

PAKISTAN INSUFFICIENT PROTECTION OF WOMEN

“The government of Pakistan vigorously condemns the practice of so-called honour killings. Such acts do not find a place in our religion or law. Killing in the name of honour is murder and will be treated as such”, General Musharraf, April 2000

1. INTRODUCTION

For years, women in Pakistan have been severely disadvantaged and discriminated against. They have been denied the enjoyment of a whole range of rights - economic, social, civil and political rights and often deprivation in one of these areas has entailed discrimination in another. Women who have been denied social rights including the right to education are also often denied the right to decide in matters relating to their marriage and divorce, are more easily abused in the family and community and are more likely to be deprived of the right to legal redress. Often abuses are compounded; poor girls and women are trafficked and subject to forced marriage, forced prostitution or exploitative work situations such as bonded labour. In all of these situations they are likely to be mentally, physically and sexually abused, again without having the wherewithal to obtain justice.¹

¹*On the interrelationship of abuses suffered by women see: Broken bodies, shattered minds: torture and ill-treatment of women, AI Index: ACT 40/001/2001.*

Since publishing its 1999 report, *Pakistan: Violence against women in the name of honour*², Amnesty International has found that while few positive changes have taken place in the area of women's rights, the state in Pakistan still by and large fails to provide adequate protection for women against abuses in the custody of the state and in the family and the community. In fact, the number of victims of violence appears to rise. The non-governmental Human Rights Commission of Pakistan (HRCP) concluded in its annual report for the year 2000: "Despite making up almost 51 percent of the population, women continue to face a discriminatory status within society. Most alarmingly, it was found that violence against them, in almost every form, was on the rise. A woman was raped every two hours somewhere in the country, while hundreds became victims of 'honour' killings³, domestic violence, burnings and murder. With the woman unsafe even within her home, reports of incidents of harassment at the workplace came in more frequently than before, even as laws continued to discriminate against women and their role in the public sphere remained marginalised."⁴

Amnesty International has been approached on numerous occasions and in different forms by women at risk to themselves or to women

²AI Index: ASA 33/17/1999.

³'Honour' killings are killings of people, predominantly girls and women who are considered to have shamed the women's families by aspects of their behaviour; they are most often perpetrated by male members of the women's families and are intended to restore their 'honour'.

⁴HRCP, *The State of Human Rights in 2000*.

relatives or by men about to marry or just married to women for whose lives they feared. For instance, in November 2000, a Pakistani woman settled in the United Kingdom rang Amnesty International's offices in London to seek advice about her forthcoming visit to Pakistan. She said her sister in a village in the Punjab had just been killed by her husband after she had sought refuge with a female relative following years of domestic abuse. Nobody had dared approach the police as the husband was well-connected. She asked what possibilities Amnesty International had to secure justice for her. During a visit to Pakistan in April 2000, a man approached Amnesty International delegates in a small Sindh town explaining that he and an adult woman wanted to get married but both partners had been promised in marriage as small children to their respective cousins. The prospective couple were aware of their right under the law to marry but feared violence including deaths at the hands of their relatives if they went ahead. Both partners loved their parents and did not wish to antagonize them but saw no way to claim their rights. Asked about how they had come to know of their rights, the young man reported that in his generation everyone knew their rights; in some cases, prospective couples had run away to ascertain their right and the news of this had contributed to the general awareness. Another couple approached Amnesty International in Karachi at that time; they had been underground for almost a year after a court marriage which the wife's family did not approve of. They had threatened to find the wife and kill her wherever she might try to hide. More recently, several couples who had married of their own choice and who have since then been living underground and others who were about to get married but feared for their lives, sent e-mail messages to Amnesty International

asking for advice on where they might be safe. Another couple who have left the country after receiving threats from the wife's family without whose consent they had got married, sought Amnesty International's help in their asylum application.



The paucity of legal remedies, the lack of safe houses for women or indeed couples at risk, the absence of reliable mediation mechanisms to intercede with parents who do not understand or accept women's rights to freedom of choice in marriage and the sheer overwhelming magnitude of the problem make such cries for help deeply distressing for Amnesty International: in the absence of reliable and prompt protection by the state, there are no safe solutions for those at risk of abuse.

While some progress has no doubt been made in bringing the issue of violence against women into the open, much remains to be done. Perhaps the most distressing part of focussing on women's rights in Pakistan is the fact that many cases that are brought to the limelight, with media attention and involvement of non-governmental organisations (NGOs) at some stage peter out: they are forgotten, overtaken by new events and eventually re-absorbed into the general and

overwhelming indifference towards women's issues. The fates of Samia Sarwar, Uzma Talpur, Bakhtwar Pathan, Kubran Bibi (see below) make the headlines for a few days -- and then are forgotten. In none of these cases is there any indication that redress will be forthcoming. Other women suffer abuses in silence for years, die violent deaths and get buried in unmarked graves.

Women's awareness of their rights, thanks to manifold efforts by Pakistani women's rights groups, along with women's greater participation in the workforce and attendant exposure to the rights movement, appears to have somewhat increased which itself may have contributed to the increasingly violent backlash they are exposed to. Still, the HRCP in its report for the year 2000 asserted: "Most women across the country remained ignorant of even their most basic rights, with a newspaper survey conducted in August [2000] finding that over 80 percent of young women between 18 and 24 in Lahore had no idea of the clauses contained in the 'nikahnama' [marriage contract]. Almost 90 percent, including those educated to graduate level and beyond, did not realize that they had any rights at all, such as those of divorce."⁵

The present report summarizes the commitments to uphold women's rights made since October 1999 when the current government came into power and describes instances of abuse of women's rights in the family, in the community and in custody which have occurred despite

⁵HRCP, *The State of Human Rights in 2000*.

such assurances. It then describes the difficulties women face in the criminal justice system when they seek redress. The report ends on a set of recommendations to the Government of Pakistan. The appendix lists a number of international resolutions condemning 'honour' crimes.

2. STATE RESPONSES TO THE NEED FOR PROTECTION OF WOMEN

2.1 GENERAL STATEMENTS ON PROTECTION OF WOMEN'S RIGHTS

The government of President Pervez Musharraf acknowledging for the first time that women in Pakistan are disadvantaged and discriminated against⁶, made a range of commitments to ensure the adequate protection of women's rights. But two years later the record of achievements is uneven. Some positive changes have been introduced, mainly at the state level, some courts have made progressive rulings benefiting women but, by and large, women's rights continued to be insufficiently protected.

⁶A background paper on women and human rights handed out at the Contention on Human Rights and Human Dignity in April 2000 characterized the situation of women as follows: "Gender discrimination legislation, eg. Hudood Ordinances (1979) and Qisas and Diyat laws remain in place. Thousands of women have been imprisoned under these laws. Violence against women is widespread, rarely prosecuted and rising (no official data exist). Honour killings, rape, gang rape, domestic violence, trafficking of women and girls are widely reported with victims having little hope of legal redress."

Addressing the 44th session of the UN Commission on the Status of Women in March 2000, the Pakistan delegate stated that the government's priorities in this area were women's political participation; an increase of women in public sector employment from the current 10 to 25%; recognition of reproductive health as a human right and resource allocation for poverty alleviation for women and children. The delegate affirmed: "We in Pakistan believe that the need for rapid action towards achieving equality between men and women and to end all kinds of discrimination against women is not only a moral and human rights imperative, but an economic necessity. No country can prosper or sustain prosperity if nearly half the population remain neglected, deprived and remote from mainstream development. We believe that our religion and ideology sets ideals and norms which are exemplary for a social vision concerning the dignity, security, equality and full participation of women alongside men..."

On International Women's Day 2000, Minister for Education, Women Development, Social Welfare and Special Education, Zubaiba Jalal, announced a 10-point program for the advancement of women in Pakistan. While addressing the 23rd special session of the General Assembly for Beijing+5 review on 6 June 2000, she pointed to several government achievements including having seven women ministers holding important portfolios from health and education to law and justice; strengthening the federal ministry and provincial departments of women development; plans for 'reform and revision of laws discriminatory against women'; reservation of 50% of seats for women at

the grass roots representative bodies; and prosecution in cases of domestic violence against women.⁷

Some official statements relating to women, however, met with strong protests by women's rights groups in Pakistan. In August 2001, the Council of Islamic Ideology whose constitutional role it is to scrutinise laws as to their conformity with Islamic injunctions, advised that women patients should not be seen by male doctors and women's clothes should not be sewn by male tailors. Women also should not work in the advertising industry and when working as flight attendants and in other

*7It included *inter alia* an amnesty for all women detainees held for offences other than murder, dacoity, terrorism or drug trafficking; separate jails for women and juveniles in each province; prohibition of arrests of women without a warrant issued by a district magistrate except in cases of murder, dacoity, terrorism and drug trafficking; honour killings to be considered as murder; an ordinance to ban un-Islamic practices relating to marriage between Muslims and to discourage child marriage; amendment or repeal of laws discriminatory to women; quick disposal of cases against women etc.*

She also said, "my government believes in translating the rhetoric of women's rights into reality and to this end has undertaken a number of substantive initiatives. ... In Pakistan, we regard any form of discrimination or violence against women and girls as an unacceptable criminal offence. We are also conscious that apart from being a human rights issue, it has enormous social and economic costs for the society as a whole. The Government of Pakistan, therefore, has taken a number of measures to eliminate all forms of violence against women. Recently, the Chief Executive of Pakistan declared so-called 'honour killings' as pre-meditated murder. This had been done to ensure maximum punishment for culprits of such abhorrent crimes."

professions, women should wear veils.⁸ Rights activists declared that such advice reinforces gender discrimination and is particularly dangerous for women's health: in many rural areas women doctors are not available and even in cities, women doctors usually do not work night shifts for cultural reasons. If the advice were adhered to, many women would be considerably deprived of health care.⁹

⁸ *Asia Times*, 23 August 2001.

⁹ Several NGOs said in a joint statement that "we call upon the Government to ensure that the CII refrains from formulating moral frameworks for women in Pakistan." *Dawn*, 4 August 2001.

In its meeting in September 2001 the Council of Islamic Ideology asserted that parents should ascertain the will of their daughters before arranging their marriages but reportedly also said that Islam has given the power to family elders to punish family members including wives and children if they were found to be involved in unethical activities.¹⁰ The



advice appears to ignore that the law already requires that women freely consent to their marriages.

2.2 OFFICIAL STATEMENTS ON 'HONOUR' CRIMES

In the inaugural address to the Convention on Human Rights and Human Dignity on 21 April 2000 in Islamabad, General Musharraf said: "It shall be the endeavour of my government to facilitate the creation of an environment in which every Pakistani can find an opportunity to lead his life with dignity and freedom. The Government of Pakistan vigorously condemns the practice of so-called 'honour killings'. Such actions do not find any place in our religion or law." He also said that killing in the name of 'honour' "is murder and will be treated as such."

