease, declared Friday as the weekly holiday, banned horse racing, etc., all to no avail, of course (Rashid 1985:89).

To no avail because in 1977 Bhutto was removed from office by the "mercantile revolt" (Jalal 1994:168), these very urban middle to lower-middle class groupings who converged into the Pakistan National Alliance (PNA). Although the PPP triumphed in the 1977 elections, under allegations of rigging the popularly-elected Bhutto was removed from office, and eventually executed, by General Zia ul-Haqq.

STATE-SPONSORED ISLAMIZATION IN PAKISTAN

Where previously state intervention in the lives of South Asian subjects had been an issue fraught with debate the argument among politicians had been over where the demarcation line should be drawn between the two. With the swift catapult of General Zia and the *Jama'at* onto the centre stage of national politics in Pakistan, the debate altered to address not *where* in individual's lives should the state intervene, but *how* that intervention should be successfully conducted. Once merely overlapping spheres of jurisdiction, the private and the public became a single realm of governance to which Islamic thought and practice were applied.

Pakistani writer Sara Suleri emphasizes the fact that the Islam of Zia's regime was one interpretation of many, forced on the population by military clout; writing of the late 1970s, Suleri says

In an unspoken way...I think we dimly knew we were about to witness Islam's departure from the land of Pakistan. The men would take it to the streets and make it vociferate, but the great romance between religion and the populace, the embrace that engendered Pakistan, was done (Suleri 1987:15).

That willing embrace was replaced by one far more pragmatic and violent; that between General Zia and the *Jama'at*. For several years (Zia declared all political parties illegal in 1985) Zia and the *Jama'at* operated in a tight symbiosis. Zia offered *Jama'at ulema* the authority to determine the state's Islamic policy and legislation through positions in federal cabinets (Metcalf 1987:36) as well as direct sponsorship of *Jama'at* institutions such as *madrassahs* and mosques (Rouse 1988:54). The *Jama'at* gave Zia's regime religious sanction, and a base of support in the state infrastructure and urban centres (Qasir 1991:117).

Islamization under Zia exacerbated the cleavages in Pakistan's splintered political culture. By re-asserting Islam as the sole identity of Pakistan, Zia curtailed the political sphere and undermined the demands of ethnic/linguistically defined parties in the country. As Zia is not known for conducting significant reforms in Pakistan, other than those directed towards women, the causes of dissatisfaction of these groups remained in place, namely pronounced income disparities. By placing the electoral process again on hold, Zia removed the available channels for diverse political agendas to negotiate and air their concerns. Under Zia the Pakistani state also gave support - particularly military - to those groups calling for the removal of women from the

public sphere.

Zia certainly did not gain support from the women's movement in Pakistan; starting with Shirkat Gah's formation of the Women's Action Forum (WAF) in 1979 (Mumtaz and Shaheed 1987:74) women aimed an angry and increasingly organized protest against the regime. In a very clever - and Gramscian move (Gardezi 1990:19), Zia attempted to undermine women's counter-regime platforms through government concessions, such as the creation of a Women's Division in 1979 to investigate the development needs of the female population and the 1983 Pakistan commission on the Status of Women (Said Khan 1985:17-23). Neither body appears to have had either great financial resources or political influence.

Perhaps the only reason why Zia's rule extended so long was the "Afghan miracle" (Qasir 1991:114), Pakistan's protracted involvement in Afghanistan's war against the Soviet Union which injected Pakistan's economy with the palliative of military aid for the *Mujahideen* from the United States. Ayesha Jalal estimates that the parallel drugs and arms business generated from the Afghan, Kashmir, and Bangladesh wars resulted in over seventy billion rupees flooding through the black market (1994:1976).

To facilitate the Islamization and to claim its injunctions as representative, Zia created in 1979 the *Majlis-i-Shura*, an Islamic Parliament with advisory rather than legislative powers (Qasir 1991:121). He rammed a stunning total of twenty-five Constitutional Amendment Orders through this parliament between 1977 and the 1985 end of Martial Law (Mumtaz 1991:102). Advice on Islamic jurisprudence was attained

through the revived Council of Islamic Ideology (CII), staffed with *ulemas* associated with the *Jama'at* and other religious-political parties. Detailed below are the primary acts of legislation most relevant to women implemented during Zia's tenure¹³.

The *Hudood Ordinances* of 1979 addressed crimes of theft, adultery, rape and alcohol consumption. Subject to Islamic rules of evidence, the Ordinances forbid women and non-Muslims to give evidence for convictions with *Hadd* (maximum) punishment, and for *tazeer* (lesser) punishments in cases where they are sole witnesses (Moghadam 1993:128). In cases of *zina*, adultery and fornication, and *zina-bil jabr*, rape, conflated by the Ordinances (Mumtaz 1991:103), four Muslim male eye-witnesses to the act of penetration or confession in court¹⁴ are required for conviction by a court. Pregnancy and physical damage constitute evidence for (assumed willing) participation in the act (Ibid).

The *Qanoon-i Shahadat* or Law of Evidence, as proposed by the CII in 1982 contradicted the clause in the 1973 Constitution granting equality to all Pakistani citizens by reducing women's testimony to the worth of half that of a man. Relating to evidence given in court, the proposed law stated in Article 17:

In all matters pertaining to financial and future obligations providing these are reduced to writing the evidence of two men or one man and two women will be required, so that if one [woman] should forget, the other may remind her (Mumtaz 1991:103)

Justified on only one of eight *Qur'anic* verses relating to evidence, the Law of Evidence was greeted with angry protests and counter-regime street theatre by WAF¹⁵ (Mumtaz and Shaheed 1987:106).

The CII also proposed the *Law of Qiyas* and *Diyat*. Addressing the payment of

blood money (*diyat*) as retribution for murder (both intentional and unintentional), bodily injury and abortion (declared illegal under any circumstances), the law placed the payment for women and non-Muslims to be half that of a Muslim man (Moghadam 1993:112). Due to social protest, passing of the laws was delayed; when passed through a Presidential Ordinance in October 1990 the discriminatory clauses had been removed (Qasir 1991:112).

Zia also ensured that no future parliament could easily repeal his legislation by passing in 1985 the **Eighth Constitutional Amendment Bill** validating all legal changes made by the regime (Mumtaz and Shaheed 1987:118). Similarly, in the same year *Jama'at* Senate members put forth the *Shariat Ordinance* recommending the repeal of the MFLO and granting *ulema* in the newly-formed (Hanafi) *Shari'a* courts jurisdiction over all legal debates (Ibid:119). Heated protest by *Shi'i* Muslims, women and minority groups greeted this proposal as well¹⁶.

A series of extra-legal measures were taken by the Zia regime that also undermined women's status in Pakistan. For instance, the country was subjected to an intense media barrage denigrating women and equating them with obscenity (Mumtaz 1991:103). On the radio, in advertisements, films, and on television, women were accused of holding questionable morality and of being the cause of corruption in Pakistani society (Ibid). Several authors cite these negative images of women in the media as a direct cause of the Nawabpur incident, in which women were forced by local landlords to dance naked in the street (Rouse 1993:32)(Hussain and Shah 1991:161).

Extra-legal injunctions by the regime also served to reinforce social norms of *Purdah* and segregation. Proper female behaviour was encouraged through government directives on Islamic dress. For example, for women in government employment the *chador* was made mandatory, and in 1982 Zia himself presented the sixteen women in the *Majlis-i Shura* with *chadors* (Mumtaz and Shaheed 1987:80). In 1978, the Minister of Education made a formal commitment to establish separate educational institutions for men and women (Ibid:73). Many women complained during this period of being harassed in the streets, on campuses, chastised for being "improperly dressed" (Mumtaz 1991:104). Such behaviour has continued well after Zia's mysterious death in 1988.

Organizations such as WLUMML, in challenging the hegemonic Islam of Zia and the *Jama'at*, have taken on a daunting project. I have covered Pakistan's history here in some detail not only because it provides the context in which politicized Islam and women's struggles in Pakistan must be understood, but also because many of these historical events are addressed by the WLUMML project. For instance, the WLUMML case studies discussed in Chapter Three discuss the effects of this legislation on individual women in Pakistan. WLUMML coverage also make clear how few changes, legislative or otherwise, have occurred in Pakistan since 1988, either under the pro-Zia Nawaz Sherif or Benazir Bhutto's PPP of the 1990s. Benazir's leadership in particular has disappointed many Pakistanis as not only has she been unable to change the restrictive legislation or the unequal balance of power in the country, but her commitment to democracy is increasingly being questioned; one article comments,

Perhaps scarred by her first loss of office in 1990 Ms. Bhutto has become a tough, some say authoritarian, ruler this time around, bypassing parliament, toppling provincial governments and allowing scores of political opponents and unfriendly journalists to be jailed¹⁷.

Perhaps also "eleven years of military dictatorship have depoliticized the oppressed"¹⁸.

This history also reveals that the forces leading to the presentation of Muslim Personal Laws as the epitome of Muslim identity are not only "religious" in nature. If anything, it indicates that discourses on women are being used to obfuscate or undermine power skirmishes in Pakistan.

I think a major challenge facing WLUML is finding a way to address the contradictions this history exposes between expressed political platforms (Islamic or otherwise) and the political-economy connections of the primary actors, be they religious leaders, representatives of the nation-state, various political parties or members of the women's movement itself.

In the next chapter I argue that WLUML's counter-project is further complicated by a tendency demonstrated by many social actors (fundamentalists, feminists and social scientists) to jettison close scrutiny of the political and economic links informing debates on Muslim Personal Laws in favour of analysis of presumed *cultural* differences, such as those between the east and the west, between men and women, and between "traditional" Islam and contemporary Muslims.

END NOTES

1. While often equated with the wearing of the veil and the confinement of women to the home, the institution of *Purdah* consists of not only a set of externally enforced rules ensuring gender segregation and female seclusion (Shaheed 1989:2), but also a series of patriarchal moral/ideological precepts internalized by men and women (Ibid:38). Varying greatly with class, ethnicity, religion and region, between rural and urban areas, and declining in rigidity with women's age (Ibid:18), *Purdah* observance of some form is required of all women in Pakistan.

2. Amrita Chhachhi writes that the Dissolution of Marriages Act was passed partly due to women's demands, but also because the *ulema* were concerned that Muslim women were converting to other religions to attain the divorces denied them under the existing Muslim personal laws (1991:160). Here again, women's rights must be understood in the context of a dialectic between legislation and wider social issues, in this case communalism.

3. Such strategies of (religious) identity assertion by subject populations in resistance to neo/colonial domination have been noted among other Muslim communities, such as in Bangladesh (Kabeer 1991), Turkey (Kandiyoti 1994) and more recently in Palestine (Peteet 1991b).

4. Abdo Simone has observed a similar phenomenon in Sudan; In Whose Image? Political Islam and Urban Practices in Sudan. Chicago: University of Chicago Press 1994.

5. Among others, A. Akbar Zaidi in "How the Bourgeoisie Views Pakistan" Economic and Political Weekly, India, Nov. 26 1988, has criticized the tendency of Pakistani historians to emphasize the role of the *Muhajir* and/or Punjabi populations in the foundation of Pakistan at the expense of analyzing the role played by members of what became the provinces of Baluchistan, NWFP and Sindh, as perhaps Gilmartin does by using the phrase "preludes for Pakistan" (borrowed here) in an article covering early *Muhajir* politics. The genesis for the Pakistan movement undoubtedly has no single location, and hopefully future research will flesh out the historical record on this issue.

6. The term "communalism" in South Asia is often used to signify the "belief that because a group of people follow a particular religion, they have as a result, common social political and economic interests" (Bipan Chandra in Chhachhi 1991:144). Like Amrita Chhachhi (Ibid) I am using it in a pejorative sense, to stress the "political use of religion in conflicts over access to economic resources and political power", which is often accompanied by bigotry and/or violence. The term "sectarian" will be used to refer to similar politico-economic strategies among branches of Islam, namely Deobandi/Bareilvi and Sunni/Shi'i. Communalism has also been a term applied to caste conflict in South Asia, a usage I think is appropriate but do not pursue in this thesis.

7. While membership in the *Jama'at* is ostensibly open to all, Marayam Jameelah describes an intense and protracted trial period during which interested individuals learn the doctrines of the party and work in its programmes (1983:335). Novices are told to sever former social ties, to "surrender to" and "adopt" the party, and to attend every meeting on threat of expulsion (Ibid:337). According to Feroz Ahmed, the *Jama'at* became a vanguard "organizational weapon" modeled structurally on both European fascism and communism (1991:466).

8. Similarly, in post-colonial India citizenship had been defined on the basis of "Hindu" identity and conversion from Hinduism entailed a loss of rights (Chhachhi 1991:159). Writing about the state of Israel (interestingly the one other nation whose *raison d'être* lies in the religion of its dominant population) Nira Yuval-Davis (1980) argues that women were socially constituted as inferior during the process of legal codification. To clarify the role of religion in Israeli national law and politics, the state needed to define Jewishness, and Jewish female and male citizenship. By legislating religiously defined notions of womanhood, the state reinforced the social subordination of women. Despite pronounced differences in context and content, the struggles of Pakistani and Israeli women for self-determination parallel in that they are waged simultaneously within their communities, against restrictive interpretations of tradition, and outside them against exploitative state and extra-state policies.

9. Originally intended to give the bride some financial security when she moved into the patrilocal residence after marriage, the *haq-mehr* in South Asia has been diluted by local customs, working now as bride price or jettisoned altogether in favour of dowry demands (Rouse 1986:39). In either case, this money paid upon marriage does not now represent a security fund over which women have very much control.

10. Further evidence of this class connection may be found in the *Jama'at*'s shifting geographical base; when the organization lost support in Sindh to the MQM it intensified its recruiting in the newly urbanized Punjab cities of Sialkot and Sargodha (Mumtaz and Shaheed 1987:11) as well as in Sindh and the NWFP (Nasr 1994:92). It is also evident in the *Jama'at* of Bangladesh (Shamsul 1993:101).

11. This is true of both women and men from the *Jama'at*. In 1984 the organization's women's branch, the *Majlis-e-Khawateen Pakistan*, became politically vocal as well, calling for job and university segregation and access by gender (Mumtaz and Shaheed 1987:15). Like their male counterparts, these women owe their roots to the rural feudal society where socialization prepares women for gender segregation, yet in the depressed economy are forced to work in the de-segregated formal employment sector (Ibid).

12. Examples of leftist women's organizations that originated during or soon after the Bhutto era include the *Tehrik-e Niswan* in Karachi, the *Tehrik-e Khawateen* in Lahore (Mumtaz and Shaheed 1987:15), and of course the *Sindhiani Tehrik* (Mumtaz 1991:106).

13. In addition to these amendments, other recommendations were made by the CII but not accepted; for instance, "The Council for Islamic Ideology suggested that the minimum age of marriage for girls should be reduced from sixteen years to puberty; the Ansari commission proposed that women could be eligible to sit in the Shooraa..only if they were over fifty years of age, purdah observing and had written permission from their husbands" (Mumtaz 1991:103).

14. Mumtaz and Shaheed assert that according to the *Shari'a* confessions for *hadd* punishment must be made on four different occasions and in four different places, thereby providing a way out for people pressured into confession (1987:101). As I explore in Chapter Three, WLUM case studies from Pakistan indicate that social pressure on women to either drop charges or to white-wash testimony in court is phenomenal; the exclusion of women from this provision therefore results in both *de facto* and *de jure* discrimination against women.

15. Khawar Mumtaz writes that the laws sparked protests from some unexpected sources as well, such as truck drivers - with the high rate of auto accidents they stood to be charged under the law with some regularity (1991:103).

16. Pakistan's Shi'i population, perhaps fifteen percent of the country, repeatedly protested the extent to which the Sunni majority population promoted the (Sunni) Hanafi school of Islamic jurisprudence. Like those of the *Ahmadhis*, these sectarian conflicts came to the fore during the Islamization period.

17. This opinion, quoted in Canada's Globe and Mail Thursday October 12, 1995, was reiterated in an article appearing on the same page reporting that two Irishmen had been caught trafficking drugs in Pakistan. Seven years after General Zia's death, this case represents the first time his legislation has been used to try and convict a foreigner.

18. Comment by Akmal Hussain in "Post-Election Challenge in Pakistan" Economic and Political Weekly, India, December 10, 1988: 2630.

CHAPTER TWO

ISLAM IS CONTEMPORARY?

DISCOURSES ON ISLAM AND SOCIAL CHANGE

The universalization of the secular, as predicted by Max Weber, has not occurred. Whether speaking of the so-called advanced industrial societies of England, Canada and the United States or the "developing" nations of India and Pakistan, there has been in the last twenty years an increase in political platforms oriented around identity, either religiously or ethnically defined. What, then, is the revised historical trajectory of human kind? What role will religion play in the context of expanding global capitalism?

Such broad theoretical questions are relevant to a discussion of WLUMI because the Paris coordinator for the network, Marie-Aimée Hélie-Lucas, has argued that the emphasis placed by Muslim fundamentalists on Muslim Personal Laws and the status of women as the essence of Islamic identity is done in reference to two sets of oppositions, those between the East and the West and between tradition and modernity (1994). I argue here that constructing Muslim identity in relation to these dualisms is not a practice conducted by fundamentalists alone, but common to three groups relevant to Pakistan, namely, the *Jam'at-i Islami*, academics writing on Islam and social change, and the women's movement working in Muslim contexts. These groups, while internally diverse, position themselves quite differently vis-a-vis Orient/Occident and

tradition/modern debates, thereby offering diverse understandings on the role and direction of Islam and gender relations in contemporary social change.

Drawing heavily on Valentine Moghadam's "macrosociological paradigm" (1994b) I wish to first chart out a political economy narrative that partially accounts for this renewed focus on culture and identity. First, an increased interconnectedness of individuals, groups and states on a global level has been brought about by the internationalization of capital and the spread of communications, transportation and economic technologies, which in turn has led to rapid movement of people, products and ideas across national/cultural borders. This process, both globally and within nation-states, has caused great disparities in peoples' access to economic resources, political power and cultural expression. The result is a tension between "political discourses, movements and institutions erroneously known as Western: human rights, women's rights, equality, self-determination, social movements, parliamentarism, socialism, democratization, privatization" (Ibid:7) and local mobilizations in all parts of the world around cultural resources/identities in attempts to either maintain or gain economic and political power.

Debates on Islam's place in this trend are often conducted within the parameters of an opposed East and West. On the one hand there is a discourse of Orientalism, predicated upon the process of Othering; a relationship perceived, projected and acted upon, with a cultural Other. As Edward Said has forcibly argued (1978), the relatively consistent set of ideas comprising Orientalism stems from a discursive creation of a cultural Other (the East), negatively defined, for the purpose of affirming perceived

positive conceptions and characteristics of a Self (the West) in order to facilitate neo/colonial exploitation.

To paraphrase Bryan Turner (1974:81), Orientalism may be defined as "a syndrome of beliefs, attitudes and theories" consisting of three basic arguments; first, that social development is caused by characteristics that are internal to society; second, that the historical development of a society is either an evolutionary progress or a gradual decline; and third, that society is an "expressive totality" in the sense that all its institutions are the expression of a primary essence. Adam-like, the Orientalist brews a potent mix of racism, social evolutionism, misogyny and classism to impose a totalizing narrative on subject populations as part of imperial domination (Kabbani in Shick 1990).

Underlying both the creation of Islam as a subject of study in the west (Asad 1994;el Zein 1977) and the common positing of Islam as a sui generis explanation for social change - or more precisely, the lack thereof - the Orientalist discourse creates a classless, unchanging monolith called "Muslim society". By doing so, Orientalists have been accused of "systematically falsifying and vilifying the Muslim world" with "malevolently fabricated mythologies" (Ahmed 1992:253/7). Islam, according to the Orientalist discourse, is static yet in decline, prevents adequate scientific knowledge of itself, produces one form of political organization, that of "Oriental Despotism", and in essence is opposed to change of any sort and to secular capitalist development (Patnaik 1990;Bipan 1981;Rodinson 1974,1981). As Islam is described as archaic and resistant to both capitalism and democracy, history as depicted by the Orientalist "can

only be made on the back of a universal teleology" (Asad 1994:19) in which Muslim societies are in the constant state of "catching up" to the west and "borrowing" its knowledge.

Occidentalism counterpoises this discourse with an equally monolithic understanding of the west. Representing a reaction against a history of colonialism and imperialism of the east by the west, Occidentalism affirms a counter "mytho-history",

...one in which a supposedly ancient nation, once unified around a particular religion and culture, has been torn asunder by modern forces, not least of all by western ideologies stemming from the Enlightenment and the French Revolution (Kaiwar and Mazumdar 1988:66).