¹⁰ *The Frontier Post*, 5 September 2001.

According to a government hand-out of July 2000, there is nothing 'honourable' in such killings: "The practice is carried over from ancient tribal customs which are anti-Islamic. ... The government is committed to combatting this practice with all the resources at its disposal. The present leadership in Pakistan had launched a national human rights campaign, singling out honour killings for special denunciation. Administrative instructions have been issued to ensure that due process of law takes its course un-hindered and there is no manipulation in either the registration or proceedings of such cases." In September 2000, Interior Minister General (retrd.) Moinuddin Haider said he had directed police to register First Information Reports (FIRs, complaints registered with police which start the inquiry process) in 'honour' crimes cases even if the killers tried to take shelter behind verdicts of *jirgas* [tribal councils] as these were not recognized by law. He also said, "the law is going to be amended to end this un-Islamic practice. And those who commit murders in the name of honour should be hanged."

Most media responses to the government announcement called it 'a long overdue step considering the fact that there has been an alarming increase in the numbers of this heinous crime in the past few years. ... At present such incidents are usually ignored by government officials, especially in rural or tribal areas, where some culprits are either powerful and well-connected or simply manage to bribe their way out of trouble. The real test of the government's intent to root out this savage practice

would thus lie in elimination of all possible escape routes for the offenders.”¹¹

Other state bodies also denounced ‘honour’ killings but since they did not appear to make an effort to reach the grass roots, their pronouncements were not as effective as they might otherwise have been.¹² Amnesty International in 1999 requested the Council of Islamic Ideology for its view on whether ‘honour’ killings are lawful according to Islam. It replied in its letter of 22 April 2000 that the Council had in its 139th session on 6–7 December 1999 decided as follows: “Although sexual immorality is one of the major sins according to Islam for which Islam has prescribed very severe punishment, nobody is allowed to take the law in his hands. Wilful homicide, whatsoever be the motive, is a culpable act tantamount to qatl-e-amd [murder] liable to qisas [equal punishment for the injury suffered]. The Council for its opinion relied on an authentic hadith reported by Muslim, according to which a companion, Hazrat Saad Bin Ubadah, asked the Prophet (P.B.U.H.[peace be upon him]): if a person finds a man with his wife, shall it be lawful for

¹¹Dawn, 14 March 2000.

¹²In a few cases, however, Islamic clerics have publicly denounced ‘honour’ killings. At a seminar in Sindh in November 2000 organized by the *Tehrik Aman*, Sindh religious leaders said they were unanimous in their opinion that ‘honour’ killings were against the teachings of Islam. Qari Khalil Ahmad, a prominent religious person in Sindh said, “Islam prohibits such practices and as such there is no room to justify them.” Dawn, 8 November 2000.

him to kill that man? The Prophet (P.B.U.H.) replied: 'No'. In another hadith on the same subject, Hazrat Saad Bin Uabadah asked the Prophet (P.B.U.H.): If I find a man with my wife should I wait till I bring forth four witnesses? The Prophet (P.B.U.H.) said: 'Yes'. Nevertheless if such a person kills such a person on sudden provocation and then proves before the court, by producing four witnesses, that the person so killed by him was committing adultery, he shall not be liable to qisas though the Court may award taazir [discretionary punishment] punishment in this case."

Some institutional changes promising women protection from 'honour' crimes were short-lived. In August 2000, a cell was set up at the office of the commissioner in Larkana, Sindh, to provide free legal aid and other assistance to victims of honour crimes or their relatives. It was to consist of social workers and lawyers to ensure that honour killings would be treated as murder and that police would not evade their responsibility to criminally prosecute those responsible. However, according to information obtained by Amnesty International, this initiative of the divisional commissioner of Larkana ceased with his transfer to another post.

2.3 CHANGES IN THE CITIZENSHIP ACT

On 21 April 2000, General Pervez Musharraf also announced: "The Citizenship Act of 1951, as amended, has been promulgated to enable women of Pakistani descent to claim Pakistan nationality for their children born to foreign husbands. This has been a long-standing demand of Pakistani women which now stands fulfilled." Earlier children could

only have Pakistani nationality if their fathers were Pakistani nationals. However, some inequalities persist: foreign women can acquire Pakistani citizenship through marriage with Pakistani men but Pakistani nationality is not extended to foreign husbands of Pakistani women.

2.4 THE NATIONAL COMMISSION ON THE STATUS OF WOMEN

First announced in March 2000, a National Commission on the Status of Women was set up by Ordinance on 17 July, constituted on 16 August and finally began working in the beginning of September 2000. Originally announced as an autonomous, permanent and financially secure body, the Commission did not in the end have enforcement powers with regard to its own recommendations or judicial powers to stop violations. Under the Ordinance, its purpose is *inter alia* to:

- examine laws relating to women with a view to identifying those that are discriminatory;
- examine the policy, programmes and other measures taken by the government and provide recommendations to ensure that they are non-discriminatory;
- liaise with NGOs on women's issues.

Seven committees have been set up under the Commission; these include committees on law, domestic violence, education, economy and media; each is headed by an expert in that area.

The Commission is headed by the North West Frontier Province (NWFP) Minister for Women Development and Population Welfare, Dr Shaheen Sardar Ali, who has stated on numerous occasions that 'systematic operational plans are being developed to curb violence against women, including honour killings, domestic violence and sexual harassment'.

Women activists in Pakistan have been sceptical about the Commission from the outset, pointing particularly to its lack of independence – its secretariat is in the Ministry of Women's Development – and of enforcement powers. "The commission has only advisory and recommendatory powers – it has no powers to receive individual complaints and redress them. There is no authority with the commission for enforcement or implementation of its recommendations. The fact that the chairperson is a government minister, and has total authority to regulate the work and funds of the commission, tells its own story".¹³ The final consultation on the Beijing+5 NGO review process held in Islamabad in September 2000 accordingly called on the government to review the ordinance under which the Commission had been set up to make it an effective 'watchdog body, with a concrete mandate, power and enforcing authority'; this included demands to give the Commission official consultative status on major policies, laws and development issues and making it mandatory for the government to act on its recommendations; empowering it to monitor and evaluate the

¹³Hina Jilani, Supreme Court lawyer and women's rights activist.

performance of the government and to give it powers to investigate violations or enforce constitutional safeguards.

The Chairperson of the Commission on the Status of Women has responded to such criticism by stating that the fact that the federal secretaries of the interior, finance and law were members of the Commission would ensure that its recommendations would be implemented even though the commission did do not have enforcement powers.

2.5 LEGAL REFORM

On various occasions state functionaries have taken up the issue of the much needed reform of laws affecting women. For instance in October 2000, Interior Minister General (Rtrd.) Moinuddin Haider said that “all discriminatory laws against women should be repealed or amended to remove discrimination against women.” Such laws, identified in the 1997 Report of the Commission of Inquiry for Women¹⁴, include the Zina Ordinance [which relates to fornication and rape], the Evidence Act and the Qisas and Diyat law [which relates to physical injury and murder]. In November 2000, Chief Justice Saeed uz Zaman Siddiqui told a convention of women lawyers in Islamabad that laws and procedures in Pakistan were in need of urgent reform to halt discrimination against

¹⁴The Commission of Inquiry for Women was set up by the Senate in 1994 to examine the laws of Pakistan with a view to identifying those that discriminate against women and recommending suitable amendments. It published its findings in August 1997.

women, a task which, he said, the Pakistan Law Commission was currently engaged in.

Legal scholar and secretary of the Pakistan Law Commission, Dr Faqir Hussain, said at a seminar in Islamabad in October 2000 that the Hudood Ordinances (which includes the Zina ordinance) had been enacted as a 'political ploy' and not in fulfillment of a genuine mission aimed at enforcement of Islamic law. They had been passed but beforehand, 'no debate took place, no discussion or deliberations were held, and no analyses of pros and cons were made.' He added that the draft of the law had been defective in text, its application was a cause of concern and its implications were severe enough to warrant a prolonged clamour for review. Dr Faqir Hussain was quoted in the media as saying that the Enforcement of Zina Ordinance was contrary to Islamic injunctions, as had been agreed by many Islamic scholars. It had the potential for being abused by the investigating and prosecuting agencies and "in its present form discriminates on the basis of gender, age, faith and is violative of fundamental rights and norms of international human rights."¹⁵ However, no action is known to have been taken by the authorities in Pakistan to amend or abolish laws found to discriminate against women.

In early October 2001, the Ministry of Women Development said that a forthcoming meeting of the National Commission on the Status of Women scheduled for 5 and 6 October would discuss laws for the

¹⁵For a discussion of the zina law see also: *Women in Pakistan: Disadvantaged and denied their rights*, AI Index: ASA 33/23/95.

protection of girls and women against violence and the repeal of discriminatory laws and that the federal government was expected to introduce legislative measures to eliminate violence against women in all its forms shortly. This commitment was reiterated in November 2001 by Federal Minister for Women Development, Social Welfare and Special Education, Dr Attiya Inayatullah who said that the government was preparing a policy and a legal framework of “zero tolerance” to gender-based violence. She announced that a survey report on exploitation of women and domestic violence would be released in July 2002 and that her ministry had formulated a strategic framework for the protection of women under which family protection homes and crisis centres would be set up in every district. By early 2002, none of these announcements had led to concrete action.

Similarly announcements that legislative steps would be taken to criminalize violence against women did not lead to any concrete action. At present there are only general provisions in the Pakistan Penal Code which allows the prosecution of domestic violence as infliction of physical harm.

In October 2000, the Chairperson of the then newly constituted Commission on the Status of Women stated that at its November meeting in Quetta the Commission would finalize its recommendations whether to propose legislation to stop violence against women or to adopt another strategy to combat it. Chairperson Shaheen Sardar Ali said in February 2001: “The problem with domestic violence is that the

institutions that deal with this issue are predominantly male and it has been established that the state, which usually shows little hesitation in interfering in private affairs will not intervene in this. If a husband slaps his wife in the home, no one will come to her assistance".¹⁶ The Commission of Inquiry for Women had in 1997 recommended that legislation be enacted to identify domestic violence as a crime; however, nothing has been done to bring this about.