The Occident here is also defined as lacking internal divisions, by class, political outlook, ethnicity, state structure or religion. Conflating religion, ethnicity and culture, the Occidentalist narrative within Islam posits secularism and democracy as the causes of the historical disintegration and downfall of a glorified "Islamic State" (Ibid). Fatima Mernissi argues that in recent decades Occidentalists have attempted to "transfer the ancestral fear of the West onto the idea of democracy itself" (1992:15) in order to legitimate a narrow authoritarianism.

The East and the West, then, have become normalized into oppositions, eras and templates (Asad 1994:19) facing each other across an arbitrary divide like snarling dogs. Although these discourses owe their roots to politico-economic histories, both emphasize assumed cultural differences despite a pronounced cultural and material interconnectedness, causing Moghadam to observe "in an interesting conceptual convergence, Western and Islamic theorists now emphasize the role of culture in shaping politics, power and economic systems" (1994b:7). They do, however, take this

emphasis in quite different directions, as the next sections demonstrate.

THE JAMA'AT-I ISLAMI OF PAKISTAN

Perhaps the most widely available literature in the West voicing the concerns of the *Jama'at-i Islami* is that of the modernist ethical thinker, Sayyid Abu'l'A-'la Maududi (1903-1979) the *Jama'at's* founder. Reflecting his schooling in Western as well as indigenous systems of thought, Maududi's discourses on Islam demonstrate on some levels a sharp understanding of a West he consciously rejected.

As outlined in Chapter One, the *Jama'at* represents a fusion of holy community and political party. While it draws support from the newly urbanized, newly educated lower middle classes of Pakistan, the organization has consistently directed its political action towards the top echelons of power, a strategy that eventually earned the *Jama'at* an alliance with General Zia ul-Haqq's military regime. While this asymmetry between membership and priority may appear contradictory, it must be emphasized that the "Islamic society" for the *Jama'at* represents an ideal it strives to reify. Their collusion with General Zia's Islamization programme represented a pragmatic compromise, a partial if imperfect step towards achieving that ideal.

This priority/membership discrepancy does not puzzle Shanaz Rouse, who contends that the *Jama'at's* strategy "permits a continued collusion with international capital" from which its members have been the most recent beneficiaries, and displaces the source of exploitation from the economic to the ideological, which in turn enables an abrogation of democratic principles and institutions (1993:103). Similarly, Mustapha

Kamal Pasha contends that the *Jama'at's* conservative public morality represents a wariness of the social rather than material consequences of capitalism (1994:124). The *Jama'at* has never publicly boycotted consumer goods (Mumtaz and Shaheed 1987:14) nor have its members avoided lucrative job opportunities or the use of modern communications technologies for meetings (Nasr 1994). The *Jama'at* and the IJT have both attacked the political left in Pakistan, but if this antagonism entails a rejection of capitalism as well as socialism, it does appear to represent a major contradiction between the *Jama'at's* discourse and its actions; Maududi places much of the blame for social decline in Pakistan on western capitalism.

The *Jama'at* political critique is without question directed primarily towards culture rather than economics. For example in Islam in Theory and Practice (1983) Marayam Jameelah, an American convert to the *Jama'at's* Islam from Judaism, engages in a lengthy defense of "Islamic" culture. Like the *ulema* discussed in Chapter One, Jameelah conflates Islamic doctrine with local culture, defending everyday Muslim hygiene rituals, fashion¹ and eating habits against an aggressive West:

If we profess to be Muslims who value the integrity of our faith, we must vigorously reassert our religious and cultural identity. It is not enough to condemn the atheism of modern civilization and its institutions so destructive to all we cherish. Instead we must always stress the positive and constructive values of the Islamic way of life and build them up as practical alternatives. Only after these alternatives are provided will it become possible to permanently demolish alien influence (1983:100).

Maududi himself provided a clear-cut set of cultural alternatives. He proclaimed himself the sole authority on cultural practices conducive or contrary to the creation of an Islamic society (1974:24), thereby distinguishing "religion from what is outside it" and

"religion from what sought to subvert it" (Asad 1994:39).

This defensive language highlights the crux of Muslim identity for the *Jama'at*; religion/cultural identity is defined against perceived enemies, both within the Muslim community and outside it. The enemy outside is colonialism, imperialism, and all cultural practices associated with the west. The enemies within are the "lip-service Muslims" and "Occidentals" who *mimic* the practices of the West (1974:37-84). This discourse positions all internal critiques of Pakistan, except for the *Jama'at*'s own, as anti-Islamic and untenable. This is particularly the case with three categories of people in Pakistan; women, members of the political left, and the *Ahmadhis*.

In Maududi's treatise Purdah and the Status of Women (1974) western capitalist individualism is said to result in "selfishness" and "moral bankruptcy" (1974:40-43). Western thinking is said to lead to a gradual decline in female morality and chastity, a breakdown of the family, and through this the "gradual weakening of the intellectual, physical and material energies of the community" (1974:3). This scenario ends in societies' "total collapse and destruction" (Ibid). Tracing the status of women in Western society through written history (1974:5-18), Maududi lists the "tragic consequences" of modern "Western Concepts of Morality" (1974:27-72), including the proliferation of the sex industry and brothels, the objectification of sexuality, pornography, venereal disease, fornication, divorce and separation.

Many women within Pakistan and outside it might echo Maududi's concerns over these last tragic consequences, however Maududi also justifies *Purdah* and a low status of women through religious doctrine. For instance, he criticizes "Western

manners of moving about" and encourages Muslim women to avoid alluring tones of voice, the wearing of perfume, making eye-contact with men, and making sounds when walking (1974:168-169), behaviours antonymous to those popularly associated with *Purdah*. He then links women's individual behaviour and morals (or *Purdah* observance) with wider issues, in this case making women directly responsible for the Muslim culture and therefore fate of the nation/Islam. Under a section entitled, "National Suicide", Maududi argues that Westernization has corroded even those virtues Maududi credits women of possessing - their maternal instincts:

...self-indulgence, avoidance of matrimonial responsibilities, indifference to family life and instability of the marriage bond have combined to almost kill the natural mother love, spiritually the purest and highest of the female sentiments, the basis of not only civilization but the survival of the human species itself (1974:70).

This discourse, with its eugenic undertones, places phenomenal pressure on women to remain within the *chador aur chardwari*.

The Muslim society Maududi encourages Muslims to (re)create is (predictably) the opposite of the west he describes, but detailed only in matters relating to the family and to women's status in society. For example, he writes that a primary task facing Muslims is the strengthening of the family unit and the "establishment of the correct relationship between man and wife" (1974:112). Women, Maududi writes, must recognize that while as humans men and women are equal (1974:114), women's minds and bodies are weakened by natural processes (1974:116), and they must accept a position in society with a very specific sphere of economic and social activity (1974:149) involving submission to their fathers and husbands (1974:137). Jameelah applauds these

sentiments, asserting that the traditions mentioned do not reflect a moral "double standard" but are beneficial to women (1983:94)². Muslims are called to actively work and create an alive Islamic society (1974:112); "a righteous civilization is the one which jealously guards this natural division of labour, which provides the woman her rightful and honourable place in society".

In his defence of Islamic/cultural identity and his rejection of social change as unavoidably accompanying material change, Maududi in effect is rejecting Weber's assertion that the historical path of capitalism necessarily results in secularism and the demise of religion. As Jameelah puts it,

It is a characteristic of all modernist ideologies to regard as the supreme virtue, change for its own sake. Any conception of eternal truth and transcendental values is scorned as medieval...Today it is the fashion to regard Truth as something so mysterious it can never be known. Therefore it is deemed essential for people to improvise their own standards of morality and truth to fit each new situation as they encounter it. This has led to the complete moral and spiritual chaos we are experiencing today (1983:38).

Truth for the *Jama'at* has no historical fetters. It is not relative, nor does it alter by context or chronology. The periodization of history only becomes relevant to the *Jama'at* in relation to declining or improving public morality.

Maududi provides an Islamic method of coming to terms with modernization, one that also appears contradictory to his other actions. The contradiction arises this time over the issue of *ijtihad*. Usually translated as "to strive or struggle intellectually", or fresh legal reasoning (Esposito 1988:83), *ijtihad* conventionally refers to a form of Muslim jurisprudence no longer permitted. Although Pakistani theologian Fazlur Rahman writes

Nobody quite knows when the 'gate of *ijtihad*' was closed or who exactly closed it...There is no statement to be found anywhere by anyone about the desirability or the necessity of such a closure, or of the fact of actually closing the gate, although one finds *judgements* by later writers that the 'gate of *ijtihad*' has been closed (Rahman in McDonough 1984:10, emphasis in original).

In that he favoured the reinterpretation and reapplication of Islamic principles to contemporary situations, Maududi effectively re-opened the gates of *ijtihad*, applying both reason and scripture to problems facing Pakistan. He also defied established traditions and interpretations by suggesting that modern problems require innovative solutions. In other words, truth may not change with the passage of time, but the manner in which it is expressed must alter.

In practice Maududi rejected the related idea of *ijma*, or community consensus, that had accompanied independent interpretation during the early years of the *ummah* (Esposito 1988:85). While Maududi condemns the "mental slavery" and blind imitation of Indian Muslims who accepted the "Great Hoax" of British cultural superiority (Maududi 1974:24) his top-down, vanguard elitism and the rigid organizational structure of the *Jama'at* would appear to promote a similar kind of unquestioning devotion in which plural choices and conclusions are disallowed (see page 38). Maududi supported novel interpretations of the cumulative tradition, yet affirmed only *his* interpretation as authoritative. He did not court consensus. In "Economic and Political Teachings of the Qur'an" for instance, Maududi writes,

According to the Qur'an, the commandments of God and the Prophet of Islam constitute the Supreme Law and Muslims as such cannot adopt any attitude other than that of complete submission to it. A Muslim is not allowed to follow his own independent decisions in matters which have been finally and unequivocally decided by God and His Apostle. To do that is a negation of faith (in McDonough 1984:65).

Maududi made independent decisions frequently. For instance, although he opposed the creation of a secular, democratic Pakistan as unIslamic, after incarcerations in 1952 and 1962 under military dictatorships, Maududi began advocating protection of civil liberties and freedom of expression (Nasr 1994:123), ideas commonly associated with democracy. Similarly, while between 1951 and 1953 the *Jama'at* declared it unIslamic for women to run for head of state, the organization's opposition to the Ayub regime and Bhutto's PPP led it in 1965 to support Ms. Fatima Jinnah as a presidential candidate (Nasr 1994:155).

In the end, the *Jama'at* presents an "either or" dilemma for Pakistanis, positing Islam/East as dialectical opposite and enemy to Democracy/West:

either they will have to live in accordance with the Islamic injunctions if they want to remain Muslims, or they will have to discard Islam if they are prepared to face those disgraceful results towards which the Western way of life will inevitably lead them (Maududi 1974:26).

ACADEMICS WRITING ON ISLAM AND SOCIAL CHANGE

"The western way of life", claims anthropologist Ernest Gellner in his recent book on Islam, Postmodernism, Reason and Religion (1994) leads society in a very different direction than that described by Maududi. In fact, Gellner posits "Enlightenment Secular Fundamentalism"³ as the best - and the only feasible - ideological option for contemporary humanity. Working from the "Big Ditch" theory of radical historical discontinuity and the ubiquitous triumph of the West, in this book Gellner embarks on a debunking of two other ideological options, religious fundamentalism (Islam) and relativism ("postmodern" academia).

Because of the emphasis Gellner places on historical antecedents for explaining contemporary society, he begins his analysis with the same questions as Maulana Maududi, namely, does Islam impede or accelerate modernity? Does Islam change over time? Is tradition opposed to modernity? The blueprint for Gellner's analysis, crafted from Hume, Kant and Ibn Khaldun, is that of a capitalist modernity in which mental attachments (religion, kin ties, politics) do not take precedence over rational thought.

For Gellner Islam is an oddity in a modern world (1994:5) that has witnessed the reification of the secularization thesis - three of the four Old World Civilizations (Christian, Sinic, Indian) have, in Gellner's theory, used religious political struggle to undergo "real change" (1993:13) and chosen to affirm the non-theological strands in their religions - the "celebration of community not conviction". Islam, however, is strikingly "secular-resistant" (1994:6); it is the "one very real, dramatic, and conspicuous exception. to all this" (1994:5). While Gellner rejects deterministic "preconditions" theories, he is able to map out central weaknesses in Islamic ideology and/or social structure that might account for its peculiar tenacity.

Gellner first objects to Islam's status as a founded, Revealed religion; because of the fusion of doctrine and law, theology and politics, he argues that Muslims have difficulty with modern legislation and find their own law "entrenched and unusable" (1994:7). His second criticism is aimed towards Muslim society's failure, in the advent of the modern world, to develop a restrained state (1994:9). In this scenario the classic struggle between High and Low Islam and between despots and theologian-philosophers which had previously resulted in a mere circulation of elites, now terminates in a

"definite and irreversible reformation" and a third flaw, the closure of critical thinking (1994:15).

Gellner does find merit in Islam. He advocates reverence for the "intellectual ancestors" advocating it (1994:95) who, like him, are committed to the denial of relativism (1994:75) and encourage human "psychic satisfaction" (1994:84). It also seems to present for Gellner an intriguing intellectual puzzle; noting the striking similarity between (fundamentalist) Islam and the Weberian work ethic (1994:21) he wonders why "Muslim economic performance" has not been "more distinguished?" While not a feasible ideological option, Islam for Gellner suggests that "a puritan and scripturalist religion [is] not necessarily doomed to erosion by modern conditions" (1994:22).

Gellner has little positive to say about the second ideological option for contemporary humanity, that of postmodernism and relativism. He complements the postmodernists for rejecting Revealed Truth (1994:76) and asserting that the tools used in knowledge production require examination (1994:42), but he takes issue with the too-rapid postmodern conflation of imperialism and hermeneutics (1994:63), and of political liberation and cognitive subjectivity (1994:27). Accusing postmodern anthropologists of "kicking the dead dragon of colonialism" (1994:47), Gellner advocates moving beyond nihilism, narcissism, and the obscure "hysteria of subjectivity" (1994:23) to a re-affirmation of universal, objective, and testable theory.

Gellner's analysis speaks to those of Maududi and WLUMI in several ways. He finds fault in the fusion of theology and law, in legislation that is "entrenched and unusable" and in the mixing of theology and politics - all of these concerns are

articulated in WLUMML brochures, albeit to a different end. The difference lies in the fact that while Gellner uses these problems as cause for dismissal of Islam as a viable outlook and social structure, WLUMML chooses to dissect them, disentangling the overlap of religion, law and custom in hopes of working with the constructive aspects of all three.

Similarly, Gellner's Orientalist-sounding characterization of Islam as closed to critical thinking and collusive to the acts of oppressive state structures is echoed elsewhere by academics writing from the Muslim world. For example, social scientists Fatima Mernissi (1992), Saeed Javaid (1994) and Hisham Sharabi (discussed below) begin their analyses with reference to the *azma* or crisis in the Muslim world, usually said to be characterized by dormancy and an absence of self-criticism. A major component of the WLUMML critique (discussed in Chapter Four) is the development of tools, sociological and theological, that enable Muslims to critically analyze their societies. WLUMML's coverage of Islam's role in repressive nation-states, however, is far more nuanced and carefully historicized than that of Gellner and therefore escapes the conceptual trap of conflating religion with political machiavellianism. Implicit in this approach is also an avoidance of taking discourses, regardless of origin, at face value, Gellner's primary criticism of postmodern anthropology.

Gellner raises several interesting points which speak to Maududi's analysis as well. Differences in understanding of the role of religion in collective life between Maududi and Gellner's analyses point towards what I think will be the crux of future political arguments, both between the east and the west and within these constructed

terrains. With time the voices of Gellner, Maududi and WLUML will be in direct conversation - or more likely, argument - over the role of religion in *public* life, and perhaps also about human ethics and morality in a global context.

Like Maududi, Gellner finds answers to his questions in "genuine knowledge", translatable and transforming, but he finds them in secular rationalism, developed in the Scientific Revolution and codified in the Enlightenment, rather than in religion (1994:81). How ironic that there is no recognition in Gellner's book of the diversity within Islam or of the changing circumstances and interpretations of Muslims throughout the world yet he concludes his analysis by claiming there exists a single, unchanging Truth (called science), while Maududi, who *does* take into consideration this diversity and historical change, nevertheless affirms an Islam that never changes.

Gellner laments (and rightly so as an anthropologist!) the fact that despite the "sheer superiority" of secular rationalism, the utility of this new style of cognition does not extend to analyses of society and culture (1994:59). It also offers people few guidelines on morality; for Gellner only "pragmatic goodwill" will be the non-material motivator for just human behaviour in the secular rationalist system. Gellner's understanding of the world as being asymmetrical in distribution of economic and political power leads him assert, "we desperately need morality beyond culture and knowledge beyond morality *and* culture" (1994:54), so that this imbalance in decision-making power may be realigned. I think that precisely because normative claims (often called "culture") are so linked to power disparities they must be addressed, scrutinized and, in an ideal situation, somehow resolved.

Hisham Sharabi's Neopatriarchy: A Theory of Distorted Change in Arab Society (1988) offers a different historical trajectory in explanation of the *azma* or crisis in the Muslim world. This crisis, he argues, stems from the presence of a latent reality in Muslim countries "beneath the immediately encountered modern appearance" (1988:22).

Sharabi chastises members of Muslim societies for failing to achieve in the Arab Awakening (*nahda*) "a genuine transcendence of inherited structures of thought and social organization" - they "failed to grasp the true nature of modernity" (1988:6). The result, Sharabi argues is neither "genuine traditionalism" nor "authentic modernity" (1988:23) but the creation of a new, highly unstable hybrid "neopatriarchal" society, of which the most pervasive characteristic is "a kind of generalized, persistent and seemingly insurmountable impotence" (1988:4). "Essentially schizophrenic" and plagued by violence, the neopatriarchal state is incapable of either capitalist economic development or revolutionary social transformation (1988:9). Sharabi argues that Muslim societies have ground to a halt in their course for modernity, neopatriarchy's "historical successor and dialectical opposite" (1988:18).

The hybridity of the neopatriarchal society, Sharabi argues, is evident in all its political and social discourses because of the neopatriarchal nature of Muslim language and epistemology (1988:84-93). This is the case with the "traditionalist neopatriarchal discourse", Sharabi writes, characterised by monologue, verbosity, a preference for

rhetorical competence over exchange and dialogue, and a concern to both consolidate the hegemony of its texts, and to block all attempt at criticism and replacement. A tradition/modern hybridity is also present in the "progressive, reformist, secular" discourse, the "newspaper" language of the petty bourgeoisie (Ibid). By the 1980s, however the tension created by the co-existence of the "authentic" and the "modern" in both discourses (1988:105) reached breaking point. "Neopatriarchal thought" writes Sharabi "had reached its limit" (Ibid).

During the last two decades the neopatriarchal discourse has apparently been challenged on the linguistic, interpretive, ideological and social level, by two quite different social forces, those of radical social criticism and fundamentalism (1988:106). The fundamentalism of the petty bourgeoisie, which Sharabi claims by taking centre stage in Arab social and political life, is "radically destabilizing" society and transforming the consciousness of many Muslims (Ibid:147). As I argued in the previous section in reference to the fundamentalism of the *Jama'at-i Islami*, Sharabi contends that the hybrid petty bourgeois class supporting fundamentalism directs its rhetoric towards cultural concerns and while its activities are geared towards participation in consumer capitalism, and therefore work against rather than for radical social transformation (Ibid:147).

However, Sharabi cautiously commends fundamentalism for being "the first genuine mass movement the Arab world has seen since the Kharijite movement" (1988:37) and one with *class* concerns. While he writes that fundamentalism is "essentially idealistic" (1988:ii) and tends to produce authoritarian solutions to social

problems, Sharabi affirms its revolutionary potential and seems divided over the question of whether it will assist in the dismantling of neopatriarchal structures (1988:13). He suggests that this might occur by shaking-up the radical critics in the Arab world, and shock them into rising to the threat fundamentalism poses (Ibid:147), namely to return society to patriarchy.

The radical critics are western-educated Maghribi theorists who incorporate Marxism, structuralism, feminism, deconstructionism and other tools of critical analysis into a full-fledged critique of their societies (Ibid:110). In this writing,

...known stylistic conventions are neglected or ignored. Here a modern Arabic weighted with new content and producing a genuinely critical text may be said to have begun to emerge. This new language can do what its traditional or neopatriarchal variants (classical and "newspaper" Arabic) cannot hope to accomplish: confront the Western discourse on its own terms and interact with it critically - antagonistically - on a level of cognitive parity (1988:119).

Sharabi notes that problems of cultural/linguistic translation in the new critique may challenge neopatriarchal thought, but is weakened because of the essential foreignness of western discourse, which remains the template and the terms on which debates continue.

Moving away from the language of revolution, Sharabi hypothesizes that change in the neopatriarchal system will occur incrementally, and must be accompanied by a rethinking of alternative concepts, such as of political democracy, social justice and unity (1988:150). Yet he remains hopeful; since neopatriarchal society historically replaced patriarchy, so too might it be replaced by modernity, secular democracy and libertarian socialism (1988:155).

Sharabi's concept of neopatriarchy is helpful in that it incorporates gender

relations into its understanding of contemporary nation-states, both of which are changing dramatically with the process of modernization. Sharabi's linkage of these systems to traditions in epistemology, language and education are also insightful in pointing towards ways the state can reproduce gendered hegemony in Arab nations.

However, because of the degree to which Sharabi sees neopatriarchal thought as permeating Muslim societies, his optimistic conclusion is somewhat surprising. Fatima Mernissi, who has also written about the crisis in the Arab world, concludes her book on Islam and democracy on a similarly optimistic note, writing that now that everyone in the Muslim world wants change, both the progressive and conservative people, men and women, and now that the rings of fear traditionally holding them back from radical change have been shattered, "the Arab world is about to take off" (1994:160).

Bruce Lawrence finds this utopian vision unconvincing (1994:43), primarily because it fails to take into account the re-institution of gender hierarchy as central to the fundamentalist programme. Criticising Sharabi, Valentine Moghadam (1992) and Syrian theorist Sadiq al-Azm for predicting that fundamentalists will be the catalysts, almost despite themselves, of this "non-Islamic" secular democratic society, Lawrence disagrees that

...gender will prove to be the last redoubt of patriarchy, that instead of marking the success of patriarchal norms veiling and seclusion signal their near term dissolution, that the very accent on women's roles is a prelude to their likely reversal and the consequent overthrow of patriarchy (Ibid).

Lawrence suggests that the new "global fundamentalism" inaugurated by the Iranian revolution, will push politicized religion into new directions, as yet unknown⁴.

THE WOMEN'S MOVEMENT IN MUSLIM CONTEXTS

The earlier sections of this chapter indicate that women in Muslim communities and countries need to de-mystify both the spatial metaphors and the periodizations of history defining their experiences, or they will continue to be buffeted by the stale winds of Orientalism and Occidentalism alike. How do Muslim feminists position themselves in relation to these diverse social theories and political practices? But how do these discourses affect their current work for greater autonomy? Algerian writer Marnia Lazreg presents the dilemma,

They must shoulder a double burden, namely to work toward an epistemological break with the prevailing paradigm *and* to reevaluate the structure of gender relations in their own societies (1988:101).

Muslim women must find a way to steer between both an internal and an external discourse attempting to define their experiences and role in contemporary society.

Difficulties with the external paradigm arise because of the privileged explanatory power given to Islam in academic analyses of Muslim women. The perseverance of Orientalism through time and across disciplines has led to a cumulative bias; scholars built on earlier work without displacing the underlying assumptions (Antoun 1976:141). The result is that stereotypes arise, Leila Ahmed claims, with "tiresome regularity" (1982:526). Because of this epistemological tenacity, one can often read contemporary constructions of Muslim female subjectivity off older discourses on Islam. Classical Orientalism defined Islam as stagnant, in decline, caught according to Marx in a "historical blind alley" (Chandra 1981:38), fixed and unchanging; academic feminists portray Muslim women as completely silenced and oppressed under the

weight of archaic religious traditions preserved from seventh century Arabia (Minces 1986)(Ghoussoub 1987). Earlier Orientalist writing gave religion privileged explanatory power in studies of Muslim societies; contemporary writers analyze women through the window of the "all-encompassing, dominating reality" of Islam (Ghoussoub 1987:4).

For Muslim women, this means that meticulously historicized analyses of their situations are jettisoned in favour of dramatic re-coverages of practices associated with their backwardness, timelessness, and erotic passivity; the harem, veiling, polygamy and concubinage⁵. Work by western women differs little in this aspect from that conducted by men, resulting in a kind of "gynocentric" (Lazreg 1988:88) feminist Orientalism. Rana Kabbani (in Schick 1990:349) argues that "as a discourse of colonization old and new Orientalism *makes use of* male dominant discourse; but as male-dominant discourse *itself*, it serves to *reproduce* the skewed gender relations it exploits" (emphasis in original).

It reproduces asymmetrical gender relations by serving to undermine the experience of gender politicization and liberation projects of women working in Muslim contexts:

...the Algerian and Middle Eastern feminist project unfolds within an external frame of reference and according to equally external standards. Under these circumstances the consciousness of one's womanhood coincides with the realization that it has already been appropriated in one form or another by outsiders, women as well as men, experts in things Middle Eastern (Lazreg 1988:62).

Careful attention must be given to the context in which each feminist project, Muslim or otherwise, unfolds, in particular differences in state structure. For example Helie-

Lucas argues that the "respect for the other's culture" discourse which has arisen in multicultural contexts (such as contemporary Canada or Britain) takes place in states relatively open to debate and dissent (1994:406). Nevertheless it can also result in emphasizing culture at the expense of equality;

The traditional left caught into its white colonial guilt is so afraid to be labelled racist that they have lost all shame and are prepared to cover crimes against women in the name of respect of culture (Ibid).

Lazreg also argues that the discourse of "difference" arising in academic contexts out of the post-structuralist challenges to elitist feminism, instead of helping to alleviate burdens of subjectivity, works instead to reinforce the essentialization of difference of women in third world contexts by locking them into categories defined by religion, race/ethnicity or culture (Ibid:98). Some of the problems with the "religion paradigm" have already discussed above.

Muslim women also face a host of contradictions within their own societies exacerbated by these east/west, tradition/modernity debates. One problem that arises for academic and activist women networking with women in the west is repeatedly running up against the Occidentalism/Orientalism paradigm. Not only does Orientalist feminism condone skewed relations in Muslim countries through a highly partial discourse, weak in its internal critique (Lazreg 1988:83) and replete with stereotypes, it also provokes defensiveness in Muslim women writers⁶. Leila Ahmed claims (1982:522) that "it is impossible, in an environment already so negatively primed against us, to be freely critical - a task no less urgent for us than for Western feminists - of our own societies". Women who cannot organize freely in their own countries for fear of

reprisal from the state, may find physical safety elsewhere but not a supportive environment in which to continue their struggles. In the face of the Occidental paradigm criticizing feminism as a colonial import, women are "forced almost to choose between Betrayal and betrayal" (Ahmed 1992:122). Does a woman choose to assert her gender or her religious/national identity? Why are Muslim women so often placed in the position of having to choose?

In both Muslim majority and minority contexts, the cry "Islam in danger" has forced women to make such a choice. Branded as traitors to the core Muslim/male/family identity Indian Muslims Shah Bano and Shehnaaz Sheikh were threatened with violence if they did not cease challenging restrictive interpretations of the Personal Status Laws. In the communal strife that followed these two women's demands for maintenance, the need to uphold the sanctity of "Islam"/custom was prioritised by other members of the Muslim community over acting on established Islamic principles, namely the provisions in Islamic law for maintenance for divorced wives. As Ritu Menon writes of Bano and Sheikh "their individual gender identities were eclipsed even as they became the subjects of contending discourses - political, legal, feminist and religious" (Ibid). The individual voice can be muted in the face of the cacophony of opposing collectives.

Deciding to speak out against gender oppression in such a constrained atmosphere is a courageous move on the part of women. In an interview first published under a pseudonym, Marie-Aimee Helie-Lucas said,

That's why I wanted to talk to you - it took me ten years to decide that I would do it, because I also was nationalist enough to think that I should not

speaking outside. But I cannot speak *inside*, so what is the effect of my good will on what happens to Algerian women? (1987:11).

Referring to sectors of western society who use the Orientalist discourse to their own political advantage, Helie-Lucas added in a later postscript, "I will certainly admit that Western right-wing forces may, and will use our protests, especially if they remain isolated. But it is as true to say that our own rightist forces exploit our silence" (Ibid).

As the WLUML case studies in Chapter Three make clear, many women are silent in the face of mental, physical and sexual abuse by both their families and by branches of the Pakistan state, an understandable tendency which nevertheless serves to strengthen regimes like that of Zia ul-Haqq and to reinforce widespread social norms condoning the oppression of women.

Rarely has support for women been found in the political leadership of current nation-states. For instance, in newly post-colonial states, women have found that "dependency theory" discourses, popular during the 1980s, can be used as an excuse by third world states to condone state/elite apathy and inaction of issues of women's rights and democracy (Saeed 1994:11). National liberation discourses have also been used by communities or countries to postpone addressing the "woman question" until other social ailments are fixed (Hatem 1993:40). As the cases of Algeria, Afghanistan and Palestine demonstrate, when women's liberation is postponed during struggles for national liberation, they are too easily set aside during the freedom struggle and jettisoned entirely afterwards.

Other women unquestionably represent a potential source of support for women challenging restrictive traditions. As have their counterparts in other areas of

the world, South Asian women have discovered that gender similarity does not automatically lead to political accord. Even in cases where women can unite over gender interests, other aspects of their identities may come into conflict. In India, where home and work environments and the common customs of *Purdah*, caste, and communalism create similarities in experiences for women irrespective of religion, the category of gender does not de facto lead to support among women. For example, Shehnaaz Sheik describes a women's meeting in Bombay held after particularly violent communal conflict in the city (Menon 1994). While able to politically unite over the issue of violence against women, when brought into a room together during the heat of conflict several Hindu and Muslim women found it difficult to trust one another; their communal identifications here took precedence over those of gender.

What should Muslim women do in the face of these intense obstacles, both internal and external? Many women have tried to answer this question by either rejecting or reaffirming Islam. Some academics and activists decide to deny any positive link between Islam and women. They articulate the feminist project only in terms of the wider struggle for democracy and human rights. These women are likely to be applauded by observers in the west for challenging victimization, for relinquishing what has been seen as political quiescence and for their bold (if bourgeois) action. They may also have difficulty networking with women for whom the Islamic paradigm is the primary - or only - frame of reference.

Other activists strive to affirm Islam's compatibility with women's emancipation, undertaking what Valentine Moghadam calls "dignity research" (1994b:7).

These women pursue the celebratory strategies of researching the lives of women in Muslim history and working with reformist clerics interpreting the Qur'an and/or the *Shari'a* and thereby positioning themselves well to defend the libratory aspects of Islam against what has been the exclusively male "political mosque" (Lazreg 1988:221). This approach might strengthen Muslim feminists' ability to communicate their ideas in culturally appropriate ways to a greater number of Muslim women, and to women from diverse socio-economic backgrounds. They do, however, run the risk of constraining feminist work to only the area of personal relations, the terrain on which men like Maududi are most comfortable and confident and therefore condoning the centrality of religion to questions of gender. The Lahore branch of WAF, for instance, was accused of "mullahism" for offering lessons in Arabic (Shaheed 1986:41). As Fauzia Gardezi cautions, the strategy of working within Islam because it is culturally appropriate might jettison the essential thrust of the feminist project;

This argument is also tantamount to saying that one cannot pursue women's rights *on their own merit* because the culture does not permit it. This subordinates women's rights and the women's movement to cultural factors and weakens them. And, while this argument only suggests that those who do not work within Islam will be *perceived as alien*, one does not want to lend any credence to the often expressed view that they, in fact, are alien (emphasis in original 1990:20).

Both strategies have their pitfalls, and the fear of offending people (which, considering the diversity of groups involved in these debates, is almost guaranteed) could easily lead women in either group to inaction.

One strategy from which both groups could undeniably benefit is that of producing rigorously historicized analyses of their diverse situations, as Hatem asserts,

analyses that move beyond using as data either religious texts and legislation or ethnocentric writing on Muslim women (1986:811). In the last two decades women have filled the historical vacuum with studies that take into account the class dynamics, state policies and gender/authenticity debates occurring in Muslim societies, in Iran (Yaganeh 1993)(Najmabadi), Egypt (Shukrallah), Palestine (Abdo 1991), India (Chhachhi 1991), Bangladesh (Kabeer 1991), Turkey (Kandiyoti 1987), and Pakistan (Jalal 1995; Mumtaz 1991), to name a few. Studies such as these locate the nexus between socioeconomic and political contexts, between religion and social change in order to arrive at a more complex understanding of Islam's relationship to all of these forces.

As Lazreg writes

The point is neither to dismiss the role that Islam plays in women's and men's lives, nor to inflate it. More importantly, it is to study the historical conditions under which religion *becomes significant* in the production and reproduction of gender difference and inequality (emphasis in original, 1990:14).

When does religion become significant in Pakistan? A study of student politics in Pakistan conducted in 1979 after a six-month university shut-down (Chaudry and McDonough 1982:36) throws a spanner into this epistemological works, because the authors concluded,

it is crucial to understand that religious doctrine has little to do directly with shaping the opinions of the university students - and perhaps, by extension, of many of the Pakistani elites - on specific political, social and moral issues.

Chaudry and McDonough's study indicated that rather than "expressed religiosity" and/or religious doctrine, the greatest divides in student outlooks stemmed first, from rural/urban differences, second from different attitudes towards authoritarian rule (and concomitantly to the role of the military and the democratic process in Pakistan), and

third, on social hierarchy versus social mobility. The moral/sexual axis in the study, relating to issues of women's status and role in society, was found to have little to do with either attitudes towards religion (Ibid:19), or with perceptions of authoritarian rule; "tension among students is less between the religious and the secular, in any strict way, than between the local and the outward-looking" (Ibid:34).

What are the implications of the above discussion for organizations like **Women Living Under Muslim Laws**? The conflation and contradictions plaguing all three of the discourses explored above, the fundamentalism of the *Jama'at*, the social theory of academics Gellner and Sharabi, and the international feminisms, can lead to setting aside women's rights when cultural issues are brought into play, particularly those influencing personal status legislation. It also puts into question the usefulness of international standards of equality for protecting women's rights in Muslim contexts, an issue I explore in Chapter Four, while affirming (due to the local/outward-looking correlate) the effectivity of geo-political orientations.

WLUML may decide that in order to be an effective vehicle for voicing Muslim women's concerns, it will work through some of these issues, perhaps without making concessions to those with competing discourses and demands. This is particularly important in light of the micro effects of these discourses; as Chapter Three explores, confusion over the domains of culture, religion and legal rights permits a violent oppression of individual women. A major strength of its approach, then, is that the Network "allows women from Muslim contexts to speak out freely in the secure space

of the Muslim *ummah* without interference from outsiders" (Helie-Lucas 1994:400). I hope WLUML continues to deconstruct the concepts of women, Islam and modernity, while exposing the relationships of these constructs to their political and economic manifestations. I think one strategy might be to de-link tradition and history by presenting modernity and tradition as interconnected and potentially compatible, to be selected or rejected during the constantly shifting process of social cultural transition.

Within the category of Islam, I think WLUML might find itself repeatedly addressing questions of morality, ethics, and the role of religion in people's lives, particularly if it advocates the separation of religion and state/national politics. Muslim women who find neither the moral programme inherent in the *Jama'at*'s Islam or the secular democracy of Gellner with its complete - and lamented - absence of morality altogether, might welcome an opportunity to affirm an Islam that can handle dissent, difference, and democracy.

END NOTES

1. Jameelah writes, "Western dress has "fashion" and "style" but no beauty..Contrast this with the unsurpassed grace, dignity and sobriety of the traditional Arab dress...as well as the beauty of the various costumes worn by Muslim men and women in Pakistan" (1983:80).
2. Caren Kaplan (1994:81) uses the term "female consciousness" to refer to women's awareness of their rights within the prevailing division of labour and dominant ideology, an awareness which can lead to a sense of solidarity "revolving around women's shared domain, tasks and status". Kaplan contrasts female consciousness with "feminist consciousness", the latter involving an awareness of and challenge to women's subordinate position within that system (Ibid). Although Islamist women might be seen as acting out of female consciousness because they advocate change in accordance with an Islamic system, their commitment to change within that system indicates aspects of feminist consciousness. In any case I find the discourse on consciousness somewhat problematic in the first place and view Valentine Moghadam's discussion of Islamist women as marking a departure from this polar conception (1993).
3. Gellner supplants the term "Enlightenment Secular Fundamentalism" with a host of apparently synonymous labels, namely "constitutional religion", "secular rationalism" and occasionally, the simple "natural science". Similarly, in his coverage of "religious fundamentalism" Gellner shuffles at whim the vastly different terms "Islam", "Reformist Islam" and "fanatical faith". As diversity within religion does not appear to be Gellner's interest, in my coverage I use the term "Islam" to cover all four.
4. Bruce Lawrence undertakes an interesting analysis of recent investigation into the functional affinity of religious fundamentalism and postmodernism (1994). Drawing from the work of postmodern thinkers Frederick Jameson and Stanley Fish, Lawrence exposes some new terrain in what for lack of a better term might be called the field of religious studies.
5. Irvin Cemil Shick's review article of critiques of neo/Orientalism (1990) clearly demonstrates that while the medium of Orientalist studies changes (colonial postcards, photographic portraiture, contemporary literature), the process of pleasing/empowering the consumer remains constant.
6. The issue of Muslim scholastic apologetics is discussed at length by Marnia Lazreg (1994,1988) and is taken up in the exchange between Mai Ghoussoub (1987, 1988) and Reza Hammami and Martina Rieker (1988) in which the work of Fatima Mernissi and Leila Ahmed is discussed. Central to many of these debates is dissent over interpreting the role the *Sunnah*, the pre-Islamic era and prominent historical Muslim women in affirmations/denigrations of women's status in Islam.

CHAPTER THREE

ISLAM IS LEGISLATION? WLUML CRITIQUES PAKISTAN'S PERSONAL STATUS LAWS

"Rent-A-Mullah Service" is a cartoon heading on the cover of one WLUML Newsheet (3/94). Beneath this heading is a doodling of a bearded Muslim cleric, waiting behind a desk for customers to arrive. What's on offer? "Criticism, invectives, *fatwas*, slander - at lowest rates". On the following page of the Newsheet is an article about Bangladesh writer Taslima Nazreen, who is facing a fundamentalist death threat for writing about sexual abuse, family violence and communalism in South Asia.

This contrast of humour and frank discussion of violence is fairly characteristic of the **Women Living Under Muslim Laws** critique, addressed in this chapter. Spanning the immense topical terrain of internationalism, nationalism, economics, religion and culture, the Network uses legislation as its entry-point into analysis of life under Muslim laws. WLUML addresses all women "whose lives are shaped, conditioned or governed by laws, both written and unwritten, drawn from interpretations of the Koran tied up with local traditions" (see Appendix 1-1). This compact mandate statement suggests that legislation alone cannot be used to explain women's experiences under Muslim laws.

WLUML publications indicate that women's rights and status in Muslim nations - indeed in all nations - must be understood in relation to a legal-social spectrum,

ranging from the legal "texts" defining rights, the justifications provided for those texts (in this case in Islam or custom), and, finally, the individuals and groups who claim exclusive access to, understanding and use of such texts. In this chapter I explore WLUML Newsheets in order to understand cases of rape honour killings and divorce in Pakistan, both in relation to the country's personal and penal laws, juridical system and social customs, and as part of WLUML's wider transnational feminist project.

The WLUML Network was created to provide information and assistance to women wading through this legislative maze, because as one publication states:

Women living under Muslim laws invariably lack information regarding their official, legal rights, both in terms of Muslim personal laws and/or civil codes. They remain ignorant about the differences that may exist between customary laws applied to them and Muslim laws. They also have no access to information that might enable them to challenge the validity of either type of law. Furthermore this situation is reinforced by a deliberate policy of misinformation. Given the existing monopoly and control over matters relating to Islam, interacting with other women living under Muslim laws is in itself already a means for raising consciousness (D 9/10:3).

The Network presents itself as a collective challenge by Muslim women to those who control Islam to women's detriment. WLUML is explicitly anti-fundamentalist, condemning "the political use of religion, ethnicity or culture to foster intolerance and fanaticism" (N 2/95:1).