Among the few positive legal measures to benefit women was the ratification of two International Labour Organization (ILO) conventions, including one on equal remuneration for men and women for work of equal level, approved on 18 July 2001 by the cabinet. It will -- if meticulously implemented -- benefit women working in the organized sector. An amendment of the Criminal Procedure Code brought on 17 November 2001, will also benefit women: Under the new section 174A, the dying statement of a burn victim recorded by a medical officer will be accepted in court as a dying declaration; a medical officer or a police officer on duty is to immediately report a serious burn case to the nearest magistrate who may record the victim's statement if there is enough time.

2.6 PROTECTING WOMEN IN CUSTODY

¹⁶ *The Friday Times*, 23 February 2001.

Pending thorough police reforms which have been announced several times, partial measures to ensure the protection of women who come in contact with the criminal justice process were announced. According to a government handout in July 2000, the women police force has been strengthened and more police stations specifically for women have been set up. For instance Inspector General of Police in Sindh, Aftab Nabi, in May 2001 said that 200 additional women Assistant Subinspectors would be recruited on merit through the Sindh Public Service Commission in the same month along with 1,300 male staff. The official handout also says that the law has been amended to strictly prohibit detention of women after sunset in regular police stations. Amnesty International has not been able to verify this statement and ascertain whether such safeguard has been implemented.

In addition, women legal rights and women legal aid committees have been established in the Ministry of Women Development to assist women in distress, with similar centres established in different parts of the country. Women's complaint cells have been set up in some police stations to facilitate redress of such complaints. Members of Shirkatgah, a women's resource centre in Lahore, visited two of the four women's complaint centres set up in September 2000 in the city. They observed that each of the centres has a jurisdiction covering some 17 to 19 police stations within its vicinity. Each is staffed entirely by women (headed by an inspector, and staffed with a sub-inspector, two assistant sub-inspectors and two head constables) and each is placed in a separate room close to the entrance of a large regular police station, thereby enabling women victims of violence easy access. However, none of the

women staff have the authority to register an FIR upon receiving a complaint. The FIR can only be registered at the police station closest to the place of residence of the woman concerned. The women complaint cells, however, do not have their own transport hence cannot take women victims of violence either for a medical examination nor to the police station where the FIR is to be registered and assist them there. The Shirkatgah team noted that women police officers frequently resorted to mediation between victim and perpetrator as they could not register an FIR; only in very serious cases involving danger to the woman complainant's life, was a case registered and the woman sent to the state-run *Darul Aman* [house of peace, a women's shelter]. The Shirkatgah team also noted that none of the women police officers had any kind of training in mediation techniques or counselling nor did they master standard administrative procedures, making them dependent on their male colleagues to carry out the paper work or to guide them. Noting the staff needs for training in mediation and management procedures, the team also observed that the government had made no effort to spread public awareness about the existence of the centre and its functions.¹⁷ Women police officers in different parts of the country have repeatedly voiced their discontent with the discriminatory attitude of male colleagues and the public.

Six Women Crisis Centres were set up by the government in late 1999 in different parts of the country, in Islamabad, Vehari, Lahore,

¹⁷ *Women Living Under Muslim Law Newssheet*, vol. Xii, no 4, p. 8.

Sahiwal, Karachi and Peshawar. Within six months of their opening, some 780 women had reportedly approached them, including 291 who sought legal aid, 60 looking for shelter and 55 medical help. The Fund for Women in Distress, which had been dormant for several years, was reactivated with a sum of Rs. 25 million, to improve jail conditions, set up protection houses for women and facilitate legal aid to women in distress.

2.7 AWARENESS RAISING OF WOMEN'S RIGHTS

Recognizing that discrimination against women will only end if societal attitudes towards women change, the educational curriculum was reportedly revised to reduce and eventually eliminate prejudice against women and to promote the equality of men and women. There is also a nation-wide advocacy campaign run by the government to educate people about the social and economic cost of discrimination against women. A human rights education program on national television also addresses women's rights issues. However, despite these encouraging beginnings, the media continue to depict women in stereotypical ways reinforcing gender inequality. A workshop held in May 2001 in Karachi attended by journalists pointed out that women continue to be depicted only in three types of news items, those relating to women politicians, as

victims of crime and as media stars; no other issues relating to women are covered, particularly in the vernacular press.¹⁸

2.8 WOMEN'S PARTICIPATION IN THE DEMOCRATIC PROCESS

A long-standing demand of women's rights groups was met when the government announced that 33% of seats were to be reserved for women in all local bodies, though originally a 50% quota had been promised. However, as no awareness raising programs accompanied the measure, conservative elements in society in some areas effectively undermined it. At least one potential woman candidate was killed. In mid-December 2000, Nazia Mumtaz who intended to stand for local elections in Bhalwal, Punjab, was allegedly murdered by her husband, according to local sources because he objected to her candidacy.

¹⁸A UN Development Programme survey released in November 2001, "Portrayal of women in the media" showed that viewers now tend to favour a more gender balanced portrayal of women.

According to a German election monitoring team, women in Mardan and Swabi, North West Frontier Province (NWFP), were prevented from standing in elections and casting their votes in the local body elections in March 2001. Local elders and religious leaders threatened women with dire consequences if they dared exercise their right to vote.¹⁹ The German team reported that election participation by women was virtually nil. The authorities did not intercede to ensure that women could exercise their franchise. Most political parties, including the Pakistan People's Party (PPP), the Pakistan Muslim League (PML) and Awami National Party (ANP) in the region endorsed the decision to keep women away from the polling booths.

Women's groups as well as the non-governmental Human Rights Commission of Pakistan (HRCP) in late May 2001 urged the Election Commission to order fresh polls in areas where women had been prevented from standing for elections or casting their votes; this was also recommended by the National Commission on the Status of Women. HRCP General Secretary Hina Jilani said: "The Election Commission of Pakistan must not remain a silent bystander and must immediately order new polls in many constituencies where women were not able to vote as a result of illegal agreements reached between male candidates or other factors. ... It is an outrage that in many instances activists of

¹⁹ *Gross violations of women's electoral rights in Swabi, Mardan and Dir, NWFP, issued by Aurat Foundation, 2001, noted several edicts issued by clerics instructing people to boycott funerals of women participating in polls and asking clerics not to solemnise marriages of such women. Another edict had declared the reservation of seats for women un-Islamic.*

orthodox groups were permitted to harass women who attempted to file papers. In the Dir area, representatives of the NGOs were threatened after they attempted to put up women candidates and their papers were torn. Such action can, of course, take place only with the direct collusion of the authorities. ... Unless swift measures are taken to amend the situation, the status of women will sink lower in society and orthodox elements will gain courage to harass and threaten them at will.’²⁰

When no action was taken, several women who had been forcibly stopped from casting their votes, filed petitions in the Peshawar High Court asking the court to declare the election void in all constituencies where women had been disenfranchised. The petitioners argued that candidates and notables in the area had entered agreements to prevent women exercising their right to franchise. In October 2001 the Court collated such identical petitions but by early 2002, no decision had been taken.

Countrywide, however, participation of women in the staggered local body elections led to several thousand women councillors being elected. They will have major tasks to shoulder if the devolution of powers envisaged by the government as an important element in the refoundation of democracy in Pakistan is to be meaningful. Most have no training, many have a low literacy rate and are burdened with family and household duties. Dr Maria Jehanzeb, elected from Union Council

²⁰HRCP press release, 31 May 2001.

Pandire Chaghorzai and later elected member of the district government, said in October 2001 that in some cases, women councillors had been dragged into politics to secure seats over which husbands and other male relatives hoped to have control but were then not permitted to attend council sessions and other official work. Moreover, she said, many women councillors were illiterate and unable to follow or contribute to, council proceedings. Another woman councillor and presiding officer of the Nowshera district council, Sultana Rauf Khattak, said local women councillors would boycott the upcoming council session as male colleagues denied them the authority to identify development schemes and allocate funds in the new local government system. Women councillors in Dera Ismail Khan also publicly complained about the discriminatory attitude of their male colleagues.

In January 2002, the government announced that in the general elections due in October 2002, 60 of 350 National Assembly seats would be reserved for women. Before the elections all parties would have to announce the names of their women candidates and such seats would then be allocated on the basis of proportional representation.

2.9 OFFICIAL ATTITUDE TO NGOS

Despite several members of the present government having worked in and with non-governmental organizations (NGOs) -- and the government repeatedly emphasising its closeness to NGOs -- it has done little to protect women's NGOs against attacks and harassment from

conservative elements of society. NGOs assisting women have been repeatedly targeted by Islamist groups, especially in NWFP. On 2 July 2000, leaders of the Tehrik-e-Nafaz-e-Shariat-e-Muhammadi (TNSM) in Malakand Division directed their followers during a rally to marry any woman belonging to an NGO they met. Its leader said, "if you see any female NGO worker in our area take her home and marry her so that she spends [the rest of] her life inside four walls". The main target of the Islamists' ire was the NGO *Khwendo Kor* [Pashtu for 'Sisters' Home'], an NGO that seeks to raise the status of women in the area by running integrated community based schools. Islamists claimed that the NGO – and NGOs generally -- were spreading obscenity and undermining the honour of the Pashtuns. Even some local media reportedly blamed the NGO workers for failing to respect the local culture when working with men. Project manager of *Khwendo Kor*, Anila Qamar, said that the organization worked with those parents who wanted to see their daughters educated and improve their prospects and who were unable to benefit from the state education system. The NGO invited clerics and journalists to visit their school and see their work. Following threats to staff and negative publicity, the NGO had to suspend its work which had benefited some 1,500 girls for some time. In July 2001, a small bomb was reportedly pushed into a drainpipe of a Sister's Home in Karak, a hand grenade tossed into the office of another. A worker said, "Yes, we feel threatened, but as we don't do anything illegal, we don't see any point in reviewing our activities."²¹

²¹ *The News*, 16 July 2000.

A spokesperson for the Aurat Foundation, which focuses on women's welfare, said in June 2000 that workers for the foundation were feeling increasingly insecure, especially in remote rural areas. Tribal leaders in northwestern Pakistan had said that the NGOs promoted obscenity in the guise of human rights, corrupted local women and should be banned. On 30 March 2001, a women activist in Mardan was attacked and urged to close the NGO she had run from her house for the welfare of local women. Again, on 23 June 2001, a group of religious party activists in Kohat condemned NGOs for spreading western culture and employing young women who worked in offices along with male colleagues. Islam, they said, did not allow women to meet men freely, to talk to them or to travel outside their homes alone. Since 11 September 2001, attacks on NGOs have further increased in NWFP and Balochistan. For instance, three non-formal schools for girls run by the Civic Awareness Promotion Society in Khazana, Nehqai and Sheroojhanghi were closed in October 2001 following attacks on the building and threats to teachers.