WLUML is also openly feminist; it seeks to affirm and ensure Muslim women's autonomy, broadly defined to include legal, political, economic, social and sexual concerns, all of which are brought to bear in individual cases of rape, honour killings and divorce. By breaking with traditions inhibiting discussion and deconstruction of the "private", and by addressing the private in constant reference to the "public",

WLUMML effectively presents issues usually relegated to the margins as integral to the lives of all members of society. This shake-up of domains makes clear that these so-called "women's issues" do not involve only women and cannot be understood or addressed in isolation.

A brief overview of the range of publications produced by WLUMML reveals the heterogeneity of its critique (see Appendix 1-2). The largest publications produced by the Network are **Dossiers**, distributed every two to three years. Designed as an open forum and not directly presenting WLUMML's political stance, the Dossiers are designed to reflect the "broadest strands of opinion" on issues within the confines of its stance/mandate. This editorial choice may stem from an elsewhere expressed commitment to enable women to "find ways to deal constructively with differences - of face, religion, ethnicity, class, power resources; both within countries and among countries" (N 2/95:2). While Dossiers tend to focus on particular themes and tend to contain greater amounts of information on South Asia, they consistently address the goings-on in Muslim nations throughout the world and devote usually a third of print space to advertisements for conferences and resource centres, both local and international, and lists of recent relevant publications.

WLUMML **Newsheets** are produced on an occasional basis in Urdu and English by the Asia Coordination Bureau of WLUMML through the Pakistani non-government organization, Shirkat Gah. More compact than the Dossiers, the Newsheets provide a more international - and I find more pithy - critique of life under Muslim laws; using to a greater degree the diverse media of news clippings, articles, cartoons, photography,

poetry and art, the Newsheets provide at-a-glance coverage (articles usually do not exceed two to three pages in length) of events.

Both the Dossiers and the Newsheets address a multitude of social issues, such as international terrorism, war and refugee problems; the growing militarism and militancy of fundamentalist groups; international debates on human rights; racism, sexism, homophobia and fundamentalism among South Asians in the U.K.; incidents (international/Pakistan) of discrimination, intolerance and violence where freedoms of expression and/or belief are violated; women in the political process; issues of child labour, exploitation, education, and experience; concerns raised by international conferences, aid relations and networks; continuing Islamization of laws in Pakistan; and, consistently, media representations of women¹ and the legal texts/processes informing all of these issues.

The network also produces a **Working Paper Series** (bibliographies), a **Documentation Series on Women and the Law**, various **Information Kits** (e.g. "Women in the Qur'an"), **Collections** (on feminist theology, press clippings from the Gulf War), **Special Bulletins** (on fundamentalism and secularism, women in politics, and domestic violence), and a **Database** offering information on women and law, organized by nation. The WLUML coverage of rape, honour killings and divorce, explored below, must be understood in relation to this broader critique.

As mentioned above, WLUML coverage of these three issues is case-focused; the window through which legal/social issues are viewed is individual experience, how legislation and social convention play themselves out in specific circumstances. The

Network's usual style of presentation involves an outline of the existing legislation and legal/criminal process relevant to the cases simultaneously with documentation of their flawed design and application.

TURNING A BLIND EYE TO KARO KARI KILLINGS

Karo kari, or "honour killing" involves the fatal punishment, usually by *kulhari* (axe) of people involved in illicit relationships. Although this ritual murder in theory applies to both men and women, WLUMML stresses that it is overwhelmingly applied to women only, for their actual *or perceived* involvement with men not their husbands.

According to the Pakistan Penal Code, these crimes should be dealt with as murder under the Constitution, for which the sentence is capital punishment² (N 3/94:15). In a Special Bulletin (1995) WLUMML indicates that in court *karo kari* cases are most often tried under Penal and Criminal Law Code Section 304(1)³ the "grave and sudden provocation" exemption to Section 300 of the Constitution dealing with murder, which effectively reduces the crime from murder to manslaughter.

This provocation clause is the first of a series of legal oddities and discrepancies the Network discusses which enable the perpetrators and arbitrators of crimes against women to avoid giving women just treatment under and outside the law. It is also an example of how penal and private laws overlap; for men the provocation clause is applicable to women linked to him through the personal, familial sphere. Yasmeen Hasan writes that murders of all women related to a man by blood or marriage (therefore all male members of a woman's immediate, extended and marital family) can

be tried under this clause (SB 1995:23).

Hasan also notes that the interpretation of "provocation" by the courts has been increasingly more broad, enabling a greater number of men to avoid maximum punishment (SB 1995:23); one judge notes

In Pakistan, the meeting or casual talk by a woman with a stranger in suspicious circumstances is looked upon by the relations of woman..with great disapproval and resentment. Any sexual indiscretion by her actually seen by a male relative or admitted by her before him may cause him grave and sudden provocation.

As WLUML demonstrates, in court "provocation" and "suddenness" are used loosely to render these clauses applicable to a great range of cases, including ones where an element of personal revenge (and therefore premeditation) is evident (SB 1995:24), and where the social background of the appellant (Pathan, Brohi) is used to explain a loss of control.

In the Newsheets another route out from murder charges reported by WLUML (N 3/94:15) is provided by the amendment to the Pakistan Penal Code by General Zia's *Qisas and Diyat Ordinance* Section 306(c) referring to deaths of the accused's direct descendants.

A closer look at the WLUML article, "Karo Kari: Ritual Killings in the Name of Honour" (see Appendix 1-4) reveals how honour crimes occur and are addressed in Pakistan. This article, written by Nafisa Shah, supports the commonly held idea in Pakistan that honour killings occur with greatest frequency in Sindh, Baluchistan and the lower Punjab (SB 1995:22) as expressions of tribal and feudal conflict; the two case studies with which the article opens occurred in villages located within or just outside the tribal district of Larkana.

These case studies also reinforce the claim that most *karo kari* accusations are made against innocent people. In the first incident a nine-month pregnant woman was axed to death by her husband's uncles after they accused her of being a *kari*. The husband, who "helplessly watched his wife being butchered" was then forced by the uncles to admit to the crime and serve time for murder. The *karo* in this crime was a man from a neighbouring village and friend of the husband; he paid two hundred thousand rupees in order to avoid being killed also. In the second *karo kari* case, the accusation was directed by a young man towards his ten year old sister and a fourteen year old boy from a nearby tribe, for what seems to have been an innocuous incident. However the accused were killed separately several days after the accusation was made.

Not officially sanctioned by Islamic doctrine, *karo kari* crimes are examples of how the male/family/honour discourse discussed in the previous chapters is used to condone extreme violence against women. Organizations such as the *Jama'at* have used Islam to uphold patriarchal structures by subsuming cultural practices such as *Purdah* under Islam. Predicated upon the notion that the protection of women's chastity is the direct responsibility of her male kin, *Purdah* is taken to mean control or ownership of women and therefore used to justify honour killings of female family members. The Islamization programme, particularly the media campaign on women/obscenity, strengthened these justifications. One WLUML article stated that the language used in Baluchistan to describe rape is "*uss ki izzat lut gai*" or "her honour has been stolen", which translates socially into her *husband's* or *father's* honour has been soiled (N 1/92:5). Similarly, in this article, Nafisa Shah quotes one Baloch farmer as saying "we

cannot bear people saying anything about our women" and another "it is an affront that leaves a man with no option but to do away with the one who has dishonoured him - his wife".

Shah's article also makes abundantly clear how the "women as property" discourse mentioned elsewhere by WLUML (SB 1995) works against not only women's claims to autonomy but to life itself. This discourse reduces women to sexual currency; exchanged in place of blood money in tribal disputes, women are said to "cool the man to whom injustice has been done". Shah writes that the *taux d'échange* at the time of publication was two girls under seven or one over seven for a person murdered from the opposing tribe. Once soiled, women are disposed of, in effect, thrown out; Shah writes that once killed, no burial or mourning period is conducted for *karis* and their bodies are dumped in local rivers and cattle ponds.

Corruption coupled with a disregard for women seems to affect the prosecution of *karo kari* crimes at all levels of the system. On the one hand bribery is rampant; Shah claims that the Jacobabad district has been called a "gold mine", since it brings in bribes for an average of sixty *karo kari* cases each month. The decision-making process for cases that make it to court is influenced by anti-women sentiments as well. Elsewhere WLUML reported on the case "Mohammad Yonnis Versus the State", wherein the judiciary refused to believe that a man would kill a woman and mother of two children without undue provocation (SB 1995:25), thereby making the murderer eligible for the more lenient legislation.

To challenge *Karo Kari* crimes on purely Islamic grounds, or alternatively as a

legal rights issue, would be to ignore the diverse dynamics behind them. In fact, no single entry-point is possible; somehow women must develop a counter strategy that de-links yet simultaneously challenges the scattered hegemonies converging into *karo kari* murders.

WLUML AND THE ISSUE OF RAPE IN PAKISTAN

WLUML devotes significant publication space to the issue of rape; the network has produced a Special Bulletin focusing largely on crimes of sexual violation, and every Newsheet contains at least one article dealing with rape both internationally and within Pakistan. Taken as a whole, WLUML seems to define rape as any unwilling sexual intercourse; rape articles variously discuss marital rape, incest, forced marriage⁴ and custodial sexual assault. The sex trade is also understood to be rape because women are forced by socio-economic situations to sell their bodies (N 1/92:6). Although marital rape in Pakistan, as in many countries, is not defined as a crime by the law, WLUML interviews with women in shelters revealed that they recognize marital rape as a form of sexual violation, although they included sexual abuse by husbands under the less explicit term "beating" (SB 1995:31).

The *Zina Ordinance* of the *Hudood Ordinances*, promulgated in 1979 as part of Zia's Islamization programme, is the legislation applied in Pakistan to cases of sexual violation. As discussed in Chapter One, the *Zina Ordinance* places the onus on the victim to prove innocence, while the type of evidence considered relevant (medical exam, statement of victim) works in most cases against her favour. As does the current

bail policy; usually bail for *zina* cases is set for twenty to thirty thousand rupees, way beyond the means of most Pakistanis, particularly women whose access to funds is curtailed when the complainants for their cases are their fathers or husbands (D 9/10:36).

Because the *Zina/bil-jabr* or *zinance* refers to all sex conducted outside marriage, WLUMML cites widows, unmarried girls including minors, and wives whose husbands are away (as is common with Gulf employment) as the most vulnerable to *Zina* accusations (D 9/10:33). However, married couples have also found themselves accused of *Zina*, and like the *karo kari* accusations, often for illicit acts with individuals they have never met (Ibid:34).

The *Qazf* (slander) *Ordinance* of 1979 is legislation supposedly designed to punish persons making false *Zina/bil jabr* accusations (Ibid). According to WLUMML the statute is vague and rarely used - and again, only two adult male (Muslim) witnesses, a confession by the accused, or an accusation before a court are considered proper evidence. In addition, the question of whether spouses could file against each other for *Qazf* has been debated in the Shar'ia Court, and rejected (D 3:30); women cannot complain of *Qazf* on allegations made in court, during *L'aan* divorce proceedings. Husbands can therefore accuse their wives of *Zina* without reason, without incurring punishment, and without jeopardizing their request for divorce.

The tendency to blame the female victim in rape cases is not unique to Pakistan⁵. What distinguishes Pakistani cases from others covered by the Network is the extent to which widespread anti-women sentiments seem to be upheld by the

judiciary and members of the penal system. The use of social stigma or shame as a method of social control of women affects the arbitration process of rape cases in Pakistan at every level. Zia's Islamization programme reinforced this tendency not only by depicting women as immoral, but through the Law of Evidence, by openly stating that women are not full persons but half persons (since two women's testimony equals that of a man), and therefore not entitled to full consideration under the law.

As another manifestation of the male/family/honour concern, social taboos against discussing sexuality and sexual violence (particularly in reference to women) in public prevents many rape cases from being discussed at all. In a country where public admission to sexual violation usually amounts to social suicide, highly publicized rape cases such as those of Khursheed Begum and Veena Hayat (N 1/92:1-3) are devastating; Begum found herself completely ostracised by her community while Hayat was too traumatised to leave her home to face the criticism outside. WLUML repeatedly voices support for the courage such women display by launching protests; when speaking about sex under normal circumstances is found difficult (SB 1995:31) complaining in public of violation for many women is simply impossible. Women's political quiescence on the issue of rape is therefore quite understandable, and further so because of the apathetic responses of Pakistani society to rape cases, as was the case with Aaisa Ayub. Aaisa Ayub's story reveals how "Islamic" morality and general anti-women sentiments can combine with penal system corruption to condone violence against women and the violation of many federal laws.

Sameena Nasir begins her article "Custodial Rape: The Case of Aasia Ayub" (see

Appendix 1-5) with the statement "even in cases where women have reported rape in police custody, the result has only added to their frustration". Struggling to make a living in a smaller Pakistan city (Mohammad is reportedly a technician with the Pakistan army), the Ayubs were hauled into a Rawalpindi police station on what appears to have been false charges of theft. After an ordeal of rape and torture by the police, Aaisa suffered severe long-term mental and emotional strain. At every level of arbitration Aaisa and Mohammad Ayubs' complaints of police violence and waiving of process were treated with disinterest.

Advocate Nahid Mahboob Elahi demanded that six Rawalpindi police officers be charged under the *Zina, Enforcement of Hudood Ordinance* and accused with confining a person illegally in order to extort confession. The officers were also guilty of violating federal laws prohibiting police to detain or question women in police stations at night and laws requiring that for all cases brought to police a First Information Report (FIR) must be filed, a form which initiates a formal police inquiry.

As with the *karo kari* cases discussed above, the Ayub custodial rape case revealed the inadequacy of the criminal procedure to address women's concerns. The SHO (head officer) accused by the Ayubs, Chaudhry Iftik'har or "Tiger", was reportedly arrested nine days after their official complaint, held for two days and released without bail. The police department offered no formal apology, delayed internal investigations of the incident and supposedly indicated to the press that removing a woman's *shalwar* was normal police procedure! Aaisa's traumatised state was also used by local authorities to discredit her testimony; Nazir quotes one

policeman as saying, "Mussamat Aaisa Ayub has made up a concocted story that she was tortured. So she refused to be medically examined by the two male doctors on duty. It proves she was not touched". On the following page Nazir includes an infuriating cartoon depicting two well-fed police officers, clutching their belt buckles, sporting self-satisfied grins and giving one another a "high five" salute.

Aaisa Ayub's case does not seem to be unique in Pakistan. Khursheed Begum (above) had also accused a Sindh "*teen phool wala*" or inspector of police of the crime, and found neither the police nor Sindhi politicians interested in resolving it. What makes Aaisa's story atypical is that she is a middle aged woman (she has an eighteen year old daughter). In the majority of rape cases covered by WLUML the relative youth of the complainants is frequently mentioned; articles speak of rapes of teenagers (N 2/92:13), school girls, and girls as young as seven (N 1/95:14).

Aaisa is also atypical in that her husband appears to support her decision to go public with her accusations. While this decision may have been made easier for the couple by the fact that Mohammad himself did not commit the rape, it nonetheless exposes the Ayubs to the sting of social criticism. In an oppressive overlap between what Yasmeen calls the "woman as sexual being" and the "Woman as male/family honour" discourses, women who have been raped are often held responsible for the sexual actions of men (they must adhere to the "checks and balances" of the *chadar aur charwari* or suffer the consequences) and placed as the appropriate terrain on which male honour struggles are played out (SB 1995:31). Because this ideology applies to a woman's husband, as well as to outsiders, women suffering sexual abuse by husbands

or members of her marital family rarely find support from their own families:

Marrying a woman off involves a significant financial commitment which makes her relatives committed to making sure that she remains with her husband. Furthermore, a woman's leaving her husband's house or exposing what is seen as a private matter between husband and wife is seen as a source of shame to her family..A common social response to a woman who leaves her husband's home is that she is a bad, incapable or dangerous woman and that other women related to her must have the same qualities (SB 1995:47/48).

Women may fear public knowledge of their violation for reasons other than familial shame; police often incarcerate the family members of women accused of (being) rape(d). In Aaisa Ayub's case police threatened to confiscate her daughter if Aaisa did not confess to the theft.

Until rape - including marital rape - is made a *recognized* as well as a punishable crime, judges will continue to treat rape victims as the guilty parties. Women need to challenge common social attitudes condoning male/family and state violence against women, as well as repealing *Zina* and other oppressive legislation.

TALAQ, TALAQ, TALAQ

The issue of divorce is a contentious one throughout South Asia, both within the Muslim community and among various religious groups. The controversy arises, I think, over the implied question of whether women have the right to financial and personal autonomy.

Through the Muslim Family Law Ordinance (MFLO) of 1961, Pakistani men have the unconditional right to divorce by repudiation (SB 1995:59), although *ulema* are divided over the validity of this form of divorce conducted in one sitting,

colloquially known as "the triple *talaq*".

Recently the Lahore High Court has affirmed that women have the right under Islamic law to divorce through *khula* (N 4/94:18), namely divorcing their husbands if it is "impossible for them to live as husband and wife within the limits prescribed by God" - which Yasmeen Hasan notes grants the court the right to decide whether a domestic situation is tolerable for women (Ibid). *Khula* divorce may also be conducted in court through mutual accusation and consent, although controversy has arisen over the use of *Qazf* (slander) to detain or imprison in instances where the husband refuses to take oath giving consent (discussed above) and over instances where husbands force women wishing to leave to remain in the marriage (D 9/10:34); in all cases of divorce by *khula* the woman is required to return all property and gifts given her by her husband's family (N 4/94:18).

According to WLUML, while these laws stipulate marriage and divorce proceedings for Pakistan, their unclarity and overlap with other spheres of law creates great confusion, and often means women's rights granted under one system of law are refused in favour of others denying those rights. This is certainly the case in the divorce cases related in the WLUML article "The Triple Talaq - Unjust, Untenable, Un-Islamic" (see Appendix 1-6).

In a controversial judgement by Justice Tilhari in India's Allahabad High Court, Islamic laws enabling women to inherit property were upheld against the civil Uttar Pradesh Land Ceiling Act denying that right. The WLUML article on Tilhari asserts that the verdict "deflects our attention away from Acts like the UP Land Ceiling Act

which can be anti-women and from the observation that Constitutional Law can overrule and thus undermine personal and tribal law and by doing so actually erode the very gender equality it is supposed to uphold" (Ibid); the case focused on a land dispute rather than "what surely is a contested and controversial form of divorce among Muslims in India".

While the article concerns Indian Muslim Personal Laws, it raises several issues of concern to Pakistani women. The first is this vague overlap of one form of law with another. In a WLUML article entitled "4,000 Women Divorced in City Last Year" Ashfaq Ahmed claims that demands for divorces have risen in the post-Zia era but the arbitration councils (made mandatory in divorce proceedings by the MFLO) cannot handle the inflated number and so do not process them (N 1/94:11). Another article estimates that thousands of cases are frozen mid-process because these courts have failed to pursue either reconciliation or separation of spouses within the ninety days required by Islamic law (N 1/93:16).

Confusion in Pakistan regarding laws governing marriage and divorce also seems to account for the ineffectiveness of the arbitration councils. The confusion arises in part from *ulema* refusal to recognize the 1961 MFLO as suitably Islamic, and therefore to act according to its stipulations (N 1/94:11). This negatively affects not only those people wishing to divorce, but also those requesting reconciliation:

Due to the clergy's rigid interpretation of the act of *talaq* many men and women are facing difficulties. They want to reconcile but the "Mullahs laws" do not permit them to do so. And if, following the Muslim Family Law, they somehow succeed in reconciling, the Mullahs regard their otherwise legitimate relationship as *haram* (sinful) (Ibid).

PM-1 3½"x4" PHOTOGRAPHIC MICROCOPY TARGET
NBS 1010a ANSI/ISO #2 EQUIVALENT

PRECISIONSM RESOLUTION TARGETS

The above section on rape discussed the weight of social pressure brought to bear on individuals (particularly women) when their behaviour is publicly called into question. Caught between *ulema* opinion and the codified Personal Laws, women enmeshed in divorce proceedings seem to have to choose between shame and shame; they remain vulnerable to accusations of immorality (and therefore of *Zina*) no matter which option they select.

The WLUMML article on "triple talaq" claims that this form of divorce has been declared *talaqul bidaat* (or heretical divorce) and banned in Iran, Iraq, Turkey, Saudi Arabia, Kuwait and Egypt, but continues to be a subject of debate in Bangladesh, India and Pakistan. Members of these nations likely read about court decisions in neighbouring countries with avid curiosity. Women in all three nations may use Tilhari's ruling to protest their husbands' use of *talaq*; a sketch printed below the WLUMML article depicts a man pronouncing the triple *talaq* to his wife, who in turn whips out a newspaper from behind her back discussing the Allahabad ruling and smilingly replies "Tilhari, Tilhari, Tilhari!"

The importance of making sure that women are aware of their legal and/or religious rights in matters of divorce is underscored by the fact that while divorce proceedings are technically the purview of Muslim Personal Laws, women often find themselves needing to address the Penal Laws, particularly those of *Zina*, whenever the validity of the marriage or the divorce is brought into question. For example, many WLUMML news items refer to cases of forced marriage, love marriage/elopement, or divorce where women have been charged with *Zina*. As Islamic law requires women

to leave their home when filing for divorce to wait out the ninety-days decision period, if they reside in a house with a male that is not a blood relative risk accusations of *Zina* (D 9/10:36). Even women following the required process may later be accused of *zina*, such as women entering a second marriage who discover (usually only once accused - and married) their divorces were not registered with the local council by their husbands, rendering both the divorces and the new marriages invalid (D 9/10:36).

All of these divorce cases seem to hinge on the vexed issue of women's autonomy. At what point in their lives can women make their own decisions regarding their marital status? The disagreements over this issue are reflected in Pakistan's dual systems of law; while the Constitution sets down minimum age of marriage for men and women and supports the right of both to select marriage partners, jurists of Islamic law tend to uphold the parental/guardian right to consent for children's marriage and the unilateral right of the husband to divorce.

The article on the Tilhari decision suggests that women in India opposing the triple *talaq* are asserting their demands for personal autonomy on several fronts; they challenge Islamic justifications, for example, through use of Islamic language; at a press conference in Delhi women reportedly declared *jihad* against triple *talaq*. Muslim women have begun to apply pressure to groups of Muslim jurists making decisions on personal laws to decide in women's favour. They have also called attention to the anti-woman stance of the Indian state, despite its rhetoric and legislation on equality. In most of the WLUML cases I read rulings by judges in favour of women's concerns were made in appeals, were decided in higher courts, and were put forth when the

advocates for the women were women as well.

Writing about sexual, emotional and physical violence against women in Pakistan, Samina Yasreen at one point writes that Pakistan is "a society that has enacted progressive legislation that does not sanction honour killings but enforces/uses this legislation in a way that reflects social approval for these practices" (SB 1995:25). The same might be said of rape and divorce crimes as well, and not just of Pakistan. While marking legislation as progressive, or for that matter regressive, remains a subjective decision, there can be no doubt that a legal system that works to condone the murder of women, that convicts women prior to trial, and that turns a blind eye to violations of women within its confines, is ill suited to serve a constitution that affirms the equality of all citizens.

While human beings may strive to codify religious and humanitarian ideals in legislation, the legal systems they create more often reflect pragmatic concerns and vested interests. This is best kept in mind when reading case studies of *karo kari*, rape and divorce in Pakistan, which are justified or exonerated through supposedly "Islamic" legislation and customs.

I say "supposedly" because the Islam used in Pakistan's legal system appears to be laced with a liberal dose of patriarchy, or perhaps, patriarchal connectivity. Suad Joseph's term "patriarchal connectivity", developed to describe interactions among Arab families in Camp Trad, Lebanon, also describes well the social system at work in cases of *karo kari*, rape and divorce in Pakistan (1993:453). Patriarchy for Suad means "the

privileging of males and seniors and the mobilization of kinship structures, morality, and idioms to legitimate and institutionalize gendered and aged domination" while connectivity entails "cultural constructs and structural relations" that socializes individuals to form their identities in relation to a collective (Ibid).

It is not just individual people who are involved in these cases of violence against women, but *networks* of people linked by kin or purpose. For instance entire tribal groupings interact in *karo kari* killings; once highly publicized, Ayub's rape case caused a scramble of politicians and police officers attempting to cover their own and each other's tracks. These networks of people, which operate in tribal and rural areas and are dispersed throughout the Pakistani state structure, have been given through Islamization legal as well as social sanction for controlling the micro details of women's bodied experience. By affirming the discourse of *Purdah/izzat*, Islamization serves to both expand the state's role in the private sphere and to condone the right of men in general (and male kin in particular) to try and punish women. It seems to intensify and extend state/religious hierarchy control through

...increasingly invasive apparatuses of power. These exercise far more restrictive social and psychological control than was heretofore possible. In modern societies, effects of power 'circulate through progressively finer channels, gaining access to individuals themselves, to their bodies, their gestures and all their daily actions' (Bartky 1990:42).

Entailing the creation of structured relations of deference (women/youths) and authority (men/elders), patriarchal connectivity according to Suad also fosters tight kin units that can offer individuals the support - particularly financial - that the state cannot give.

why the victims of these three crimes are most often women, and are overwhelmingly quite young in age. It also clarifies why women have so few options when wanting to flee an abusive home situation or a murder threat; as Yasmeen asserts, often the only support to be found is in a woman's nuclear or marital extended family (SB 1995), a situation that provoked Amrita Chhachhi's observation that in South Asia there is no concept of a woman alone (1991:160)

Straddling the contested divide between the private and the public, cases of rape, honour killings and divorce by single-sitting repudiation call into question the jurisdiction and authority of men/family units vis-a-vis legislature, government, police and, of course, the women themselves - or rather, they expose a system that does *not* call into question the authority of the first.

WORKING TOWARDS AN EFFECTIVE CRITIQUE

WLUML's case-focused coverage is a style that is effective, evocative, quite often angering, and I think unique. This style of coverage is highly effective because case-driven coverage demonstrates how the complex and overdetermined experience of one individual brings to bear connected issues of community, national and international significance. Using academic articles to promote understanding of broader issues, and art, poetry and prose to express the personal/individual experiences of them, the Network's publications challenges conventional presentations of women's struggles in Muslim contexts. Printing government policies, political party manifestos, pieces of legislation and the mandates of various national and international political bodies WLUML also provides a wider background against which its protest literature may be

r ad.

The result of these editorial decisions on the part of WLUML is a moving away from essentialized conceptions of women and Islam in favour of scrutiny of the diverse political, economic and social circumstances informing Muslim women's experiences. It is neither a homogenizing nor relativistic coverage; WLUML's presentation of issues such as rape, *karo kari* and divorce by repudiation locates women's struggles in relation to a series of "scattered hegemonies" which converge differently at different times. As a non-Muslim writer working in a nation that does not have Muslim Personal Laws, I wish to raise some concerns that were raised for me by the WLUML publications. The first of these arises out of a desire to expand my knowledge of the contexts in which WLUML produces its material; I would welcome a more extensive coverage of specific instances of oppression of women, and of the diverse expressions of the hegemonies of patriarchy, militarized nation-states, capitalism and custom, by time and place.

One way to do this is for WLUML to locate its feminist praxis more clearly within the circuits of power it critiques. By charting the production and distribution of WLUML texts in relation to wider relations of exchange, an activity requiring some self-examination and accountability, the Network could provide its members with resources they find fully relevant and effective.

I think one issue the Network might address is the discrepancy between the specific cases published by WLUML and the type of cases it claims are the norm. For instance, in the coverage of rape, *karo kari* and divorce, the network does not spend

significant time analyzing the socio-economic class of the women involved. I began this thesis with the statement that Islamization differentiated between Pakistan's "haves" and "have nots". Similarly, Khawar Mumtaz and Farida Shaheed have claimed that the most *horrific* measures of Islamization were suffered by the poorest women of Pakistan, while the programme's most *widespread* effects were experienced by working women of the urban middle classes (1990:14). In WLUML's otherwise incisive critique the "have nots" experiencing the horrific measures, are not given great attention⁶.

This discrepancy may arise in part from the organizational structure of WLUML. Addressing an international readership, it brings together in its publications pieces of information supplied by various women and groups working in Muslim contexts. My guess is that lack of financial resources, the bane of so many counter-hegemonic projects, necessitates some pragmatic editorial decisions when Network publications are put together. A closer look at the coverage of Pakistan might clarify my concerns.

WLUML reproduction/use of local newspaper articles, for example, is both highly effective and somewhat misleading. Such clippings may portray a sense of urgency and realism to the reader, presented as many of them are in a "factual" journalistic prose. However WLUML does not give readers a sense of how representative these clippings are of either the realities of life in Pakistan or the style and content of various Pakistani news sources from which they are taken. Why has WLUML selected these clippings and not others? What does the Network wish to convey? South Asian dailies often contain graphic and titillating coverage of rape,

abduction and murder - why have samples of these not been provided to convey how cases of *karo kari*, rape, and divorce, for instance, are usually addressed to the public in Pakistan?

Because few cases of honour killing and rape reach the courts (divorce might be an exception), those to which the Network has access tend to be those that reach the Pakistani press. These cases appear to be the more controversial, dramatic and brought to public attention by people with some authority to speak. For instance the rape cases of Kursheed Begum and Veena Hayat, discussed above, were discussed so widely throughout Pakistan because of the social importance of the individuals involved; Veena Hayat is a member of a politically powerful Sindh family and personal friend of Benazir Bhutto, while Kursheed Begum publicly accused politicians, including the Sindh Chief Minister of engineering her attack (N 1/92:1-3).

One gets the sense that the majority of rape cases in Pakistan slide too far into mediocrity for the country's papers or government to publish. For instance, WLUML states that government statistics on reported rapes in Karachi during 1991 numbers one hundred and three rapes in four districts, while an unnamed women's organization reported twenty-one in the south district of the city during December alone. That government statistics do not reflect the reality of crime, particularly sexual crime, is perhaps a truism, however I think the Network might strengthen its critique by addressing this discrepancy and by tapping into sources less sensational and skewed than newspaper clippings.

Potential sources of alternative data are listed, advertised, and occasionally

analyzed in WLUMML publications. Other than Shirkat Gah itself, there are several research and resource centres mentioned by WLUMML, such as the Institute of Islamic Studies, Bombay (D 4/36) that are working towards an Islamic liberation theology that may challenge the conflation of Islam and family/male/honour customs and therefore be used as a tool in struggles by oppressed and marginalized sectors of the South Asian population.

Advocacy and pressure groups bringing together women working in different fields in Pakistan are also mentioned in WLUMML publications, such as the Women's Action Forum (D 3/32); War Against Rape (WAR) in Lahore (N 4/92:13), an organization that challenges both negative media images of women provoking rape and specific cases of violation; the Punjab Women's Lawyer's Association (D 9/10:16), a group that protests restrictive legislation, provides support for women lawyers, and, like the AGHS Associates provides free legal aid to women (SB 1995:51); and *Awaz-E-Niswaan* (D 4/35) an organization in Bombay that works on issues as diverse as state corruption and mismanagement, the Muslim Personal Laws, and communalism. Finally, the women's shelters *Bedari* "Awareness" (N 2/92:25) in Islamabad and *Rahat* "Happiness" (SB 1995:49) provide psychological, medical and legal assistance to women in need.

Because these organizations, shelters, advocacy groups and legal aid cells are in regular contact with a large cross-section of Pakistani society, they could provide WLUMML with case-based material and information of the concrete legal/social dilemmas that arise for women in Pakistan with some frequency without the drama of

the newspaper cases. These organizations could also provide WLUML readers from other Muslim communities with information on how particular cases arose and might be resolved.

There are likely many reasons why WLUML does not use these resources regularly in its publications, not least of which might be cost and inconvenience. Shirkat Gah and the other NGOs listed above likely operate on low budgets, which creates problems in available staff, time and resources. The Shirkat Gah project on literacy, for example, had to be set aside due to lack of finances (D 3:38).

Are these questions relevant to the WLUML project? What needs is the organization committed to fulfilling? An interesting unclarity is revealed when the 1990 WLUML mandate declaration, written by Paris coordinator Helie-Lucas and published in South Asia Bulletin (see Appendix 1-1) is compared to the Asia and Pacific issue priority list prepared for the 1995 Beijing conference on women, reproduced in a WLUML Newsheet (2/95). The second document was prepared during the 1994 NGO Regional forums and Regional Ministerial Meetings, held to integrate and clarify the political platforms of women from the same geographical region before the Beijing conference. The Asia and Pacific priority list included the following issues;

- The growing feminization of poverty
- Inequality in women's access to and participation in economic activities
- Inadequate recognition of women's roles and concepts in environment and natural-resource management
- Inequitable access to power and decision-making

- Violation of women's human rights
- Inequalities and lack of access to health
- Negative portrayal of women in the media
- Inequalities and lack of access to education and literacy
- Inadequate mechanisms for promoting the advancement of women
- Inadequate recognition of women's role in peace-building

A brief summary of the 1990 WLUML mandate reveals a relevant, although less specific agenda;

- to create links and foster communication amongst women and women's groups in Muslim countries and communities
- to provide and disseminate information to these groups
- to strengthen and support these groups in their struggles
- to facilitate interaction, exchanges and contact among these women and women's groups, and between them and other progressive groups at large

WLUML addresses all of the Forum issues in its Newsheets, particularly the "inequitable access to power and decision-making", the "violation of women's human rights" and the "negative portrayal of women in the media". The need for "adequate mechanisms for promoting the advancement of women" is covered both in Newsheets and the Special Bulletin on "Women in Politics: Participation and Representation in Pakistan" (1994). The Network tends to devote less print space to the issue of education (other than in N 4/94), and to the first three items on the list, particularly that of

work.

To what extent does the WLUML strategy address the specific issues prioritized by the Asia Pacific Forum? The relative dearth of information in WLUML publications on work/economy-related issues might seem somewhat perplexing. Its absence is notable because WLUML appears to be committed to moving past essentialized conceptions of gender to what Israeli sociologist Simona Sharoni identifies as a focus on "experience as a potential location for the production of feminist theory" (1993:10). When writing about anthropology's contribution to contemporary feminism, Janice Boddy also calls for complex and detailed accounts of women's experiences and subjectivity:

In other words, and as Bordieu (1977) suggests, selfhood is formulated in the dynamic between human agents and cultural meanings, in the interaction between an individual and her humanly constructed environment of objects, spaces, others; through practice (1991:128).

Echoing Bordieu's call for analysis of everyday life, Boddy and Sharoni emphasize the need to embed critique in the social relations it addresses. What defines the everyday for women in South Asia if not work? It would seem that in the overlapping discourses of *Purdah*, capitalism, gender ideologies, in the design of urban and rural labour geographies, and in the availability and type of work in which women are engaged, lies the roots of women's daily experiences and struggles. It is from these so-called mundane realities that women understand religion, legislation and politics, and I ask whether it is towards this level of human experience that the WLUML counter-hegemonic project might also be directed.

While recognising that the Beijing document discussed above was drafted by

women from several continents, and therefore might not be fully representative of the concerns of many women in Pakistan, this priority list raises for me some interesting questions. How does WLUML select the information it disseminates? How does the Network determine in what ways local struggles may best be strengthened? What types of communication between women and among women's groups is most conducive to promoting an understanding of the similarities and differences in women's lives? How does WLUML ensure that its agenda complements and/or helpfully contrasts diverse regional interests and priorities? Do the WLUML Newsheets published in Urdu differ from those in English? If so, in what ways?

I wonder whether WLUML's project could be more self-conscious and explicit about the factors governing its editorial decisions, placing on the table for membership debate how the Network should name agendas and select material, what language might be used in analysis, which cases of human rights violations will be addressed in the "Alert for Action" calls and how to deal effectively with problems of linguistic and cultural translation. Chandra Mohanty asserts in "Cartographies of Struggle" (1991a:2) that while "knowledge production in literary and social-scientific disciplines is clearly an important site for struggle", it is also a site of power asymmetry, particularly between the researcher and the researched. WLUML appears to view academia as a form of political intervention, using academic articles throughout its publications and because of this stance I would be interested to hear how it is choosing to address the debates on interpretation, representation, authorship and voice that writers such as Mohanty have brought to transnational feminist praxis.

WLUML does provide opportunities for the network as a whole to discuss the project. As stated, information for the Newsheets is provided by groups from various Muslim communities, as is the case with Shirkat Gah reporting for Pakistan and/or South Asia and therefore reflect local concerns. Second, WLUML has hosted several exchange programmes, bringing together women from various Muslim countries and communities, for example in Geneva and Lahore (Helie-Lucas 1994:226), at which women may voice their local concerns and discuss international strategies for resolution.

The Network's theoretical entry-point is legislation; it focuses on the diverse implications of Muslim Personal Laws in Muslim countries and communities around the world. It carefully follows and challenges the policies, actions and legal coding of various nation-states and political groups. However I think WLUML needs to guard itself against tailism, namely "allowing the direction of struggle to be determined by the state", a tendency Shahnaz Rouse has observed of the women's movement in Pakistan (1986:36). WLUML follows the various counter-hegemonic strategies of women and women's groups, those directed towards state and/or religious hierarchy actions and those directed towards wider social issues. I think it could strengthen its critique also by expanding its coverage of the latter set of counter-strategies, the specific actions taken by women to improve their lives under Muslim laws. WLUML promotes a broad understanding of legislation, one that encompasses religion, culture and political economy - why not present an equally broad understanding of what it means to struggle? If the WLUML critique explodes the tidy categories of the public and the

private, as I claimed earlier, why not do so in opposition as well? Would the following issues be of relevance to the WLUMML readership?

- cost-effective ways for women's groups to document and communicate their activities and concerns to groups working elsewhere
- dissemination of information on finance strategies, banking cooperatives, capital investment strategies which women and women's groups might pursue
- strategies women have used to reconcile the often competing demands of activism, work and domestic commitments
- ways for women's groups to overcome and use constructively differences in their membership's ethnicity, religion, socio-economic class, outlook, age and culture
- ways women can effectively challenge negative media representations of gender and sexuality
- strategies for dealing with a militarized nation-state, police and populace
- specific instances when international laws and creeds have been used effectively to oppose violations of human rights within nation-states
- ways to increase women's access to resources and information on health concerns
- celebration of women's myths, storytelling styles, narratives, ways of understanding their situations, women's various conceptual frameworks and forms of aesthetic expression

A closer look at some of these issues might reveal more clearly when religion, the actions of the state, economic forces and culture *become significant* in the lives of individual women. I included the final issue because I think women's varying interpretive positions, already explored in WLUMML publications, represent a rich resource for counter-strategizing worth tapping into. As Michael Fischer writes "the interpretation of the Qur'an, the politics of a modern state and poetics once were

separate domains handled by specialists" (1990:ii). If the modernization process is bringing these spheres into play, I am interested to hear where women in Pakistan will take them.

END NOTES

1. Most publications of the network contain articles addressing Pakistani and/or international incidents of questionable media representations of women. For instance, WLUML has provided coverage of Pakistani women in Punjabi Bhangra films exported to the Gulf nations (N 3/93:18), of posters of female film stars being blackened as part of the IJT anti-obscenity campaign (N 1/93:16), continuing censorship of Pakistan Television (PTV) (n 2/92:19), an al-Azhar University fatwa against high-heeled shoes (N 4/92:10), and the banning of music and dance performances in all-female schools and colleges by the Punjab government (N 2/92:18).
2. WLUML is careful to clarify here that it does not condone capital punishment. Its coverage emphasizes, however, that while state killing of Muslim men for *karo kari* crimes is abrogated by loopholes in the legal system, the murders of (overwhelmingly) women remain unpunished. WLUML depicts an androcentric bias at every level of the penal system.
3. Yasmeen Hasan's summary of the Penal Code murder exemption runs as follows (SB 1995:23); "The provocation must be grave and sudden; due to the gravity and suddenness of the provocation the accused should have been deprived of the power of self control; provocation must not have been sought by the accused himself nor should it be a voluntary provocation; provocation received by anything done in obedience to law or by public servant in lawful exercise of his power, will be no defense; provocation caused by another in lawful exercise of his right of private defense, will also be no defense to the charge".
4. Types of forced marriage listed by WLUML Special Bulletin 1995 include child marriages, marriages to the Qur'an, and *watta satta* marriages, where antagonistic tribal groups exchange brides. The *watta satta* marriages have also caused outcry in divorce proceedings, where a happily married couple is forced to divorce when the parallel marriage dissolves (N 1/93:16). While various groups in Pakistan declare this form of marriage and divorce un-Islamic, it has widespread Mullah support (N 1/93:16).
5. This tendency is present in Canada as well, of course, and in a recent Newsheet (2/95:19) WLUML published a news clipping in which the moral behaviour of a child bride from the Dominican Republic was questioned by the Canadian courts.
6. I must clarify, at this point, that two WLUML publications were not available locally at the time of writing, namely "Women of Pakistan - A Selective Bibliography with Annotations", UNICEF Pakistan 1992, and "Women's Economic Participation in Pakistan - A Status Report", Lahore, 1992. If these works (and the latter in particular sounds as though it might) fill out the work/class gap I discuss in this chapter, I strongly encourage WLUML to include the information in its other, more frequently distributed publications.