3. VIOLENCE AGAINST WOMEN IN THE FAMILY AND COMMUNITY

3.1 DOMESTIC VIOLENCE

While state officials announced measures to safeguard women's rights at the Convention on Human Rights and Human Dignity, Nagina was on 21 April 2000 burned to death by her husband Shahbaz in Lahore. Fatally

injured, she told relatives in hospital that her husband and her mother-in-law had beaten her for giving birth to a baby girl after two years of marriage. She had also refused to consent to her husband marrying a second wife. Her husband claimed that Nagina sustained burns while boiling milk. Shalimar police station registered a complaint but it is not known if Shahbaz was arrested.

Domestic violence, which often has lethal consequences, is widespread in Pakistan; it is grounded in the conviction of many men that women are their property and obliged to fulfill men's needs and wants without question and without fail. This view is often shared by women who believe that violence is somehow deserved by them or something they can do nothing about and who consequently shrink from reporting it. A study by the Punjab Women Development and Social Welfare Department released in October 2001 said that some 42% of women accepted violence as part of their fate, while over 33% felt too helpless to stand up to it; only 19% protested and only 4% took action against it. The perpetrators of such violence were male relatives (53%), husbands (32%) followed by other women (13%) and other relatives (2%). The report stated that only some five per cent of rape and 'honour' crimes were reported.

Grounded in a persistent lack of awareness of women's rights, violence in the private sphere will reduce and end only if concerted efforts are made in all strata of society and throughout Pakistan's institutions to change perceptions of gender. So far, such efforts have not been consistently made.

The level of violence against women, which includes physical and mental abuse, rape, acid throwing, burning and killing, consequently continue to be high. The number of instances of violence against women is not known; different organisations provide different numbers based on



reported cases. The annual report of the HRCP summarises: “Reports by human rights groups indicated that every second Pakistani woman is a victim of direct or indirect violence.”²²

The human rights organisation Lawyers for Human Rights and Legal Aid in Karachi in the year 2000 recorded 736 cases of physical abuse of women; some 600 cases of sexual abuse, including about 400 cases of rape; 490 cases of abuses of children of both genders, including 190 rapes of girls; 540 women’s suicides, 482 kidnappings of women and 160 women burned to death. According to the Pakistan Institute of Medical Sciences, over 90 per cent of married women report being kicked, slapped, beaten or sexually abused when husbands were dissatisfied by their cooking or cleaning, or when the women had ‘failed’ to bear a child or had given

²²The State of Human Rights in 2000.

birth to a 'wrong' gender child, a girl. The Society for the Advancement of Community, Health, Education and Teaching (SACHET) stated that one woman is murdered and one is kidnapped in Pakistan every day. In the first 70 days of the year 2001, it said, 263 cases of violence were reported in the country.

Newspapers reported dozens of cases of domestic violence:

- *On 12 May 2000, a man in Daska shot dead his sister when she refused to iron his clothes.*
- *In Khairpur district, Sindh province, Haneef Jat beheaded his wife Sughran on 13 May 2000 after she failed to serve his meal in time.*
- *On 22 October 2001, Sharif in village Goharpur, Sheikhpura district, Punjab province, tied his wife Shukria's wrists and ankles with rope, poured kerosene over her and with the help of his mother and sister set her on fire. The couple had been married for ten years; as they remained childless, Sharif wanted to marry another woman but Shukria did not agree to this. Neighbours tried to rescue Shukria but she died shortly afterwards in hospital.*

Women's rights groups in Pakistan have pointed to the psychological and social cost of government failure to curb domestic violence. Victims suffer deep emotional and physical scars and are usually too preoccupied with coping with violence to have energy or time for

anything else; if they are mothers, this clearly affects their children for whose emotional needs a battered mother may not be able to spare enough attention and emotional energy.

circumstances in the first three months of 2000 alone but only in six cases were complaints filed with police. The HRCP estimates that less than 20% of cases of stove burn deaths lead to arrests but even amongst these cases, most suspects are released within days. The reluctance of people to implicate family members means that in burn cases, criminal prosecution does not go far.

Whereas the murder of women in the home is mostly by throwing kerosene on them and setting them alight, women increasingly have acid thrown on them by men; acid burns do not usually kill but lead to hideous disfiguration and suffering, destruction of self-esteem and virtually ban a woman from the public domain. On 27 March 2000, 19-year-old Shaista in Lahore had acid thrown over her as she was being dressed up to be married; three other women were also injured. The assailant was a 36-year old neighbour who had apparently been turned down by Shaista's parents. The bride suffered 35% burns on her face, neck and chest, and one eye was seriously damaged. (See also the case of Fakhra Younus below.)

Suicide rates among women and girls have risen sharply in the last years; the figures conceal domestic hardship and violence which the women finally found unbearable. The HRCP mentions 500 such cases in the year 2000 with most arising from domestic discord.

A glance at the list recording cases of suicide of women in Sindh maintained by the HRCP office in Hyderabad reveals much hidden suffering of women. Of 29 cases of suicide by women in the month of

January 2000 recorded in the interior of Sindh (i.e. Sindh without Karachi) from newspaper reports, most cases relate to unspecified family disputes (16 cases). Two women, Shamim in Sanghar district and Amna Khatoon in Dadu district, committed suicide because they were 'scared after excesses by their husbands'; one woman, Shrimati Bhani, hanged herself because her husband had not allowed her to visit her parents. One woman, Fatima, a teacher, took insecticide after the birth of her fifth daughter in an attempt to end her life. A 13-year-old girl, Rasheeda in village Fatehpur in Khairpur district, committed suicide after being married to a 70-year-old man. Similarly in February 2000, two of 15 women who committed suicide in the same area, were 15 and 18 years old and killed themselves because they were being married against their wishes, in one case to a much older man.

While most marriages in Pakistan are arranged by both spouses' parents, forced marriages continue to be reported. The judiciary in Pakistan has in some cases upheld the right of women to refuse a forced marriage. (See below on the attitude of the judiciary.) Very early age at marriage of girls continued to be reported despite legal provisions which fix the minimum age of marriage for girls at 16 and boys at 18. Early marriage denies girls the right to the right to education²³ needed to prepare for adulthood; it also means premature pregnancy with its

²³"Forcing children, especially girls, into early marriages can be physically and emotionally harmful. It violates their right to personal freedom and growth." according to UNICEF Executive Director Carol Bellamy on 7 March 2001.



associated risks. Moreover child marriages must be assumed to be forced marriages as young girls cannot be assumed to be able to give free and full consent to the marriage. Sexual intercourse within forced marriages always constitutes rape.

Pakistani women living abroad continue to be abducted by their parents to be forcibly married to grooms in Pakistan. Usually deprived of their travel documents on arrival they find it difficult in an alien environment to obtain help to escape. 18-year old K. from Manchester who holds British nationality, was taken in April 2001 to Azad Jammu and Kashmir by her parents who told her they were together going on a holiday. In early August she was married to a man she did not know or want; a week later her parents left for the UK taking with them her identity papers. Fearing violence in the family of her in-laws, she hid with friends and contacted a UK based lawyer who succeeded in obtaining emergency travel documents from UK authorities. The young woman returned to the UK in late August 2001.

A form of forced marriage apparently specific to Pakistan is the 'marriage' of girls and women in the interior of Sindh province to the Qur'an which is motivated by property issues as it deprives girls and women of their inheritance rights. While many people in Sindh deny that

the practice still exists, the HRCP report for 2000 quotes an Islamabad based organization's assessment that at present there are currently over 5,000 women married to the Qur'an in Sindh.

Other traditional practices also persist despite prohibitions in law. While slavery is prohibited in the Constitution of Pakistan and the Peshawar High Court in November 2000 declared the practice of *swara* unlawful (see below), girls and women continued to be traded to 'settle' debts or conflicts. In Sukkur, six-year-old girl Asma, was in 2000 married to a 60-year-old man when Asma's family was unable to repay a debt to the man. According to newspaper reports the marriage was consummated and the little girl screamed loudly for hours after the rape.

In late June 2001, a *jirga* of the Jatoi tribe in Thatta district, Sindh province, "settled" a nine-month old tribal feud between different members of the tribe over the murder of Mohammad Juman Jatoi by the brothers Hanif Jatoi and Noor Mohammad Jatoi. The murder was reportedly triggered by the two brothers getting annoyed about the barking of the pet dog belonging to Muhammad Juman Jatoi. The *jirga* decided to hand over two young girls from the side of the murderers to the side of the victim: the 11-year old daughter of accused Hanif Jatoi was made to marry the 46-year-old father of the murdered Mohammad Juman Jatoi and the six-year-old daughter of Noor Mohammad Jatoi was married to the 8-year-old brother of the victim. The compensation agreement was accepted by all sides, the girls were not asked their opinion. Though the arrangement was reported in the English language

media in Pakistan no action by the authorities is known to have been taken to prevent the abuse or rescue the girls.

Sexual harassment of women in the workplace is reportedly on the increase in Pakistan. With greater participation of women in work outside the home and a concurrent increase of awareness of women's rights, more women resist infringement and harassment leading to a higher rate of reporting. Observers hold patriarchal patterns of behaviour responsible for the occurrence of harassment and the absence of redress. "Given the number of anti-women laws on our statute books, only a very daring woman in Pakistan would want to go to court with a complaint about sexual harassment, which is often difficult to prove", comments a Karachi daily newspaper.²⁴

The practice of *watta-satta* persists; it involves a brother and sister cross-marrying another pair of siblings. It involves a mutual exchange of property, does away with the need to give dowry as both sides are in an equal position and is perhaps intended to ensure control over the treatment of a daughter as the other family's daughter is a kind of hostage. However, when relations in one such couple encounter difficulties, the other couple is often negatively affected as well. The HRCP reported that 19-year-old Sabira, married alongside her brother Saghir in Rawalpindi in 1999 to a brother and sister in Azad Jammu and Kashmir was forced by her parents to divorce her husband in June 2000 when her brother and his wife developed difficulties.

²⁴*Dawn*, 14 January 2001.

Trafficking of women for purposes of forced domestic labour, forced marriage and forced prostitution continues to be reported with Pakistan which functions both as a country of origin of trafficked women and as a transit and target country for vulnerable women from Bangladesh, Nepal, India and Afghanistan. In August 2000, women's activist Asma Jahangir presented a Bangladeshi woman, Razia Sultana to the press. She had been brought to Karachi 15 years earlier; on arrival her passport was destroyed and she was forcibly married to a man with whom she had a son. Her husband later sold her to another man against her wishes; she eventually escaped and reached the HRCP which arranged for her return to Bangladesh where she had left behind a daughter.