CHAPTER FOUR

ISLAM IS AS IT SHOULD BE, MUSLIMS ARE AS THEY ARE

BLASPHEMY IN PAKISTAN

Dr. Ahtar Hamid Khan, a veteran development worker in Pakistan, and an eighty year-old heart patient, was accused and arrested on charges of blaspheming against the Prophet for a nursery rhyme published in an Oxford University Press collection several years previously (N 2/92:1). The evidence brought to the court by the complainant, a previous employee with Khan's Orangi Pilot Project in Karachi who was fired for suspected embezzlement, was a garbled recording of an interview that supposedly took place between Khan and the *Jama'at-i Islami* editors of the magazine Takbeer (N 2/92:2). Although the governments of Sindh and Punjab and a group of prominent *ulema* requested the charges against Khan be dropped (N 1/93:27) he was harassed, subjected to a poster campaign vilifying his work, was placed under false arrest, and suffered several attempts at assault (N 92/4:4). The complainant had asked for out-of-court settlement of seventy to one hundred thousand rupees (N 1/93:28).

Asma Jilani, feminist, human rights activist, prominent member of the Women's Action Forum (WAF), and founding member of the Punjab women Lawyers Association, was accused by *Jama'at-i Islami* member of Parliament Apa Nisar Fatima of spoiling the concept of *chadar aur charwari* and of blaspheming against the Prophet

in a conference in Islamabad (D 3:19). In response to Fatima's statement the Parliament Speaker defied court procedure by directing the Interior Minister to ensure a case was registered against Jilani in the Shar'ia Court (Ibid). Over fifty prominent advocates with the Lahore High court Bar Association, the National Council for Civil Liberties and the Committee for the Release of Prisoners, established a legal aid committee for Jilani (D 9/10:28). However, twelve women's organizations voiced support for the motion and demanded a ban on WAF and immediate trial of Jilani as a WAF leader (Ibid).

These two highly publicized cases are part of a growing trend WLUMI documents of blasphemy accusations, cases and convictions in Pakistan. A hang-over from the colonial era, when British concern over Hindu/Muslim conflict was encoded in a law disallowing any person to "defile the religious sentiments or places of worship in any community" (N 4/92:3), the "*Gustakh-e Rasool*" (Insult to the Holy Prophet) or "insult law", states

Whoever by words, either spoken or written, or by visible representation, or by any *imputation, innuendo, or insinuation, directly or indirectly*, defiles the sacred name of the Holy Prophet Mohammed (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine (emphasis by WLUMI, N 1/93:27)

Tried under Section 295(c) of the Pakistan Penal Code and exempt from the Islamic laws of evidence (N 1/95:3), blasphemy cases require as evidence only the testimony of one individual, yet convicted cases require the death penalty (N 3/94:6). Perhaps due to social interest in the cases and because many of the accused are killed by members of the public prior to trial (N 4/92:2), judges are reluctant to grant bail (N 2/92:2); the accused are therefore incarcerated prior to investigation of the case details. The Human

Rights Commission Pakistan (HRCP) noted in 1993 that no case has been refused under this law and no one acquitted (N 1/93:1); when advocate Asma Jahangir later successfully appealed the death sentence verdict given to two Christian men she also was subjected to a campaign of harassment and violence (N 1/95:1).

Why were the blasphemy laws brought in by Zia ul-Haqq? Wherein lies the motivation behind accusations of blasphemy? Ostensibly, blasphemy legislation exists in Pakistan to prevent persons from vilifying another's faith or to protect religions from defamation as part of upholding an individual's right to religious expression. But because Zia and the *Jama'at*'s Islamization programme represented the codification and enforcement of Islam as the religion and essence of Pakistan, and one particular version of Islam, blasphemy legislation instead inculcates fear and suspicion in Pakistan citizens and provides state backing for the removal of any person with whom one disagrees.

"Islam is as it should be, Muslims are as they are", writes WLUML coordinator Marie-Aimee Helie-Lucas (1994:226), meaning, perhaps, that religions present an ideal society a set of ideal individual behaviours, which adherents may use as a frame of reference for daily human interaction. Bringing daily behaviour into alignment with the ideals has in the past been the responsibility of individual Muslims, but with a state-sponsored programme of Islamization the discrepancies between the real and the ideal become punishable. Not only do persons stray from their religious reference points, they do not all agree on what constitutes those standards. The problems in Pakistan arise, of course, because of lack of agreement concerning what Islam *is*. Is the ideal Islam that of *taqlid*, obedience, or *ijtihad*, independent reasoning?

In the introduction I asserted that Islam represents a form of political action, a source of identity, a means of understanding the world, and personal faith. To be effective, I think women's collectives such as WLUML face the challenge of needing to somehow address all of these characteristics of Islam in a way that creates space for the political agendas of the diverse women it represents. What do these blasphemy cases reveal about the Islam in Pakistan to which Muslims must adhere and about WLUML's presentation of Islam as it should be?

ADDRESSING THE ECONOMIC BASIS OF PAKISTAN'S ISLAM

It has been asserted that blasphemy cases work against those most vulnerable in society, which in Pakistan would likely include religious minorities, low income earners and women. What seems to be happening, however, is that blasphemy accusations are being directed towards people working and/or speaking for these populations. A guillotine-like discourse, blasphemy legislation in Pakistan now enables any person in society to drop the blade, and perhaps they do so in the hopes that eventually no one will be willing to stick out their necks. The primary victims of blasphemy cases in WLUML publications are those persons voicing dissent, discontent or difference with the existing political and economic system. The accusations serve as a terror tactic, a brutally effective way to warn people off questioning Pakistan's status quo.

The majority of blasphemy cases covered by WLUML do in fact involve minority populations in Pakistan. One estimate places unresolved blasphemy cases

involving *Ahmadhis* to number over five hundred (N 2/95:10). As well as the more serious charge of blasphemy the *Ahmadhis* have been tried under Section 295-A of the Penal Code, which addresses "deliberate intent to outrage religious feelings" and Section 195-B "defiling and desecrating the Holy Qur'an", but remain vulnerable to all three sections of the blasphemy laws. (N 2/92:3). In several blasphemy cases involving *Ahmadhis*, references by the complainants were made to an international *Qadiani* conspiracy, said in one article to be backed by Amnesty International, the BBC and Salman Rushdie (N 1/95:2). Of the ten blasphemy articles that appeared in WLJML Newsheets (see Appendix 1-2), four of the accused were Christians, two of un-named religion, and the remaining were *Ahmadhis*. But many of religious minorities accused of blasphemy were also individuals holding what might be called leftist political beliefs.

Only one of the blasphemy cases I read involved an accusation made against a woman, that of Asma Jilani. Jilani's occupation and behaviour may have been the cause of the blasphemy accusation; she is an educated, mobile, visible and articulate woman, holding explicitly feminist beliefs and determined to act on them, and she is an advocate who specializes in cases of human rights violation. Unquestionably Jilani represents a threat to those wishing to keep the current system in place. Jilani's accuser is a member of the *Jama'at* as well as holding a prominent position in Pakistan politics. Instances of slander among female politicians in Pakistan is also not unheard of; after women's groups voiced opposition to WAF and to Jilani's character, WAF contested Nisar Fatimas' behaviour as well, questioning her support of complete social segregation when she is in the public eye herself, her claims to represent Pakistan's

female population despite her nominated status in the parliament, and her (disallowed) simultaneous membership in the Council of Islamic Ideology and Parliament (D 3:24). Such political rivalry can be an indication of a healthy atmosphere of debate and argument, vital to democratic rule. However the blasphemy cases clearly indicate that in the current political climate in Pakistan disagreements lead too easily to slander and blasphemy accusation. Questionable morality or too much political power? Dubious ethics or influence among the population? What is at stake in the blasphemy cases?

What is at stake is a history of authoritarian rule and military suppression, shrouded in the sacred. Islam in Pakistan over the last two decades has meant oppression and coercion. A placebo for the illnesses of economic mismanagement and widespread social discontent. The Islamic path to power, taken by people as politically diverse as Z.A. Bhutto and General Zia, is a pragmatic super-highway taking the country's leadership quickly away from the population's real concerns.

Both Ahtar Hamid Khan and Asma Jilani are educated in Islamic knowledge, and find there textual and/or personal support for professional work that shakes up established social relations, Khan through empowering disadvantaged members of urban districts and villages, Jilani for advocating cases and causes for the same population - ironically people more likely than they to be accused of blasphemy. Jilani and Khan have both worked to improve the status of women in Pakistan, interpreting this as a human rights issue, one reason for their frequent mention in WLUML and other international publications.

Discussing Khan's adherence to schools of Islamic thought different from the

Jama'at, one article states "these differences assume importance because he commands constituencies and influences people. In Orangi, most women have joined the work force; and one hears mosque loudspeakers announcing community meetings on birth control" (N 4/92:4).

Similarly, many of the other blasphemy cases involve individuals challenging exploitation occurring around them and articulating alternative answers; three of the blasphemy victims were teachers. One of the teachers accused had offended village landlords with his leftist political views; he was killed prior to trial in the office of the District Education Officer (N 2/92:4). Another was Taslima Nazreen, the author writing about sexual abuse and religious communalism. None of the cases I read involved accusations against members of the *Jama'at* or other fundamentalism groups in Pakistan.

By legislating blasphemy during the Islamization programme, the courts in Pakistan in effect granted citizens the right to judge the behaviour, faith and morality of other citizens. And to act on those judgements; not only did Zia's regime institute the *nazmeen-i-salat*, persons appointed to encourage people to pray (see Glossary), but it seemed to condone the murder of persons accused with blasphemy prior to trial. If blasphemy cases are being used by fundamentalist groups to remove what they see as disruptive undesirables in the country there is some merit to Shahnaz Rouse's claim that a fascist state is being institutionalized in Pakistan based on the support of the religious hierarchy and grass-roots religious organizations (Rouse 1986:30).

WLUML articles emphasize the need to expose the international links providing

funding, military training and political expertise to local fundamentalist groups, and, of course to members of the state army and infrastructure (Helie-Lucas 1994:398). In the Asian Feminist Declaration of 1989, reprinted by WLUML (D 9/10) women condemn the centralizing and homogenizing actions of a "Hindu" India, an "Islamic" Pakistan and Bangladesh, and a "Sinhala Buddhist" Sri Lanka, against their heterogeneous populations (D 9/10). Characterized by "false patriotism, xenophobia, [and] chauvinism", and working against flows of people and ideas, these increasingly militarized and violent nation-states have reinforced repressive laws and fundamentalist tendencies, "almost identical government responses to the legitimate aspirations of the people" (Ibid).

QUESTIONS OF AUTHORITY: REMOVING ISLAM FROM THE POLITICAL PROCESS

Secularism in South Asia has failed to solve women's problems, WLUML states in its Special Bulletin on fundamentalism (1992:1). Other writers have echoed this general sentiment; Javaid Saeed, for example, argues that the western experience of value pluralization, relativization, arrogance, escapism, excessive pleasure in material things, and exaggerated pride in scientific knowledge, has led to a "grossly flawed idea of secularism" that should not be used as a blueprint for any society (1994:11).

WLUML addresses Saeed's concerns to the extent that it does not accept these doctrines as de facto answers to social problems in Muslim countries. It views international rights and creeds as a tool with which to fight violations of rights within individual nations while engaging in a careful scrutiny of such doctrines and the

institutions designed to implement/uphold them¹. The Network asks, then, for a thorough re-thinking of "democracy", saying

The concept of democracy needs to be expanded to include not merely 'political' democracy (elections, voting, representation) but also economic, cultural and social democracy which would entail participation in decision making at the community, national and international levels (N 1/93:2).

WLUML publishes a series of recommended changes to international and national texts, in order to eliminate barriers and biases undermining women's right to participate in the decision-making process at all of these levels.

An example of this is WLUML's careful analysis of the Convention for the Elimination of all forms of Discrimination Against Women (CEDAW), passed by the United Nations general body (N 1/94:A). The Network heartily supports CEDAW, particularly for its definition of violence as encompassing psychological and sexual - as well as physical - harm (Ibid). CEDAW also makes signatory states responsible to the United Nations on issues of violence against women, a clause very relevant to Pakistan (N 1/94:16).

Yet in a follow-up article on CEDAW, the Network condemns the UN committee created to enact the convention, for its slow and tepid response to the mass rapings of Muslim Women in the former Yugoslavia (N 3/93), stating that CEDAW must "take some action if it were to maintain credibility as a voice for women's human rights". Members of other UN bodies agree there are problems involved when implementing this international document (Division for the Advancement of Women 1994), not least because many nations are delaying or refusing to sign and/or ratify CEDAW. Many of those refusing to sign are nations with codified Muslim personal

laws² (Ibid).

WLUML also criticises the Universal Declaration on Human Rights drafted by the UN in 1949, for not adequately addressing issues of cultural/religious difference (N 1/93:1). In a joint statement with WAF, WLUML condemns the use of the male citizen as the semantic and social norm, and advocates the use of gender inclusive language to refer to human rights, such as "human kind", "a person" and "his/her" (Ibid:3). They recommend adding to the Declaration issues of sexual violence, sex trade trafficking, slave trade, sexual orientation, mental as well as physical torture, and sexual harassment (Ibid:4), arguing,

We refuse to accept the dichotomy between the public and the private spheres of life, where only the public is accepted as the area where 'legitimate' human rights violations occur, and where the only violations acknowledged are those committed by the state against the individual (N 1/93:2).

Arguing that the right to honour and privacy in the U.N. definition of human rights condones the very concepts that are largely responsible for violations of women's human rights in Muslim countries, WAF/WLUML advocate altering this clause in conformity with Article Three in the Declaration, addressing the right to individuals of protection by society and the state (Ibid:4).

The basic thrust of WLUML's re-reading of these international manifestos is that where the democratic process and human rights protection are jettisoned in favour of social customs (and as Chapter Three demonstrates this happens often in Pakistan when gender relations are at stake) these international conventions must be upheld; WLUML claims that

All individuals, indigenous peoples and minorities have a right to their cultures

(Ibid). However, the rights to life, security of person, health and education are prior to that of culture, religion and ethnic identity, and in instances of conflict between the two, the universality of human rights will take precedence over cultural and other forms of diversity (N 1/93:22)

This is equally important at the national level, where religious and civil law and persons of authority overlap. In an article "Recommendations on the Constitution" (N 1/94:4-7) WLUMML calls for an end to repressive state interference in religion, and for measures protecting the independence of the judiciary. It joins the Action for Legal Reforms (involving over thirty organizations in Pakistan) in the call for the repeal of the *Hudood Ordinances*, the *Law of Qisas and Diyat* and the *Law of Qanun-i Shahadat* (N 1/94:3). It asks that changes to this legislation be subjected to open debate (D 9/10) because as advocate Asma Jahangir says "In order to make protective legislation for women effective, it must be enacted after due consideration and debate like all other legislation".

The conclusion reached by WLUMML is that Muslim women must participate actively in both national and international discussions on human rights (N 2/95:26), and be given protection for such involvement. Differences between women, and between populations, while a source of cultural richness, must not interfere with the implementation and protection of such rights (Ibid). Women should not have to choose between religion and secularism.

Not only does WLUMML challenge the use of religion to legitimate authoritarianism and violence, it challenges the source of legitimation, the Islam of the righteously elite religious hierarchy. WLUMML challenges the authority of the *ulema* to be the sole interpreters of Islam. What alternative source of interpretation is offered?

"Knowledge also brings with it some responsibilities" writes theologian Riffat Hassan (SB:4), and the responsibility for changing Pakistan's contemporary understandings and usages of Islam lies in its average citizens.

Broadening the base of decision-making at all levels, however, also requires a climate of open debate; blasphemy accusations in Pakistan and the method of trying them remove the possibility of discussion. In one WLUMML article the writer blames a tradition of politics rooted in emotionalism:

We are not a society that encourages independent spirit of inquiry. We have not learnt or even attempted to learn the art of playing with ideas. We are not concerned with matters philosophic. We pontificate and form sweeping and violent opinions without bothering about facts. We refuse to consider the possibility that another point of view may exist and be equally valid (D 3:24).

In blasphemy cases, is it the *validity* of religious beliefs that is being rejected or the very presence of plurality of belief?

In what might be taken as a response to Ernest Gellner, Javaid Saeed writes "religion hindered progress as long as it remained dogmatic, unexamined, and an exclusive domain of some people" (1994:43). The barrier to democratic rule in Pakistan, then, is not Islam itself but the *content* of Islamic doctrine and the manner in which it is controlled and applied (Ibid:6).

Khan and Jilani found themselves accused of blasphemy for questioning not only *what* Islam has to say about contemporary Pakistan, but *who* in Pakistan has the right to question. For this reason, the Islam voiced by Khan and Jilani is vastly different from that of Zia or the *Jama'at*. At the conference in Islamabad, Jilani offended members of the latter group by saying that the Prophet, as an unlettered layman,

supported the idea that a priesthood is unnecessary to intervene between a believer and God (D 3:23). Similarly, one article asserts "there is something about Akhtar Hameed Khan that may be repugnant to neo-Islamic ideologues: Khan Sahib knows Islam, reads Arabic, and holds pluralistic views on it" (N 4/92:4).

Khan and Jilani are challenging the authority of religious establishment, but they cannot do so empty-handed. Knowledge of Islamic texts and traditions has been for so long the exclusive terrain of the *ulema*, and many Pakistanis do not have the education or opportunity to verse themselves in that tradition.

Islamiat for Khan and Jilani is both a shibboleth and the source of strength. Islam may fuel their conviction to argue but Islam also (more alarming for the religiously conservative) structures the arguments themselves. But as their blasphemy cases make evident, in a political climate and under a regime that presents a rigid and closed codification of Islam, they remain vulnerable to charges of treason, either religiously or nationally defined. In the political climate during Zia's regime, when both Khan and Jilani's cases began, asserting the Islamic credentials of the accused appears to have been mandatory or at least prudent. In the public eye their knowledge of Islamic doctrine reflects favourably on their personal characters despite the blasphemy charges and affirms their right to speak about Islam in the first place.

This cautious deference to Islam by the public may be found in the press clippings covering Jilani's case reproduced in WLUML Dossier 3. In these pieces from the Pakistani press, prominent members of the public wanting to defend Jilani's actions took pains to assert she is a "true Muslim and a devotee of the Holy Prophet", and

"well versed in Islamiat" (D 3:21). Similarly, Khan's assertion that his development work in Pakistan has been inspired by Islam is referenced often (N 1/93:27).

By challenging the established idea that only the *ulema* have the knowledge and authority required to interpret the scriptural body of Islam, Khan and Jilani have called into question the interpretations of Islam that have been endorsed by various Pakistani governments, the right of parties such as the *Jama'at* to dictate government policy and public morality, and the legitimacy of both the Pakistan state and the Islamization programme. Their work is all the more important because it may provide a religiously-appropriate language for people wanting to challenge the regime and its use of Islam in Pakistan yet lack the educational background to do so.

At the Human Rights Conference in Lahore, one participant defended the use of blasphemy laws against *Ahmadhis* (D 3:27) by saying "Human rights mean copyright. So we do not allow these non-Muslims to copy our design of the Mosque or the words of the Kalima". WLUMI paraphrased another participant countering "The question..is not what Islam allows, but whether religious law is stationary. Only the people as a whole ha[ve] the right to interpret Islamic law" (Ibid).

The people as a whole must be made aware that they have this right, and given the opportunity to acquire the necessary skills. Developing an education system that produces citizens able and willing to question knowledge, Islamic and otherwise, is a vital requirement in the struggle to broaden the decision-making power in Pakistan.

The *Jama'at-i Islami* has put considerable time and resources into *madrassahs*, *Masjids* and universities that teach their interpretation of Islam but also their version

of model citizens. Courses taught focus on the Quran, *Hadi'h*, Islamic history and spoken and written Arabic (Mumtaz 1994:240). Zia made the study of Islamiyat, reading Qur'anic passages in Arabic, compulsory in schools and colleges during his tenure, and offered perks to students for memorizing the entire Qur'an before graduation (Qasir 1991:120). But as Rubina Saigol argues, the content of the Islamiyat and the way in which it is taught rather than fostering an independent spirit of inquiry, inculcates "'Islamic' values of obedience, docility, submissiveness and subordination" (1988:58). It also reinforces current class disparities, since the majority of these students come from the middle to lower classes; "the educational provisions of the Shariat Bill are an insidious way of reproducing the class cultural power of the dominant classes and the ideology of subordination for the underprivileged" (Ibid).

Many Muslim modernists are calling for a pedagogy of Islam that involves not mere veneration or memorization of the Qur'an, but critical analysis, historicized and incorporating the techniques from the social sciences, history and literary criticism. Javaid Saeed, for instance, criticizes the tendency of Pakistani institutions to teach the "minimal Islam" of the so-called five pillars, and the "negative Islam" of Qur'anic punishments, both of which he calls "priest-ridden" and "decayed" (1994:49). WLUML's legal literacy project, started in May of 1991, is working towards a handbook for grassroots activists that translates the legal discourse of the state and the religious hierarchy into a more accessible language that will be useful in day to day struggles (Helie-Lucas 1994:228).

WLUML also encourages awareness-raising activities designed to challenge

prevalent social attitudes. The Bulletin on violence against women, for example, argues that enacting legislation for protection against women in the domestic sphere will not radically change the situation, for the lack of avenues for assistance remains the same (SB 1995:65). The Bulletin therefore advocates education at all levels of society as an immediate strategy for change, mentioning the need for gender-sensitive education in schools, by altering school syllabi and textbooks and by re-educating teaching staff. Awareness-building among adult women is also prioritized, encouraging women to question the idea/justifications for their subordination in society and enable them to feel less isolated and powerless. Sensitizing the judiciary through workshops and through changes in the law school curriculum is also paramount:

Not only can judges save women's lives by favourable, or more enlightened, judgements in the cases brought before them, they can help shift social attitudes by legally condemning abusive behaviour. In general, 'women friendly' judgements in individual cases achieve much more than simply punishing wrongdoers, in that they set a precedent that such behaviour will not be excused (SB 1995:68).

The media, WLUML asserts, must also be used as an educational tool, and women's groups are already using Urdu and English magazines, journalism posts, and television and radio channels to educate the public (Ibid:68). Finally, the need to educate the police through gender awareness training and to expand the role of women's police stations is seen as pivotal (Ibid:68).

RE-READING ISLAM

The issue of the relationship of the women's movement to Islam is less easily resolved. To what extent should women become involved in religious interpretation?

Where does WLUML envision a role for Islam in women's lives as it advocates Islam's removal from or alteration within the political/legal process? Recently a group of South Asian writers in the collection Against all Odds: Essays on Women, Religion and Development from India and Pakistan (1994:viii) discussed what they call the genuine predicament of people engaging in political and social struggles trying to find a way out of the "for or against" religion argument when their work brings them into constant interaction with people from whom Islam represents the primary means of understanding and addressing their situations. Their decisions are complicated by the fact that as individuals they may also wrestle with their own response to religion:

Not all of us have been able to categorically reject religion, and even when we do, we have learned to accept its power of persuasion for the majority of women who see it as their salvation, whether or not they are oppressed by it. Then, regardless of belief, have we not all at some time seen the creative and liberating potential of religion and appropriated it for our own purposes? Have we not tried to reinterpret religious texts to our advantage? And are we not perplexed by this ambivalence? (Ibid).

To me, this ambivalence indicates a need for a women's movement that does not discredit or dismiss varying understandings of religion. This is necessary in Pakistan not only because such an approach would likely broaden the range of women for whom the movement would be relevant, but also as a way to prevent the guillotine-like discourse of religious Truth, the source of the blasphemy-related violence, to permeate women's oppositional movements as well.

Regarding the issue of women's interpretation of religious texts, the Network affirms women's right to do so in a non-patriarchal manner (N 2/95:26). The Network pursues strategies that could be relevant to all groups of women in Pakistan, those

working from within the frame of Islam, those fighting for secularism and those women joining fundamentalist groups (Helie-Lucas 1994:401). Similarly Riffat Hassan emphasizes the need to address all approaches to Islam as important;

There is a strong need to create space for reflection for those women who can only operate within a religious framework. Unable to support human rights from a secular point of view, these women must be offered alternatives to becoming the easy prey of the growing religious right (1994:228).

WLUMI offers opportunities for women around the world to come together and engage in Qur'anic interpretation for women, such as the meeting in July of 1990 (Helie-Lucas 1994). The Network's publications also provide a forum in which opinions on this tricky issue may be aired.

The Special Bulletin on fundamentalism and secularism in South Asia (1992) contains the exegetical work of five Muslim modernists, all of whom, like Maududi, use *ijtihad* to understand Islam in consonance with the times. These writers, however, also call for the renewal of *ijma*, consensual decision-making, envisioning an increasingly collective study of the Qur'an, the *Hadith* and the *Shari'a*. They all emphasize the need to ground religious faith and action in the socio-economic circumstances of the times. In this way Fauzia Gardezi's protest against working through Islam is addressed; Gardezi cautioned,

It suggests that a woman's perception of the world and her behaviour will be influenced more by ideal factors than her own concrete life experiences and an appeal based on these. A belief that consciousness is determined by material factors, or simply an understanding of the extent of exploitation and oppression under which the majority of Pakistani women live, must lead one to question whether a woman will assign greater importance to factors relating to ideas and beliefs (which she may or may not hold) than to factors relating to her material experiences (1990:21)

But what *do* the majority of Pakistani women want? What do they believe? How do they make sense of their situations? WLUML is committed to deconstructing conceptions of woman, and Islam. I think some deconstruction of the "rural woman" is also necessary. Some authors claim that gender-specific oppression of rural women is not the primary concern because these women are faced with other hegemonies, particularly those of poverty and tribalism. Gardezi rejects this statement wholeheartedly, arguing that in part, gender issues represent struggles over control of resources, a position reinforced by the above discussions of *Purdah* (Ibid). I read in many articles that religion is the primary frame of reference for rural women; is this the case? What have organizations such as *Sindhiani Tehrik* decided to do about Islam after several years in operation? If it is not Islam, what language best expresses the concerns of rural women? I think these questions are extremely relevant to the WLUML project, to the research work of Shirkat Gah, and to the liberation theologians publishing in the WLUML bulletins.

These writers also address the controversial issue of personal faith. Riffat Hassan, for example, emphasizes the need to tackle the guilt and fear felt by many women who have internalized the "Islamic" negative constructions of womanhood,

...because religion is very powerful and goes very deep. And so even women who are at one level free, in the sense of being educated, employed, self-sufficient, suffer from guilt that is due to these religious beliefs or assumptions. I think that religion can be a very significant factor in healing people but it can also be extremely destructive (1993:5).

Many of the authors in the Special Bulletin suggest that applying reason to religion can help alleviate individual suffering brought about by restrictive readings of scripture and

undermine the destructive elements of a religion. Liberation theologian Asghar Ali Engineer agrees with this approach, and writes that faith and reason serve different needs; reason is needed to eliminate the blind acceptance of religious doctrines and to counteract the descent of once radical religious teachings into ritualism, while faith (and he includes adherence to communism) is the source of inspiration behind challenges to unequal distributions of wealth and power, and behind the pursuit of distributive justice (1993:7). The Qur'anic exegesis, the sociological analysis and the personal testimonies pursued by WLUML point towards the same groups in society as priorities for future networking and support. As I argued in Chapter Three, these sectors are unfortunately under-represented in many WLUML publications.

One source of potential support for the WLUML project is other human rights organizations networking internationally. For WLUML the need to challenge religious interpretive orthodoxy necessitates extending beyond the *ummah*; WLUML repeatedly links its critique of politicized Islam with the struggles of communities around the world against other fundamentalisms³. Newsheets report the activities of London-based "Women Against Fundamentalism", and the "Southall Black Sisters". They follow debates within the English Anglican church over the ordination of women, and in Israel over the state's use of religious personal laws. WLUML might strengthen its contacts internationally and thereby provide a more balanced coverage of the Muslim world; publications tend to discuss South Asia and Algeria at the expense of other regional areas.

Future links with other social groups may assist WLUML's project. Many

religious communities in South Asia have exposed the prevalence of castism and classism in their ranks. A radical call for rights and voice is emerging for example by Buddhist, Christian, and Muslim *Dalits* who use the life teachings of Dr. Ambedkar and their religion's central texts to reject their subordinate position in Indian society⁴. Women's groups in search of support in struggles against Islamization and other coercive uses of Islam might find it is these "anti-national, divisive, unpatriotic, fissiparous elements" of Pakistani society (Mazumdar 1988:66), the "depressed classes" (Rouse 1988:56), the "oppressed castes", minorities, peasants and anyone with a tendency towards the political left. Taken as a whole, I think WLUML publications indicate a commitment to re-thinking the utopian project in Islam. WLUML is joining others in calling for an understanding of Islam that is grounded in the socio-economic realities of Muslims throughout the world, de-mystified. And therefore, perhaps, re-mystified.

END NOTES

1. WLUMML reproduces various national/international declarations and policy statements regarding human rights and the rights of women in Muslim countries; such as a special pull-out section "Towards Beijing" for the Asia and Pacific NGO Women in Development Symposium (N 1/94); WLUMML Activities in Beijing, including workshops offered (N 2/95); Conference on Human Rights and Tolerance - The Asian Perspective, and the "Karachi Declaration" subsequently produced (N 2/95:27-29); "Religion, Culture and women's Human Rights in the Muslim World" produced for a conference coordinated with The Centre for the Study of the Global South (N 2/95:26-27); declaration of the International Islamic Women's Organization (N 3/93:13-14); and the United Nations Convention on the Elimination of all forms of Discrimination Against Women (N 3/93:19-23). These are usually buffeted in the publications by relevant articles exposing different strategies and responses world-wide.
2. WLUMML mentions the United States and several Scandinavian countries as also delaying ratifying or signing CEDAW.
3. Other people working together in South Asia against fundamentalisms include the anthropologist Mysore Naracimhachar Srinivas and Swami Agnivesh from Hindu communities, Muslim theologian Asghar Ali Engineer, and the late M.A. Thomas of the Mar Thomite Christian community.
4. Dr. Ambedkar was an "untouchable" or Dalit Indian, educated abroad, who returned to India to struggle against the persecution of Dalits. Unable to find textual support within Hinduism for his cause, Ambedkar investigated Christianity, Islam and Buddhism in the hopes of converting to a religion that did. He apparently found all of these religions inadequate, corroded from their original libratory content and rampant with prejudice, and delayed conversion until just prior to his death. In the end Ambedkar selected Buddhism.

CONCLUSION

The general thrust of this thesis has been that facile understandings of politicized Islam in Pakistan not only obscure the rather pragmatic purposes to which Islam is applied but also leave Muslim women little room in which to manoeuvre and challenge hegemonic uses of Islam.

I have explored several different conceptions of Islam in order to understand the varying political prognoses for Muslim women which they generate. Chapter One traced the history of Pakistan, exploring under what political and economic circumstances Islam and the Muslim Personal Laws have been debated in the country, and by which social actors. Islamization was presented as the particular political programme of a military regime and a religio-political party, and therefore representative of neither the populace's consensual political agenda nor of the majority of Pakistani's understanding of Islam's proper role in their lives.

In Chapter Two I traced several theoretical approaches to Islam and social change in order to clarify in what contexts Islam and Muslim gender relations are being debated at the international level. I argued that the tepid discourses of Orientalism and Occidentalism and of tradition and modernity, may be used to jettison Muslim women's access to human rights protection because they call into question the authority and/or authenticity of various social actors vis-a-vis Islam and culture.

With Chapter Three the focus of the thesis narrowed to women's experience of Muslim Personal Laws and Islamization in Pakistan. I argued that these individual experiences of exploitation and oppression speak to and should influence the language and agenda of broader oppositional movements such as WLUML.

In Chapter Four I explored how WLUML addresses cases of blasphemy in Pakistan, in order to better understand how the Network is challenging coercive uses of Islam in nations such as Pakistan.

There are several issues which I think require further research, not least of which is broadening the available knowledge of the circuits of resources, power and cultural expression in Pakistan. This is necessary in urban areas, both the more thoroughly studied cities of Lahore and Karachi but also in the growing metropolitan areas of Pakistan's other provinces. More precise mappings of class, caste, ethnic, and religious affiliations in these urban centres and a greater understanding of the role of the state infrastructure would potentially foster awareness of how gender dynamics and politicized religion are being understood, co-opted, used and reinterpreted.

A concomitant de-mystification of rural Pakistan must also occur, with research focusing on and/or directed by rural women's experiences. This could clarify how Islamization and other politico-economic processes have diversely affected Pakistan's so-called peripheral areas. Such heightened geo-political awareness might enable groups such as WLUML to strategize their research and critique to render it both relevant and current to the experiences of peoples in these areas.

Finally, I think the issue of women's religious faith, understandings, liturgy and

symbolism requires further investigation.

Reflecting on the journey I have undertaken in this thesis I realize that I have emphasized the importance of contextualizing understandings of both religion and gender in the creation of constructive counter-hegemonic struggles. When the political-economy background of an issue such as politicized Islam in Pakistan is exposed and explored, the sacred becomes something different than it might have been previously. In other words, if there is a place for the sacred in today's shifting, globalized world, with its vast disparities in income, knowledge and voice, then perhaps it must be found in the profane.

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APPENDIX (1-1)

MANDATE OF WOMEN LIVING UNDER MUSLIM LAWS

As outlined by Marie-Aimee Helie-Lucas (1990) South Asia Bulletin 10(1):73.

Women Living Under Muslim Laws is a network of women whose lives are shaped, conditioned or governed by laws, both written and unwritten, drawn from interpretations of the Koran tied up with local traditions.

Women Living Under Muslim Laws addresses itself to women where Islam is the religion of the State, as well as to women who belong to Muslim communities ruled by minority religious laws. It addresses itself to women in secular states where Islam is rapidly expanding and where fundamentalists demand a minority religious law, as well as to women in migrant Muslim communities in Europe and the Americas, and to non-Muslim women, either nationals or foreigners, living in Muslim countries and communities, where Muslim laws are applied to them and their children.

The objectives of *Women Living Under Muslim Laws* are:

1. to create links amongst women and women's groups (including those prevented from organizing or facing repression if they attempt to do so) within Muslim countries and communities
2. to increase their knowledge about their common and diverse situations in various contexts
3. to strengthen their struggles and to create the means to support them internationally from within the Muslim world and outside.

Women Living Under Muslim Laws aims at:

1. providing information for women and women's groups from Muslim countries and communities
2. disseminating this information to other women from Muslim countries and communities
3. supporting their struggles from within the Muslim countries and communities and making them known outside

4. providing a channel of communication amongst women from Muslim countries and communities.

These objectives are fulfilled through:

1. building a network of information and solidarity
2. disseminating information through "Dossiers" and "Alerts for Action"
3. facilitating interaction and contact between women from Muslim countries and communities, and between them and progressive and feminist groups at large
4. facilitating exchanges of women from one geographical area to another in the Muslim world.

APPENDIX (1-2)

WOMEN LIVING UNDER MUSLIM LAWS PUBLICATIONS

Dossiers

Dossier 1, February 1986

Dossier 3, June/July 1988

Dossier 4, August/September 1988

Dossier 5/6, December 1988 - May 1989

Dossier 7/8, June 1989 - March 1990

Dossier 9/10, 1991

Special Bulletins

June 1992 "Fundamentalism and Secularism in South Asia"

May 1994 "Women in Politics: Participation and Representation in Pakistan"

August 1995 Hassan, Yasmeen "The Haven Becomes Hell: A Study of Domestic Violence in Pakistan"

Newsheets

Volume IV No. 1 1992

Volume IV No. 2 1992

Volume IV No. 4 1992

Volume V No. 1 1993

Volume V No. 3 1993

Volume VI No. 1 1994

Volume VI No. 3 1994

Volume VI No. 4 1994

Volume V No. 1 1995

Volume V No. 2 1995

Volume V No. 3 1995

Volume V No. 4 1995

Working Papers

Riffat Hassan: Selected Articles

APPENDIX (1-3)

CHRONOLOGY OF POLITICAL EVENTS

1790s	Re-codification of legislation by British
1857	War of Independence
1916-17	Khalifat Movement
1929	Child Marriage Restraint Act
1931	Inheritance Bill
1939	Shari'a Application Act
1939	Dissolution of Marriages Act
1947	Independence of the subcontinent from British rule Formation of Pakistan
1948	Death of Mohammed Ali Jinnah Liaquat Ali Khan becomes Prime Minister
1949	Founding of All Pakistani Women's Association (APWA)
1951	Assasination of Liaquat Ali Khan
1952	Protests and riots in East Pakistan against proposed implementation of Urdu as the single official language
1953-54	Anti-Ahmadhi agitations throughout Pakistan
1954	Pakistan joins SEATO, a U.S. sponsored military alliance
1956	Promulgation of Pakistan's first Constitution
1958	Martial Law: Field Marshal Ayub Khan Dissolution of the National Assembly Parliamentary elections for 1959 cancelled
1961	The Muslim Family Laws Ordinance (MFLO) passed
1962	Second Constitution: "Islamic" Republic of Pakistan

- 1964 Ayub Khan wins election, defeating Fatimah Jinnah
- 1965 Pakistan at war with India over Kashmir
- 1966 Awami League of East Pakistan proposes confederation
Mujib, leader of the Awami Leage, charged with treason
- 1969 Widespread protests against Ayub Khan
Martial law: General yahya Khan
Formation of Islamist women's group, *Islami Jami'at Talibat* on Pakistan campuses
- 1970 National elections brings Awami Leage in East Pakistan,
and Zulkifar Ali Bhuttos Pakistan People's Party (PPP) in West Pakistan
Jama'at soundly defeated at polls
- 1971 War between West Pakistan and East Pakistan
East Pakistan secedes to form Bangladesh
- 1972 Nationalization of heavy industries by the PPP
PPP proposes land reform
- 1972-72 Non-recognition of Bangladesh movement
- 1973 Implementation of third Constitution
Violence causes dismissal of Baluchistan Provincial Government,
resignation of North West Frontier Province
- 1974 Islamic Summit held in Lahore
Anti-Ahmadhi riots
- 1977 Martial Law: General Zia ul-Haqq
Former Prime Minister Z.A. Bhutto charged with murder
- 1979 Execution of Z.A. Bhutto
Promulgation of the Hudood Ordinances
Women's Division established in national government
U.S.S.R. invades Afghanistan
Political parties/organizations declared illegal
- 1983 Repression of armed revolt in Sindh Province
Women *lathi*-charged in Lahore for protesting Martial Law and law of Evidence

Pakistan Commission on the Status of Women formed
National referendum over Islamization

- 1984 Assembly elected on a non-party basis
 Law of Evidence
 Nation-wide referendum on Islamization
 Ahmadhis forbidden to call themselves Muslims
 Government bans student political organizations from
 campuses
- 1985 Lifting of martial law
 Protests against proposed *Shari'a* Bill
- 1988 General Zia dies in plane accident
 Benazir Bhutto and Pakistan Democratic Alliance (IDA)
 win national elections
- 1990 Laws of Qisas and Diyat passed
 President Ghulam Ishaw Khan dismisses Bhutto from office, Mian
 Nawaz Sherif and IDA take over
- 1992 Benazir Bhutto re-elected to government

APPENDIX (1-4)

WOMEN LIVING UNDER MUSLIM LAWS: AN ARTICLE ON KARO KARI CRIMES

Reproduced from Newsheet Vol. V No. 1 1993: 9-14

Karo Kari: ritual killings in the name of honour

By Nafisa Shah

The village of Khairpur Juso near Larkana still talks about the night a year ago when a young Baloch woman nine months pregnant was hacked to death. A young man of the Channa tribe had gone to visit a friend in a neighbouring Baloch village. The friend welcomed him, told his young wife to cook a festive dinner for the two of them, and asked Channa to stay overnight. The next thing Channa knew was that the woman's uncles suspected him of having a liaison with his friend's wife. Channa ran back to his village. The woman had nowhere to run. But she ran anyway. She asked a lorry driver on the road to take her away from the village. The lorry driver refused. As though driven by intuition, she hid in the graveyard. Her uncles brought her back the next day, collected all the village women, gave the young woman water to drink and just as she was about to drink, chopped off her head with *kulhari*. The husband helplessly watched his wife being butchered. The uncles forced the husband to swear that he was the killer and had him sent to jail for murder. The Channa tribesman had to pay Rs 200,000 in protection money to save his life.

The man was a *karo* (literally, black), the woman a *kari* and the murder was a tribal ritual which demands that a man and a woman involved in an illicit relationship should be killed. The ritual has survived all the legal, political

and ethical developments of our times and is now a convenient cover for all kinds of murders.

Hundreds of women in the tribal belts of

Sindh, Balochistan and lower Punjab are killed every year on charges of being *karis*. Young girls who have not yet reached puberty, married women with children, even grandmothers are killed on charges of having had illicit relations with men with whom they have often never seen.