Women and girls are deceived, coerced, abducted and sold, often re-sold and repeatedly re-married without regard to their own wishes or to any children they may have. They are forced to work and live under conditions of slavery by their agents who are organized in crime networks that span the Indian subcontinent. Often the women's family is complicit in such abuse by facilitating the sale of the girls and women. Marriage is often used as a method of recruitment for trafficking and to avoid arrest under Pakistan's *zina* law which criminalizes sex outside marriage. Many trafficked women are arrested in Pakistan and charged under the *zina* law or under the Foreigner's Act with illegal entry into Pakistan, thus turning the victims of trafficking and forced prostitution into accused both in terms of their work and status neither of which they had chosen.

The open sale of girls and women in markets is reported from several parts of the country, particularly in areas of underdevelopment such as in parts of the Thar desert in Sindh and in Balochistan. In the Mohmand Agency, a Federally Administered Tribal Area, traditional fairs in which families offer their girls for sale were banned some years ago, but smaller fairs are reported to persist in more remote areas. Aurat Foundation in 2000 documented the case histories of 39 women being trafficked in the North West Frontier Province, with some being offered for marriage to Punjabi men but many sold to Middle Eastern countries.

Some women, both trafficked and local, are killed if they refuse to earn money in prostitution into which their husbands or agents force them. Fareeda Bibi was beaten by her husband with a iron bar, had kerosene sprinkled on her and was set on fire in Sukkur on 15 October 2000. In hospital before her death she told police that her husband had forced her to lead a sinful life and that he had abused her when she refused to comply.

Those uncovering the trafficking of women have sometimes had to pay with their lives. Journalist Sufi Mohammad Khan from Badin, Sindh, was killed on 2 May 2001 after reporting extensively about drug trafficking and trafficking of women in the Tharparkar area of Sindh which he said happened with the connivance of an apathetic administration. He reported that some 70 women had been kidnapped in Sindh and Punjab, detained by a mighty feudal family in that region, the Arbabs, and forced into prostitution. The journalist was reportedly alternately bribed and threatened with harsh consequences by members

of the Arbab family if he did not cease reporting. It is not known if anyone has been arrested in connection with his murder.

3.2 'HONOUR' CRIMES

"It is an unholy alliance that works against women: the killers take pride in what they have done, the tribal leaders condone the act and protect the killers and the police connive in the cover-up." Nighat Taufeeq of the women's resource centre Shirkatgah in March 2000.

In its report on 'honour' killings issued in September 1999, Amnesty International described the cultural setting of 'honour' crimes and its many forms; it held the Government of Pakistan responsible for such abuses perpetrated by private actors as it had systematically failed to exercise due diligence when not adequately protecting women against such abuse, and failing to take measures to prevent and investigate such abuses and to bring perpetrators to justice. Under international human rights law, states have a responsibility to 'ensure' the rights of all people; this includes the protection from infringement of rights by state agents and private persons.²⁵

'Honour' killings are carried out by men who assume that their wives, daughters or sisters have in some way contravened norms relating to the behaviour of women thereby damaging a man's 'honour'. Often the

²⁵See for details on state responsibility: *Respect, Protect, Fulfill: Women's Human Rights -- State responsibility for abuses by non-state actors*, AI Index: IOR 50/001/2000.

grounds for such assumptions can be very flimsy and amount to nothing more than a suspicion about a woman's fidelity; but men are also known to have felt shamed if 'their' women seek divorce or become the victims of rape.

Men in Pakistani society have virtually no other means of undoing a perceived infringement of 'honour' than to kill the women assumed to be guilty of it. Social pressures to eliminate the 'offending' woman are great and men who would rather ignore rumours of infringement of 'honour' are themselves considered dishonourable. Women, too, have to some extent internalized norms of 'honour' and are known to have approved of or assisted in killings of other women in the context of 'honour'.

Given that the prosecution of 'honour' killings is lax; that the law relating to murder is unable to ensure trial and conviction for 'honour' killings; and that members of the criminal justice system are prone to side with the perpetrators, people have tended to present other murders in the garb of 'honour' killings. Murderers may also murder a woman in addition to a man to create the impression that an 'honour' killing occurred. In May 2000, Naseem Bibi, pregnant with her first child, was pulled out of her bed and strangled in a field by her male relatives in Jhang district, Punjab. They earlier shot dead a man in another town over an unrelated issue. After the murder they were reportedly advised by the head of their clan, a school teacher, to kill Naseem Bibi as well, as a double murder in a supposed 'honour' context would lead to a lesser punishment in court than a murder of a man. The six men involved in

the killing surrendered to police 'with their heads held high' according to *The News*, while local people donated money for the killers' defence.

The possibility of extracting compensation payment from a potential male victim of an 'honour' crime has added another layer of fake 'honour' crimes. Such fake 'honour' killings appear to be on the increase, based on "pressing economic needs, increasing material greed and the desire to become rich overnight. ... Husbands would declare a woman a kari [black woman, the one who brings shame] by levelling charges of illicit relations with a rich man in the village. The killer takes money to pardon the suspected man as well as gets rid of a wife or sister by killing her and her share of property is also saved."²⁶ Federal Minister for Women Development Dr Attiya Inayatullah said that the custom of "karo kari", ["black man" and "black woman" those that dishonour others] in fact amounted to "karobari", a business transaction.²⁷

The exact number of honour killings is impossible to ascertain as many such killings go unrecorded and unreported. The HRCP noted hundreds of 'honour' killings in different parts of the country in the year 2000, in addition to other forms of violence against women. Of 407 murders of women in Punjab province between January and June 2000, 168 were stated in the FIR to be motivated by 'honour' while another

²⁶*Dawn*, 19 June 2001.

²⁷Report on a National Seminar on 'Honour Killings' in Lahore, November 2001 in *Dawn*, 26 November 2001.

109 were committed by close relatives of the women victims where police suspected an 'honour' killing. The Centre for Information and Research in Karachi reported 56 men and 73 women killed on grounds of 'honour' in the first six months of the year 2001. Most belonged to the middle or lower middle class. Of the reported cases, 28 women were killed by their husbands, 12 women by their brothers, 10 by their brothers-in-law, eight by cousins, 6 by other male relatives and 5 by their sons and the rest unidentified persons.

Official and NGO figures vary considerably: The HRCP office in Hyderabad in recorded a total of 280 cases of 'honour' crimes in Sindh in 2000, the 393 victims of the crimes including 236 women, whereas Sindh police claimed that 294 people, including 189 women had been killed in 'honour' crimes in the same period. In the first quarter of the year 2001, police claimed that 32 people including 24 women were killed in an 'honour' crimes context, whereas the HRCP spoke of 87 victims, including 62 women.

Media and human rights organizations in Pakistan speak of some three women murdered for 'honour' every day. The Chairperson of the National Commission on the Status of Women, Dr Shaheen Sardar Ali said in January 2001, "the centuries-old problem [of violence against women] is based on traditions and customs involving the honour of rural, feudal and tribal families. It will not stop unless people stop thinking of women as their personal property." Members of the NGO community agree: "Women are treated as property and there is a perception that honour stems from the woman in the household. ... General Musharraf

may genuinely believe this shouldn't happen but he had shown no clear will to stop it. He needs to change tradition and tradition is one of the hardest things to change.'²⁸

Meanwhile the practice persists. Women are murdered on the merest allegation of an 'illicit' relationship, because of their perceived insubordination when they chose to marry a man of their choice or when they chose to divorce an abusive husband. Cases of 'honour' killings and domestic violence are reported with appalling regularity almost every day in newspapers in Pakistan. Most reports merely record that woman x was shot dead or hacked to death in place y on suspicion of an illicit relationship without giving any further details of the suffering and abuse hidden behind the recorded facts.

While the condemnation of 'honour' crimes by the present Government of Pakistan in the Convention on Human Rights and Human Dignity in April 2000 was clear and unequivocal, no immediate action followed to prove its commitment. Even well-documented cases of 'honour' killings were not pursued though such measures would have lent immediate and convincing weight to the verbal commitment. Instead, public statements by some government officials sounded like excuses for inaction. Then Governor of NWFP, Lt. General (retrd) Mohammad Shafiq, on International Women's Day 2000 told a women's delegation that his government would take strict action against any perpetrators who was

²⁸Kamila Hyat, joint director of the HRCP, quoted in *The Guardian*, 29 January 2001.

pointed out to it but that reports of 'honour' killings were 'unduly projected'. He said that he had received over 500 letters relating to the case of Jamila Lal but said that someone was exploiting the situation. "I am thinking of writing a letter to Amnesty International to apprise them regarding [the] real situation. We are not so much bad people that we do nothing but slaughter our females. If there is some negligence on the part of police we will take strict action against them. But someone has to point out ... we are also a part of this society. How can we allow the killing of women in the name of honour?" He pointed out that the inhabitants of the tribal areas had their own traditions and the government could not interfere in these.

Not only has Amnesty International not received any direct communication from the Governor, but there is also no indication that the case of Lal Jamila Mandokhel [described in Amnesty International 1999 report on 'honour' crimes] was subjected to any scrutiny. She had been shot dead in March 1999 after a *jirga* of Pathan tribesmen in Kurram Agency had found her 'guilty' of 'dishonouring' her tribe when she had been subjected to rape.

The case most thoroughly covered in the media in Pakistan, including in NWFP, relates to Samia Sarwar, a 29-year-old woman who was shot dead by her father's driver on 6 April 1999 in a lawyer's office in Lahore as she was seeking divorce from a severely abusive husband. The killing occurred in the presence of Samia Sarwar's mother and uncle and was probably instigated by Samia Sarwar's father. To date neither of them have been arrested. Samia Sarwar's father is a prominent businessman and heads the Chamber of Commerce in Peshawar, the capital of the North West Frontier Province of which General Mohammad Shafiq was the Governor.²⁹

Similarly, the case of Uzma Talpur in Sindh who is at risk of honour killing, was well-documented and is on record in the files of the Human Rights Advisor of the Government of Sindh. But no action was taken by Sindh authorities to ensure the recovery and safety of Uzma Talpur.³⁰

²⁹Update relating to the two complaints that were filed after the murder of Samia Sarwar: The complaint filed by Hina Jilani alleges murder of Samia Sarwar and kidnapping of a para-legal advisor of the law firm. The police investigation proceeded slowly; the case is being heard in a sessions court in Lahore. The paralegal advisor who was abducted after the murder and who witnessed Samia Sarwar's father's response to the killing is the only witness to link the two charges. Her friends and relatives have been approached and advised that she should withdraw from prosecution for her own good. Another witness, the driver of the rickshaw in which the paralegal advisor was abducted, has already refused to depose in court against the accused. The second case, alleging that lawyer Hina Jilani ordered the killing of the driver who shot Samia Sarwar and enticed her to seek divorce, was filed by her father in a Peshawar sessions court; Hina Jilani filed a petition for quashment which is pending.