Although the tradition is supposed to apply to both men and women, the dice is heavily loaded against women since the accusations are always made by men who are the custodians of power in the feudal set-up.

About six months ago a 14-year-old boy and a 10-year-old girl from the Chandio tribe were branded *karo kari* and killed in the village of Akil Khuhra in Larkana district. The boy, who had taken his younger siblings to visit neighbours from the same tribe on a hot summer afternoon, was spotted drying his sweat-drenched shirt while the ten-year-old girl slept on a *charpai* nearby. The girl's elder brother saw him and jumped to the wrong conclusion. A few days later, the boy was killed on his way to school and subsequently the girl was also murdered.

The vast majority of *karo kari* murders go unreported, unnoted, unpunished. And it is not just illiterate tribals who engage in this practice: there have been several cases in which the wives of well-to-do men have been killed and the murders hushed up. In one such case, the nephew of a member of the Sindh government killed his mother and her alleged paramour in Sanghar. No case was registered.

The law seems to be deliberately blind to these incidents. It is the feudal chief who takes the decisions that are literally a matter of life and death: no one even bothers to investigate the truth or falsehood of the charges made. "The police in Kashmore charge 7,000 rupees to keep silent about *karo kari* murders," says one villager who has seen it happen again and again. "They never record cases and so we have a zero per cent crime rate."

Police stations in Jacobabad district are

considered gold mines in police circles because of the high incidence of *karo kari* murders there. A conservative estimate puts the number of *karo kari* murders in Jacobabad at between 55-60 a month. "About 75 per cent of the postmortems we do are on *karo kari* victims," says Dr. Liaquat Kalwar of the Taluka hospital, Kashmore. "After killing his wife and her paramour, a man usually comes to the police station with his blood-stained hatchet or gun. We help him by distorting the statements on record because this is a question of *ghariat*." Bribes to the landlord who conducts the *faisla* (the tribal court's verdict) and the medico-legal officer who conducts the postmortem are in addition to the thana pay-off.

Even the *karis* who survive do not question the custom; they put it all down to *qismat*. For the men, the murders are just an affirmation of their manliness or *ghairat*. Says a Baloch farmer, "We cannot bear people saying anything about our women." Says Haji Qamardeen, a village *wadero* in Kashmore: "It is an affront that leaves a man with no option but to do away with the one who has dishonoured him - his wife."

Karo kari murders serve more than one purpose. Frequently they are just another element in the conflict between two warring tribes, and the women who die in

the process are no more than pawns in the game of vendetta played by feudal warlords. Men get back at their enemies by killing their own women, and then accusing their opponents of doing so. The accused is often forced to pay a price to avoid a heavy sentence. If money alone is not considered sufficient, a woman is added to it. Bartered and traded, she has no more value than a piece of property.

Asked why women are equated with money, Ghulam Hussain Mazari, a local sardar says, "We prefer to give a woman in exchange for a murder: relations with a woman cool the man to whom injustice has been done." The basic idea, however, is an eye for an eye. As one man put it: "If you have used our woman, you must give us yours to use."

Growing up in the shadow of the *kulhari*...

Women, however, are often preferred to even a hefty sum of money. The standard rate is one girl above seven years of age or two girls under seven. "There have been cases in which parents have broken the milk teeth of a girl far below seven years of age so that they only have to pay one girl as the price for murder," says a Sindhi doctor.

Sometimes the *karo kari* pretext helps a man escape a life sentence. Says Zubeid Mathelo, a lecturer in Jamshoro University: "In a village in Larkana, a man in my servant's family committed a murder. His father told him to immediately murder his sister-in-law if he wanted to escape a death sentence. He took a *kulhari* and hit his her on the head while she was cooking food for the family, declaring her a *kari* with the man he had murdered."

Killing a woman and crying '*karo kari*' is also a good way to make a fortune overnight. In the village of Gujrani, 12 miles from Kandhkot, a man murdered his 85-year-old mother last year, calling her a *kari*. He needed 25,000 rupees and got it — from the man he called *karo*.

The *kot* or house of the sardar is the only sanctuary for a woman accused of being a *kari*. Here she is given refuge till the tribal court pronounces its verdict. But in most cases they do not dare go back to their families, and thus became the property of the sardar. Says Jamal Abro, an ex-secretary of the Sindh assembly who has served as a sessions judge all over Sindh: "There are hundreds of *karis* serving as maidservants in the sardars' *kots*." A few lucky ones manage to build a new life for themselves. Jannat Khatoon had not even reached puberty when she was married to a boy as young as her. They used to play together. Life was fine till the day she was told by her brother-in-law that she was a *kari* with a man she did not even know existed, a Mazari from another village. Her in-laws threatened to kill her but a cousin managed to rescue her and took her to the sardar's haveli for sanctuary. The sardar

The landed classes — no matter how progressive they may seem — will only marry their daughters within the family. Sons, however, may marry outside, since that does not affect the ownership of land. Hundreds of women belonging to the most prestigious landowning families die old and unmarried in the dark recesses of havelis they never stepped out of, living out their lives as Bibi Sathis, their activities limited to the teaching of the Quran

married her off again to a poor Mazari from Wadhio Mazari, 10th. Meanwhile, her brother-in-law was able to exact the money he needed from her family. Now Jannat has sons and daughters from her second husband, but she is still known as a *kari*. She must live with the stigma for the rest of her life.

"I don't know how I escaped death," she says. "Normally they don't even warn you; they just kill you. I remember my *chachi*, a very old woman, was kneading flour for a meal and did not even see

her own death. Her brother and cousin struck at her from behind and the flour ran red with blood. There was no burial for her. Her body was thrown into the canal close by. And when I mourned, my relatives chastised me and forbade me to weep. There is no *namaz-e-janaza* for a *kari*." Naseem Thebo from Dadu relates that she grew up watching limbs and other parts of women's bodies floating every now and then down the river running through her village.

Says Jamal Abro. "I know of Mazaris and Jamalis who have travelled hundreds of miles years later to kill a *kari* and her children."

Karo kari murders have been committed on the strangest of pretexts. Some years ago, an expatriate wrote a letter to his family and asked them to convey his salaams to a cousin. The woman was declared a *kari* and murdered. Allah Rakhio, a primary school teacher in Jacobabad cites an even more bizarre instance. "A man dreamt his wife was a *kari* and killed her on waking up," he says.

Sometimes waderas who find their women involved in illicit relationships with other men do not kill them but exact revenge in another way. They let the man involved flee from the scene and demote the woman from the status of a wife to that of a *kari* whose life inside the *kot* will be lived on a subhuman level with the female servants. The case is kept a tightly guarded secret to preserve the wadera's honour. But to extract revenge, the wadera prevails upon one of his henchmen to kill his own

wife on the pretext that she has been unfaithful, and then kill the paramour who has fled the scene. Thus the wadera is avenged, and yet another innocent woman loses her life.

In cases where a wadera's own henchmen or servants are caught with his women, they are killed and buried silently. The cattle pond of a feudal lord at Mehar (Dadu) is said to be the dumping ground for the bodies of servants who have been caught with the wadera's womenfolk.

Karo kari murders are not restricted to tribal areas. Such cases have been known to occur even in areas close to Karachi.

Not all murders are committed to settle tribal feuds or to make money. Women do frequently elope with men of their choice. But in the value system of the feudal and tribal set-ups, pride and honour are important components and the woman is a measure of both. She is in fact the prime instrument these systems use to sustain themselves. Woman is the price or property that negotiates all kind of *faislas* ranging from marriage to murder. Says well-known writer Nourul Huda Shah who has scripted a series of TV plays on women in feudal society: "Suppression of the woman and her use as a possession strengthens the feudal system. Property can only be split and distributed if the woman is married outside the family. No marriages outside the family take place and so the land remains intact. And when the land is intact so is the sovereignty of the landlord."

Karo kari enforces the strength of the sardar. It makes him richer and mightier. The sardar leads the *jirga* that decides the fate of a *karo*. In Jacobabad it has turned into a full-fledged industry.

In the male-dominated feudal and tribal systems there is no awareness of the injustice of this custom. To the man, woman is property, to be done with as he wills. Says Haji Qamardeen: "Once a woman is married, the husband is her custodian, her temporal God. Whether he lets her live or kills her is his business; we will not interfere."

Shaikh Ayaz, the doyen of Sindhi poetry and a practising criminal lawyer, states that 90 percent of *karo kari* cases are based on fake charges. "The Sindhi woman will never be liberated until society is rid of the curse of feudalism."

APPENDIX (1-5)

WOMEN LIVING UNDER MUSLIM LAWS: ARTICLES ON CUSTODIAL RAPE IN PAKISTAN

Reproduced from Newsheet IV. No. 1 1992: 9-11

On Sept. 3 a 35-year old woman, Aasia Ayub was summoned to Banni police station, Rawalpindi at 10 p.m. along with her husband. The 6 policemen present told the couple that they were suspects in a theft case and must confess their guilt. After the SHO and five other policemen had satiated their sadistic appetites by beating Mohammad Ayub, they locked him up in an adjacent room and then began the investigation by torturing Aasia Bano. According to Aasia, to start with the police officers caught her by her hair, snatched away her *chaddar* and *shalwar*, then tied her hands and feet securely with a rope and made her lie on the floor.

From 10 p.m. to 5 a.m. the next day she was beaten, disgraced and tortured by all the 6 policemen, with the SHO taking the lead. Her husband, Mohammad Ayub, later told journalists that all night he could hear his wife's painful screams and the policemen's threatening voices. Despite all the torture Ayub and his wife did not confess.

At that moment, the complainant's brother, an income tax officer came to inquire about the investigation. He suggested to the SHO and SI that Ayub and this wife should be allowed to go home but if they did not confess the next day, their daughter should be summoned along with them for further investigation. SHO Chaudhry Ifikhar accepted his suggestion wholeheartedly and passed on the threat to Ayub and Aasia.

Mohammad Ayub, a technician in the Pakistan army, said that his wife was very quiet all the way from the police station to their home. The moment she saw her daughter, Nadia (a 17-year-old college student) she started crying loudly and screaming, after which she fell unconscious. When the family took her to Rawalpindi General Hospital, she was kept in the Emergency Ward for two days and was finally referred to the Psychiatry Ward to be admitted. She was reported to have been severely tortured and she had lost her mental balance due to the shock and terror.

Aasia Bano is no extraordinary woman. She is poor, she is powerless and she has been raped. For the government, police and the hospital, she is a very routine case. She was taken to the police station at night. She was beaten and undressed and tortured. It didn't shock anyone. Inside the high walls of Banni police station her screams of pain and fear were very familiar sounds. No one was surprised, none tried to find out what the SHO sahib was doing.

Thrown out the next morning, her family took her to a government hospital. Again she was a nonentity. She was ignored, her screams unheard, her family insulted. The medical report that the doctors have given says she did not allow the doctor to come near her so it was not possible to examine her. The initial police inquiry made full use of the medical report and concluded "Mussamat Aasia Ayub has made up a concocted story that she was tortured. So she refused to be medically examined by the two male doctors on duty. It proves she was not tortured."

When a female lawyer and a female psychologist talked to Aasia Bano in the hospital ward three days after the incident took place, she cried and uttered two sentences again and again, "I told them 'I won't take off *shalwar*' 'give me back my *shalwar*' — I begged them to give me back my *shalwar*".

A simple housewife, who always remembered that she stitches a *shalwar qameez* suit for Rs.45, remembers nothing but the fact that she was forced to take off her *shalwar*.

Members of the law enforcing agencies are not happy with all the hue and cry on account of this woman. "Why don't you understand" — shouted SP Rawalpindi Usman Khattack when he was asked repeatedly why no policewoman was called for the interrogation of Aasia Bano. SP Usman told the journalists in a firm tone "Even an SI can hold independent inquiry for any case". He did not clearly say so, but it was also firmly implied that taking off a woman's *shalwar*

was a very essential part of any investigation

Police cases dealing with women are worst examples of violation of law. Just in Aasia Bano's case a single SHO has violated more than four laws. He

has violated a High Court Ruling and kept a woman in a police station at night. He held an inquiry without registering an FIR. Above all he disgraced a woman and treated her like a die-hard criminal. The shameful aspect of this practice is that all the policeman are well aware of the law of the land and make full use of it for their convenience. Even with an ounce of suspicion they can make a detailed report about the violation of law by a woman. The Hudood and Zina Ordinance (1979) and the recent 12th Amendment has made all such illegal acts much easier. Ironically such laws are never used to help women victims. In Aasia's case advocate Nahida has filed her writ petition, using laws against police officials and in the women's favour. She has demanded that the six policemen should be tried under section 16/18 offences of Zina (Enforcement of Hudood) Ordinance 1979, 354/A (non bailable, death sentence) 342/166 and 348 PPC.

What has made this case an extraordinary one is the fact that police, traders and police agents of the area are also demonstrating in favour of the SHO, commonly known as 'Tiger'. There was not a single statement from police quarters condemning the torture. The inquiry committee of the police department had no idea about the whole incident. "I have not been briefed", said a SP repeatedly.

The only action the police department took was after advocate Nahida Mahboob Elahi, a member of Human Rights Commission of Pakistan informed SP Usman Khattak and DSP Arshad that she would file a

Police reforms finalised

writ petition in the High Court on Sept. 8 if an FIR was not registered against the SHO within 24 hours. The police department held an immediate meeting the same evening and informed the press that the SHO had

been suspended and a police inquiry committee arranged. Still no FIR was registered against the SHO so Advocate Nahida filed a writ petition against the SSP Rawalpindi, and the 6 policemen of Banni police station.

Police torture, police pressure, police inquiry, violation of law are all very acceptable norms in our society. The only ray of hope in this situation is that more and more people are reacting. Not that it is going to put a stop to these acts of bestiality, but maybe we'll see more and more men and women saying loudly "save us from the police".

- The Muslim, 13 September 1991

APPENDIX (1-6)

WOMEN LIVING UNDER MUSLIM LAWS: AN ARTICLE ON DIVORCE IN PAKISTAN

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The triple talaq — unjust, untenable, un-Islamic

In India, in May 1993, a body of Muslim theologians issued a fatwa in a case referred to them invalidating the triple talaq given at one sitting, whereby a Muslim husband could divorce his wife without witnesses and without assigning any reasons. This was welcomed by a group of Muslim women who held a press conference in Delhi in late June this year where they announced a 'jihad' against the triple talaq and declared their resolve to urge the All India Muslim Personal Law Board to declare the triple talaq as anti Islamic. Within a week of this event the Jamaat Ulema -e- Hind, a central body of Sunni theologians, published a statement upholding the validity of the triple talaq. The controversy now blazing is not only within the Muslim community but also without. For the anti Muslim Hindu fundamentalist lobby, this is another opportunity to highlight the 'backwardness' of the Muslim community and the 'injustice' it metes out to its women, and to insist that this can be remedied by the imposition of a uniform civil code.

The fatwa of the Jamaat Ahl -e- Hadis on the triple talaq raises questions of far reaching national importance, particularly for the women of this country. The fatwa seems to represent the aspirations of a large number of Muslim women and is in consonance with their perceptions of their own identity, both as women and believers in Islam. Ever since the Shah Bano controversy in 1986, Muslim women have always believed that the Indian state has acted

in an un-Islamic manner in enacting the Muslim Women's (Protection of Rights in Divorce) Act, 1986. Several scholars have contended that this Act actually goes against the basic tenets of Islam. Muslim women have argued that not only is the intervention of the Indian State un-Islamic, but that it is also anti women. Many of them do not perceive a conflict between their identity as women and their identity as believers in Islam. It is for this reason that the recent fatwa of the Jamaat Ahl-e Hadis has evoked such a great interest amongst Muslim women. They believe that the fatwa gives voice to their aspirations for a just social and legal order. And also that the practice of triple talaq does not have the sanction of the Quran.

In fact, in Islamic jurisprudence, it is known as *talaqul Uddat* or heretical divorce. The Prophet approved of only two kinds of talaq - the *talaq hasan* or the good divorce and the *talaq ahsan* or the best divorce. *Talaq hasan* consists of three pronouncements of divorce made during *tuh* (the intervening periods between two menstruations), during which no sexual intercourse is to take place; in case it does, the divorce becomes ineffective. *Talaq ahsan* consists of one pronouncement of divorce which becomes effective only after the iddat period is over (iddat is generally calculated as four months and ten days).

In so far as Personal Law is concerned, large sections of this country are governed by their own separate codes of law. This law may be either codified or uncoded. Thus in matters relating to marriage, divorce, succession, adoption, custody of children, maintenance, different religious communities are governed by their respective laws. The personal law of the Muslims derives its sources from the Quran and lays down a principle for the dissolution of marriage, which at least ensures to women some measures of equity and fairness. The triple talaq is not legally sanctioned. In the overwhelming majority of Islamic countries, Maulana Mukhtar Ahmed Nadvi points out, the practice of triple talaq has been banned, i.e., in Iran, Iraq, Turkey, Saudi Arabia, Kuwait, Egypt. The politics of religious fundamentalism and the need to canvass for votes on a communal basis have ensured that Indian Muslims allow women's rights to remain uncoded. As a result, the implementation of Muslim Personal Law remains the exclusive

domain of the Ulemas.

A first step in the direction of ensuring justice to Muslim women would be the codification of Muslim Personal Law together with setting up of courts through which these laws can be enforced. Even if we have to accept a plurality of legal systems, the least that can be expected is that there be a certainty about the legal codes that govern the individuals for whom they are made.

All civil laws in India draw their sustenance from religious codes, whether they be Muslim, Christian, Hindu or Parsi. A common civil code must therefore address a number of issues. While people belonging to different religious communities would be free to marry according to the customs of their community, once the marriage has been entered into, the mutual rights and obligations of the parties to the marriage would be determined on a just and

A first step in the direction of ensuring justice to Muslim women would be the codification of Muslim Personal Law --

India

fair basis. Similarly, on the breakdown of the marriage, the respective rights and responsibilities of the two parties to the marriage, not only towards each other, but also towards their children, would have to be determined on a basis which is fair to women.

The Lawyers, July 1993

APPENDIX (1-7)

DEFINING MODERNITY

Like that of "culture", "modern" has become in anthropology a highly contested term. The range of contexts in which the term "modern" is used in anthropological writing and elsewhere, adds complexity to an already ambiguous term. In this thesis I use "modern" quite fluidly, to refer to a series of characteristics or ideas associated with the term, including the following;

"Modernization" as a historical and social process has been used in development literature, particularly dependency theory, since the late 1960s. In this approach "modern" is interpreted as "progress". Criticized for being ethnocentric and perpetuating the idea of social evolutionism, the concept of "modernization" is usually said to represent several connected processes, namely:

- industrialization
- urbanization
- diffusion of science, technology, mass education, communications technology
- geographical mobility and social differentiation
- development of bureaucracies and institutions

"Modern" as an ethos or a world view is a concept that has been differentiated from the modernization process. Individuals or a society "become modern" when values thought to be hostile to social change and production for profit are replaced by those conducive to these processes, such as value pluralization.

Associated with Enlightenment rationality, "modern" as an ethos or world view is also often thought to encompass political pluralization, be this in the form of social democracy, liberalism or marxism etc.

Is "modernity", then, a world view, a material process or a political system? Is it temporally locatable? These questions are addressed at different times throughout this thesis, by the writer and by the various writers referenced. For instance, Maulana Maududi (see Chapter Two) might be said to reject "modernity" as an ethos while affirming Pakistan's need for "modernization". Similarly, Marayam Jameelah (see page 48) criticizes "modernist ideologies" (what some might call postmodern theory) for their value pluralization, thereby differentiating between the "modern" as technology and "modernity" as ethos.

One final interpretation of the "modern" requires clarification. I refer to Maulana Maududi as a "modern ethical thinker" (see page 44) to distinguish his Islamic interpretation from those of previous Muslim reformers. Here emphasizing the temporal (albeit without locating the year of transition!), or "modern" as

temporal (albeit without locating the year of transition!), or "modern" as "contemporary", I am arguing that because Maududi uses *ijtihad* and to a lesser extent *ijma* to formulate novel answers to questions, answers thought to be adequate to address the contemporary circumstances of Muslims, his work must be distinguished from earlier reformers who advocated a rediscovery rather than reinterpretation of essential truths in Islam. This usage is slightly different than that of many writers, who call "Muslim modernists" people such as Saeed Javaid (see Chapter Three), who pursue both the "modernization" process and the "modern" ethos, in conjunction with a specifically "Islamic" approach.

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