³⁰Update on Uzma Talpur's case: The Sindh High Court circuit bench in Hyderabad on 21 September 2000 ordered the registration of a kidnapping and murder charge against the father and mother of Uzma Talpur, on a constitutional petition filed by Nasir Mehmood, husband of Uzma Talpur after police on numerous occasions failed to bring her to court. Nasir Mehmood, a student of Tandojam

Agricultural University, and Uzma Talpur got married of their own choice on 14 November 1998 in Khairpur before a magistrate as the Talpur family disapproved of the marriage. The couple then went to Punjab province where they were arrested in Jhelum on 30 November 1998 by Hyderabad police on a kidnapping and zina charge; Uzma was subsequently handed over to her parents. Nasir Mehmood stated that police maltreated him in custody and took away the wedding certificate. When the kidnapping charge against Nasir Mehmood was heard before the Karachi High Court, the Talpur family undertook on 6 April 1999 to bring their daughter to the court but failed to do so repeatedly. The matter was then transferred to the Hyderabad bench of the High Court where, on 12 May 2000, the court was informed by Uzma's father, Gul Mohammad Talpur,, that he had brought her to court on 20 April 1999 but that she had been kidnapped by four unknown persons. The Station House Officer of Cantonment police station, however stated that no woman had been kidnapped on that day. Despite this, another FIR alleging kidnapping was registered against Nasir Mehmood. The court issued several search orders to recover Uzma Talpur but to date she has not been found.

In the recent past, new trends relating to 'honour' crimes have emerged. Increasingly, men kill not only the woman who they believe to have brought shame on them but also several other family members. In November 2000, Mohammad Umar Magsi, originally from southwestern Balochistan and living with his family in Karachi, killed his 11-year-old daughter Farzana with an axe as he suspected her of having an affair; when his wife and younger daughter, nine-year-old Sabra, tried to intervene, he killed them as well before turning himself in to police. On 8 January 2001, Riaz Ahmed, a retired army soldier in Mandi Ahauddin, Punjab province, axed to death his wife, three daughters and two sons, because he suspected his wife of adultery. On 12 February 2001, Faramash Ali, in Lahore, killed his three daughters following a quarrel with his wife over the birth of yet another daughter. In May 2001, a man killed his wife, mother-in-law and 4-year old sister-in-law in a town near Lahore; he suspected his wife of adultery which she had denied. On 16 January 2002, Jamal threw hand grenades into his father-in-law's house in Daktarabad, Chakdadara, Malakand division, when his wife refused to return to him, killing five of her relatives and injuring eight.

The HRCP has observed that increasingly young boys are forced by their parents to attack or kill sisters who are opposed to a forced marriage. After committing the crime, the boys are formally pardoned by the fathers of the girls or women, which allows them to go free without charge or trial.³¹

³¹For details relating to the *qisas* and *diyat* law, see the 1999 report on 'honour' crimes, p. 44-46.

In a few cases, women have begun to resist violence in the name of 'honour'. In November 2000, Parwatti, a young woman in Shahpur Chakar, near Nawabshah, Sindh, fought back when her husband tried to murder her despite her declaring her innocence. Her husband was injured in the struggle and the woman escaped. The local landlord subsequently held a *jirga* which established her innocence and asked the husband to apologize and take her back.

There are dozens of cases of honour killings relating to mere allegations of 'illicit' relationships. Sometimes on a single day, several such 'honour' crimes are reported in one province alone. On 1 June 2000, *The News* reported from Punjab: Ghulam Hussain killed his mother-in-law Zaharoon in Bahawalpur district over the alleged liaison with a neighbour; Abida Bibi was killed for her alleged 'immodesty' by four men in the same area; Zakria Bibi was strangled by her older brother in Toba Tek Singh who claimed to have found her in a compromising situation; in Multan, a man killed his sister Asia for an alleged illicit relationship, and Basharat stabbed his wife and mother in a village near Pakpattan. Some killings may also have happened elsewhere without being reported.

Women who marry men of their own choice are frequently seen to damage their family's 'honour'; they are frequently detained by their parents, forcibly married to someone else, threatened, humiliated, assaulted or killed. If they chose to get married in court against the will of their parents, they may be charged, along with their husbands, with 'illicit' sexual relations under the country's Zina Ordinance if their parents do not recognize the legality of the marriage. The Zina Ordinance criminalizes *zina*, 'fornication', i.e. heterosexual relations between consenting adults outside marriage. The legality of a marriage is often difficult to prove for a couple who chose this form of marriage. Courts do

not mandatorily maintain records of marriages which could be used to prove that a marriage was lawfully contracted. Women's rights activists have therefore urged that certain procedural requirements be made compulsory: that proper record of court marriages be maintained by the courts; that courts intimate the area police station of such marriage so that no criminal complaint of unlawful sexual relations can be registered; the courts should also inform the family concerned about a marriage having been lawfully contracted.

□ In March 2000, 14-year-old Rahima Mugheri was killed by her 28-year-old husband Niazul Mugheri on their wedding night. He emerged from their bridal chamber to announce to family members and neighbours that his wife had confessed to pre-marital sex. The family then decided on the mode of her death: first Niazul's elder brother, then other male relatives, including the husband shot at her till she died. Rahima was buried within hours of her wedding. According to newspaper reports, the husband had a long-standing enmity against the man he accused of having had a relationship with Rahima. It is not known if anything happened to the other man.

On 7 March 2000, a day before International Women's Day, a young woman, Narjis Sultana, narrowly escaped an attempt on her life by her father and other relatives after the High Court bench in Multan had granted that, being an adult, she could decide her own future. Narjis Sultana had married a man of her choice, Mohammad Iqbal of Kot Addu, Muzaffargarh district in February 1999 against the will of her parents. Her father, Zafar Ali Khan, then lodged a complaint with Athara Hazari police station in Jhang district alleging abduction by Mohammad Iqbal and zina. Narjis was arrested by Athara Hazari police in August 1999 and handed over to her parents who then married her to a man of their choice, Ghulam Qasim. Meanwhile her husband Mohammad Iqbal filed a writ of

- In November 2000, Fakir Muhammad and three other villagers in the village of Fakir Muhammad, District Faisalabad, Punjab, killed Rafiq Hussain, 21, and his sleeping sister, Firdous, 21, and daughter, Najma, 20, in their home in Sheikhupura district of Punjab province. Both women were working as maids. An FIR was filed against the men who were arrested; Asif Ali Hussain, 50, the father, told the women had dishonoured their family when they spoke to each other in their presence and therefore deserved to die. "The killing of two morally corrupt sisters was better done sooner than later. When I realised that my neighbours and I would not change their ways, I contacted the police and we made plans to kill them. He was the only way to avoid further result. Whatever I have done, I have done on the call of my conscience and I am ready to face any kind of treatment."
- In March 2001, a 60-year-old widow, Hidayat Khatoon, charged against the two young men and approved of their action of protecting family honour, they were released shortly afterwards. When the son surrendered to police, he said that he had been teased by villagers over his mother's alleged affair
- On 3 October 2000, Nathu, 41, of Bangla Ichha in Rajanpur district, Punjab, killed his wife Gamil, who was eight months pregnant, pulled out the foetus and stabbed it as well; he had suspected

habeas corpus for the recovery of his wife, alleging that she was held in illegal confinement. When on 14 January 2000, Narjis was brought before the High Court to record her statement, she said that she had voluntarily married Mohammad Iqbal and that she had been forcibly 're-married' by her father. The court sent her to a women's shelter, the local Darul Aman. On 7 March 2000, Narjis said before the court that she wanted to go with her husband Iqbal instead of sheltering in the Darul Aman or returning to her parents. The court observed that she was adult and could decide her own future. The court also said that if she feared for her safety she could seek police protection. When Narjis left the court premises, her father and other male relatives tried to abduct her and fired in the air; a court official rescued Narjis and locked her up in a lawyer's chamber. Only one of the assailants was arrested while the rest escaped. It is not known if the couple have been able to live in safety since then.

Other women have not escaped their male relatives' wrath. On 25 August 2001, 22-year-old Hifza Kakar was shot dead by her brother at the gate of a sessions court in Quetta where police had escorted her from the local Darul Aman. Hifza had married Fayyaz Moon of her own free will in 1998 but her parents filed a criminal complaint against her husband in Pishin police station alleging that he had abducted her and committed *zina*. The couple were arrested by police in Faisalabad. During hearings before a sessions judge in Quetta Hifza asserted that she had not been abducted but had validly married Fayyaz of her own free will. The court reserved the judgment which was to be announced on 25 August. After the shootout, the court said that the couple were acquitted of all charges. Hifza Kakar's brother was arrested.

Dozens of women pay with their lives when they claim their right to decide their own marriages:

- *In March 2000, Deeba Shaw, a 15-year-old girl in Chenaser Goth, Sindh province was shot dead by her family when they found out that she had married her neighbour without their knowledge. Her husband fled when he heard of her murder.*
- *On 6 March 2000, 19-year-old Samina, married six months earlier and four-months pregnant, and her husband Tanveer Faisal were shot dead in their home in Jharanwala village, Sialkot district, by her brother as her family had opposed the marriage. No one is known to have been arrested.*
- *Often couples believe themselves safe if they escape threats immediately after their wedding. Sometimes women's groups try and mediate between the families to settle the conflict while the couple are in hiding. In many cases, families ultimately accept the fact of the marriage, especially once sons are born. However, sometimes their sense of shame is not appeased. Robina and Khushi Mohammad of Marianwala village in Gujranwala district were hunted down and killed in May 2000 by Robina's uncle and two brothers over two years after their wedding against the wishes of her family; they had been in hiding but had finally returned to the husband's home.*

Women seeking divorce, often after severe abuse, are frequently not forgiven for these acts of perceived insubordination and damage to 'honour' and killed.

Kubran Bibi was married by her parents without her consent to a man in village Chhedu, Punjab province, in 1999 but was divorced within a few months; her father then married her to Iqbal in her home village Rangeelpur of Manga Mandi, Lahore, again without her consent. When she was repeatedly beaten by Iqbal, she left him on 30 January 2001 and sought refuge in the private women shelter 'Dastak' in Lahore. Kubran Bibi told 'Dastak' staff at the time of her admission that she had not been consulted before either marriage and that her father had taken money for them; as her second husband was already married and used to beat her severely, she could neither go back to her parents nor to her husband but sought shelter and assistance to file for divorce. She expressed her fear of both her own relatives and her in-laws, all of whom had threatened her. While at Dastak, she was visited by her sister, brother-in-law and a cousin on 9 February 2001 and again by her father and sister on 16 February. She returned with them to her father's home on the same day.



On 25 March 2001, as she was sleeping in the courtyard of the family home, Kubran Bibi was shot dead. According to press reports her cousin Ashiq killed her in the name of 'honour'. An FIR (126/2001) was lodged by her father in police station Manga Mandi on 25 March 2001; it named Kubran Bibi's cousin Mohammad Ashiq as the accused; he obtained pre-arrest bail. Kubran Bibi's brother and brother-in-law were named as eye witnesses.

The HRCP concluded, "the killing of a woman, Kubran Bibi who had recently left the women's shelter 'Dastak' indicates how precarious the position of women is in a situation where even their closest relatives present a threat to

them. It also points to the difficulties for those providing shelter to women in an attempt to offer some protection from the dangers they face.’’

In some cases men have killed divorced women such as former wives or daughters or single female relatives of whose conduct they disapprove. In February 2000, Ilyas shot dead his daughter Shakeela in village Garjakh, Gujranwala district. Shakeela was living with her divorced mother who had consented to the young woman’s marriage to a man of her choice. In a similar case, a man killed his widowed sister Hoor Begum (40) on 22 October 2000 in Nawabshah district because he disagreed with her choice for her daughter of a man from another community.

In May 2000, Shakila Bibi (35), who had obtained a divorce a month earlier, was hacked to death along with five members of her family in Jakhar village, Sialkot district, by her former husband and his associates as he objected to Shakila’s parents’ plan to remarry their daughter. An inquiry was ordered but apparently no further action was taken.

On 28 March 2000, Tariq Bhatti shot dead his wife Parveen in court in Rajanpur when a judge asked them to reconcile; Parveen was seeking a divorce after three months of abuse following their wedding. The husband ran away after the shooting. In April 2000, a man shot dead his sister Hanifan in the district court premises as he disagreed with her seeking a divorce. He was arrested. In the same month, Mohammad Ayub escaped after shooting dead his wife and her parents as well as a

rickshaw driver when they were returning from a court hearing in Quetta relating to the divorce his wife had initiated. Also in April 2000, Munir Ahmad killed Kishwar Parveen in Toba Tek Singh with an axe after she had obtained a divorce from him and refused reconciliation. It is not known if he was arrested.

'Honour' killings occasioned by a woman seeking divorce also occur among the expatriate Pakistani community. In February 2001, Nawaz Bhatti was sentenced to death in Clairsville, Ohio, USA, for the murder of his wife Dr Lubaina Bhatti, her father, her sister and her niece in September 1999 in what Nawaz Bhatti perceived to be the defence of his 'honour' injured by a disloyal wife. Lubaina Bhatti had been persuaded to consent to the arranged marriage with Nawaz Bhatti in 1992 perhaps out of respect for her parents' wishes. However, over the next years she filed domestic violence charges against her husband but did not pursue these for fear that he would abduct their son to Pakistan. In February 1999 she filed for divorce and when he continued to harass her, filed for protection

in May 1999. On 11 September 1999, only a few days before the divorce was to be finalized, Bhatti shot her dead along with family members whom he believed to have helped her.

Men sometimes take the law into their own hands when they consider their male relatives too lenient in dealing with female relatives. On 1 October 2001, Wazir Ahmed (17) shot dead his aunt Gulnar (35), a mother of six, and injured his sister, Rubina (16) as they emerged from the City Courts in Karachi to be taken back to the Central Jail. Four months earlier, Gulnar's husband Nazeer Khan had brought charges of *zina* against the two women who had allegedly been kidnapped by two

men. When taken into police custody, Wazir Ahmed reportedly criticized his uncle for not having punished the two women himself.



4. CUSTODIAL VIOLENCE AGAINST WOMEN

In March 2000, police beat up two beggar women in public in Dera Ghazi Khan when they resisted arrest for alleged

prostitution; hundreds of men reportedly looked on. There were apparently no formal charges, no attempt to bring in women police officers and no subsequent action to hold the police officers to account for their abuse.

Physical abuse continued to be rife in custodial situations in Pakistan. As long overdue police reforms have been repeatedly announced but not taken place, police continue to use torture to intimidate, harass and humiliate detainees and seek to extract money and information by this method. Federal Minister for Law, Justice and Human Rights, Shahida Jameel acknowledged in a seminar on Human Rights and Policing in Lahore in May 2001 that police used brutal methods of investigation but pointed to previous governments' failure to invest in police training to strengthen their investigative skills.

Women in Pakistan have been subjected to all the forms of torture and ill-treatment which men may suffer in custody; they include beating, kicking, electric shock and hanging upside down. In addition women are subjected to gender-specific abuses, including sexual harassment, public undressing and parading of women and rape. At least three women died in custody in the year 2000 following torture.

Shameem Akhtar, a 15-year-old girl from Angoori, was reportedly kidnapped and raped by the servants of a Member of the National Assembly; she was subsequently charged under the Hudood law with *zina* [fornication] and held in Adiala Jail, Rawalpindi. She apparently contracted tuberculosis in jail but was not given required medical care in time. She spent several days in the prison hospital with heavy iron fetters on her legs and died on 8 May 2000. The men who allegedly raped her have not been arrested; it is not known if any investigation into the apparent failure to provide medical attention has been investigated.

On 6 June 2000, a woman, Arbab Khatoon died in police custody in Fareedabad police station, district Dadu. Arbab Khatoon had been picked up by police when they raided her home in search of her husband. When he could not be found, police took along his pregnant wife to the police station where she was allegedly subjected to torture. A judicial inquiry was ordered and found three police officers responsible for causing her death which was due to trauma and shock resulting from police torture. It is not known if further action was taken.

In a few cases disciplinary action is known to have been taken when torture of women detainees was uncovered. District and Sessions Judge Kazim Ali made an unannounced visit to the City Jail in

Gujranwala on 19 October 2000 on complaints of torture and ill treatment of several women detainees by prison staff. He ordered a judicial probe to be undertaken by magistrate Khalid Ali. Medical examination confirmed that five women had been tortured. Judge Kazim Ali recommended stern action against jail staff responsible for the ill-treatment of detainees. On 27 October the Deputy Superintendent of the jail and the women warden were suspended from service. The Inspector General of Prisons reportedly recommended action under the law against those responsible for torturing the women detainees. It is not known if any action beyond suspension was taken.

In November 2000, the Lahore High Court ordered that rape charges be brought against four constables of Shadara police station in Lahore who had unlawfully taken a young woman and a man to their police station and raped the woman on 5 November. They were arrested and the case is pending against them.

Conditions of detention of women may in some cases amount to cruel, inhuman or degrading treatment. Most jails in Pakistan, including special women's jails, are overcrowded with the vast majority of detainees awaiting or undergoing trial. In late 2000, the total number of women in custody was reported to be 2,369; most of them were under trial. For instance in Punjab, 919 were women in detention facing trial, while 171 had been convicted. Government authorities expressed concern about this high number of cases; country-wide several hundred women were released who had been held on minor charges. However, no concrete steps were taken to ensure that women would not continue to be arrested on minor or false charges and that they would be able to avail more easily of bail and probation facilities.

Members of the Aurat Foundation in February 2000 stated that over 50 women were detained in Multan district jail in one room lacking all basic amenities; substandard food was given to the women and only six of them had access to a lawyer; almost three quarters of them were illiterate. Sixteen of the women were held on charges of murder, 11 each on *zina* and narcotics charges, five for kidnapping and the rest on fraud and robbery charges.

Whereas special women's jails exist to separate women from male detainees, the problem of obtaining transport to take women detainees to the places of hearing have persisted, leading to long delays in hearings. Several petitions are pending in the Sindh High Court at Karachi regarding the fact that women detainees held in Karachi Jail are not taken regularly for hearings in the courts where their cases are pending and that detainees under trial are held together with convicted offenders. The Women Prison Superintendent stated that the prison housed detainees from surrounding towns and that it was the responsibility of the police of those towns to fetch the woman detainees for hearings. She acknowledged that transport had not been regular and that this may have caused delays in the women's hearings. Meanwhile, in Karachi jail, a court of additional sessions judge and of a judicial magistrate were set up on the premises to try women and children inside prison and to avoid delays due to unavailability of transport. A similar system is to be set up in Larkana women's prison. Investigation officers have at the same time been made responsible for producing witnesses and case property before the court on the date of hearings and it was announced that action would be taken if they failed to do so.

An unresolved issue are also the large number of children who live in jail along with their mothers who are undergoing trial or are convicted. According to reports there are some 300 mothers imprisoned in Karachi alone, who are allowed on request to raise their children in prison, often because their families have disowned them and nobody will look after their children. In Karachi Central Prison a kindergarten and a school were set up with NGO help. In Rawalpindi's Adiala Jail, there were 29 women with infants in mid 2001, out of a total of 168 women prisoners. The future of children reared in prison and released into the outside world when they reach a certain age or upon their mothers' release, appears dim. A directive by the Chief Justices Committee in the year 2000 recommended that women prisoners with infants be released on bail but jail authorities do not appear to have received the corresponding instructions. Other recommendations of the Chief Justices Committee appear to have been duly implemented.

5. SYSTEMATIC FAILURE OF THE PAKISTANI STATE TO PREVENT, INVESTIGATE AND PUNISH ABUSES OF WOMEN'S RIGHTS

"Most [women] don't reach the police station because the victims are physically unable to, or the police have been silenced (through orders or bribes) by their superiors or the perpetrators of the crime ... [other factors why women do not obtain redress include] ... the lack of sanctuary or judicial protection of the battered women, or the affected family don't want the news in the press because it leads to social ostracism of the victim." Najma Sadeque, women's rights activist in Karachi

In cases where police are responsible for violating women's rights they often cover up each other's tracks, threaten victims and witnesses or pay compensation to victims so they drop charges. But police also fail to

ensure legal redress for abuses suffered by women at the hands of private actors.

Under international human rights law, state officials are obliged to prevent abuses by private actors and state agents but the Pakistani state has systematically failed to fulfill this obligation. This chapter shows examples first of state agents being present and aware of abuses without intervening to prevent them; several other cases show police and court failures to ensure justice to women seeking redress.

5.1 GENDER BIAS OF THE POLICE

The case of Bakhtwar Pathan illustrates the indifference of police towards the young woman's rights or indeed their connivance with tribal leaders and acceptance of their norms; at no stage did they intercede to protect the victim's rights, including her right to security of the person, to physical integrity, to movement and the freedom to decide about her own marriage and divorce.

Bakhtwar, an 18-year-old woman of the Pathan tribe from Perumal, Sanghar district, Sindh, on 8 July 2000 married Roshan Junejo, a man from the Junejo tribe, before a magistrate in Nawabshah. Her father, Qamruddin, strongly objected to the marriage as he had earlier accepted a marriage proposal for Bakhtwar from a kinsman, Akbar Pathan, which reportedly involved the payment of a large bride price consisting of Rs. 400,000 and two of Akbar Pathan's five daughters. Bakhtwar's mother had reportedly met and approved of Bakhtwar's choice for a spouse. Bakhtwar did not want to marry Akbar Pathan as he was elderly,

married and had a daughter older than Bakhtwar. Besides, Bakhtwar wanted to marry Roshan Junejo.

The couple following their wedding were sheltered by relatives but were found by Pathan tribesmen when trying to flee to another village. Bakhtwar was taken against her will to a relative, Fikir Mohammad Pathan in Sanghar who held her in quasi-detention. At the time, Bakhtwar's family and several elders of the tribe gave written assurances to the Junejos that Bakhtwar would not be harmed and allowed to appear in court at a date fixed earlier for a hearing, 19 July, to state freely if she wanted to stay with her husband or with her family. They said they would respect her choice.

Meanwhile several hundred Pathan tribesmen gathered at Sanghar protesting against Bakhtwar's disobedience and twice attacked the house where she was held, apparently with the intention to kill her. The tribesmen denounced the marriage and insisted on protecting the family's 'honour' by declaring they would not allow Bakhtwar to approach the court. A spokesperson said: "We will protect our honour. It is our tradition and part of our culture, irrespective of what the people say."

On 18 July night, a *jirga* of the Pathan and Junejo tribes gathered, apparently at or near the residence of a former Member of the National Assembly (MNA) Haji Khuda Bux Rajar and decided that the girl should stay with her parents. The Pathan tribe promised the Junejo tribe that she would not be harmed if her husband agreed to divorce her and allowed her to be returned to her parents. Bakhtwar's parents are reported to have sworn on the Qur'an not to harm their daughter. Roshan Junejo who had gone into hiding for fear of his life, was brought

to the meeting and on hearing this assurance, signed the divorce papers, presumably under considerable duress. Newspaper reported on 20 July that Bakhtwar was escorted by police to Quetta where a part of the family lives.

Throughout the 10 days that the incident lasted, the district administration reportedly did nothing to intercede to protect Bakhtwar's rights. They made no attempt to take Bakhtwar to a safe place or to ascertain her views, to free her from virtual detention, to allow her to contact her husband or a lawyer or to ensure that she could reach the court hearing safely, nor again to register Roshan Junejo's complaint. She had no say in her divorce which was forced on her husband. Her rights to life, to freedom of movement and to decide matters relating to her marriage were grossly denied without the state making any effort to ensure her enjoyment of these rights. On 14 July, as tribals began to congregate in Sanghar, police officials were reported as saying, "We have taken security measures and will not allow them to take the law into their own hands." Senior police official (rank not given, only quoted in the media as 'senior police official') Ghulam Qadir Tahibo, was quoted on 20 July, after the divorce, in the media as saying: "They reached an agreement that the marriage was against their tradition and customs". Amnesty International was in April 2001 - almost a year later - informed by journalists working in the interior of Sindh that Bakhtwar was about to be married by her family to an older man. The organization has not been able to contact Bakhtwar directly to ascertain her own wishes.

Victims of domestic violence or their relatives often do not speak up for lack of awareness that a crime has occurred; moreover, most

victims are emotionally and economically dependent on the abusers and often believe that they somehow deserve the punishment. Many see no alternative to staying in the abusive situation. Abusers frequently have no awareness of wrong doing and sometimes believe that they fulfill family or social requirements by their actions. The Inspector General of Police in Sindh, Aftab Nabi in May 2001 told a UK High Commission delegation that he deplored that women did not report all cases of domestic violence and that often people did not come forward as witnesses to ensure that perpetrators of violence against women are brought to justice. Such assertions fail to acknowledge the many social, economic, cultural, psychological and practical problems which women face when seeking justice.

But when women seek redress, the hurdles to obtaining justice are immense. The gender bias among members of the criminal justice system noted by Amnesty International in earlier reports persist; women find it difficult to access police and to obtain a fair hearing before the country's courts of law. The Chairperson of the National Commission on the Status of Women said in January 2001 that the Commission "will be a proactive body and suggest what needs to be done to improve the condition of women in the country. There are thousands of women who have their petitions ready but don't know where to go. The Commission's job will be to provide them access to justice."³² Women's groups in Pakistan have told Amnesty International that so far the Commission has not begun to fulfill this function.

³²AFP, 9 January 2001.

Police confronted with complaints of domestic violence were reported to either have refused to register the complaint, to have humiliated the victim or to have advised the battered woman to return home to her husband. The HRCP has observed that conviction rates for gang-rape and generally for rape are very low as rape is usually used by the powerful to exert control over the vulnerable, to terrorize or intimidate local populations. Consequently police rarely respond adequately when confronted with complaints of rape as they side with, or are pressured to side with, local influentials involved in rape. However, women frequently do not seek redress out of shame but also because they are aware of the possibility of being accused of *zina* if they cannot establish absence of consent.³³

Police and medical personnel continue to hamper legal redress for domestic violence and killings in the home by husbands and women's relatives by concealing evidence, as in the case of Nasreen.

The HRCP in June 2001 investigated the death of **Nasreen**, wife of Rafique in Mumtaz Colony, Hyderabad, who died on 6 June 2001, according to her husband and his family after suffering from dysentery for some time. However, the women who washed the dead body noticed cigarette burn marks on her body and injuries to her private parts. After they had alerted other women, the husband of one of the women tried to lodge an FIR with police. When this was refused outright, he alerted the

³³For details see: *Women in Pakistan: Disadvantaged and denied their rights*, AI Index: ASA 33/23/95.

HRCP whose staff informed police. As the family who had kept the death secret were about to bury the dead body, police interceded and took charge of the dead body and sent it for a postmortem examination in the Civil Hospital, Hyderabad.

When police informed Nasreen's family in Sargodha, Punjab of her death, Nasreen's brother Khizar Hayat lodged an FIR (26/2001) in Makki Shah police station alleging that Nasreen's husband Rafique, together with his brother Majid, who is a police employee, his sister and mother Mariam had murdered Nasreen. After seeing Nasreen's body he told the HRCP investigation team that her ears, nose and hair had been cut off and that her body bore multiple cigarette burn marks. Her mother fainted when she saw the injuries on the dead body. All the accused were arrested on 9 June 2001; as there is no lock-up in Makki Shah police station, the women detainees were transferred to the women's police station Hyderabad while the men were held in Cantt. Police Station, Hyderabad.

During a protest demonstration on 10 June in front of the Hyderabad Press Club, demonstrators told the press that the two doctors performing the post mortem examination of Nasreen's body had accepted a large bribe of Rs. 10,000 paid by Nasreen's husband Rafique and his brother Abdul Majid on the understanding that their report would be altered in their favour. One of the doctors reportedly performed the post mortem examination on 6 June and immediately went on leave afterwards without issuing a report. Nasreen's brother Khizar Hayat and her neighbours on 11 June met the Director General of Health Services and urged that since they did not trust the earlier post mortem examination following allegations of bribery, a further post mortem

should be conducted. This new post mortem was undertaken on 13 June by a medical board involving several senior medico-legal officers. Their report issued two days later, listed cuts inflicted by a sharp weapon on different part of Nasreen's body, including injuries on her head, back and leg. The board members concluded that Nasreen had been continually injured. They said the cause of death could only be ascertained after the pathological and chemical tests were completed.

Several of the witnesses were harassed and threatened by relatives and associates of the murder suspects. A former police officer of Makki Shah police station threatened to implicate residents of the colony in false criminal cases if they bore witness to Nasreen's ill-treatment or murder. One of the women who was called to bathe the dead body and who protested at her state, told the investigation team that Mariam, Nasreen's mother-in-law had threatened to involve her in a fake drugs case with the help of her son Majid, and the former police officer also threatened her.

The wedding of Nasreen with her cousin Rafique had taken place some five years earlier but she had not formally been handed over to her husband and had continued for some time to live with her parents. Her brother Khizar Hayat had been engaged to Rafique's sister Zubeda in the tradition of *watta-satta*. However, after Rafique's father's death a year earlier, Rafique's mother Mariam did not allow Nasreen to return to her family when she came to attend the funeral. She also broke off the engagement between Khizar Hayat and Zubeda and demanded Rs. 80,000 for the release of Nasreen. Khizar Hayat complained to police in Hyderabad about the intended extortion but instead of being helped, he was taken by the police officer and Rafique's brother Abdul Majid to a

secluded spot and threatened with death if he did not pay the money demanded by his aunt. When he refused to pay the money, Nasreen began to be ill-treated in her husband's family. Neighbours testified that Nasreen had been locked up when women of the neighbourhood visited the family and nobody was allowed to meet her. It is not known if the accused are still in detention and how the case is progressing.

The following case of Fakhra Younus illustrates that even with access to the highest levels of power through family connections, relief for permanent and painful abuses is difficult to obtain and redress almost impossible for women victims of violence, in this case the throwing of acid.

In 1998, **Fakhra Younus**, then 19, married Bilal Khar, a former Member of the Provincial Assembly (MPA) of Punjab and son of former Punjab governor Ghulam Mustafa Khar. Bilal Khar had already been married and divorced three times before and was married at the time to a fourth wife with whom he had two children – facts which Fakhra was not aware of. Fakhra, a former sex worker from Karachi, may have hoped that marriage would bring her peace and respectability but she was, from the outset, sexually, physically and verbally abused. Her decision to leave Bilal Khar in April 2000 was unacceptable to him; within days he visited her at her mother's house in Karachi and emptied a canister of acid over her head, disfiguring her for life, and causing her



immense physical, mental and emotional suffering. She collapsed screaming as her face, shoulders and chest were extensively burned, her lips fused together by the acid and one eye was badly damaged. Fakhra Younus underwent extensive skin grafts during three months in Civil Hospital in Karachi but some of the grafts were unsuccessful, leaving her unable to move her neck and right hand. Surgery for her eye and reconstructive surgery for her nose and lips could not be carried out in the hospital. She later said: "I don't look human any more. My face is a prison to me."

Meanwhile, her sister succeeded in registering a complaint at Napier Road police station, Karachi, accusing Bilal of injuring his wife. When Bilal threatened to kill Fakhra's son from a previous relationship if the complaint was not withdrawn, Fakhra's family finally agreed not to pursue the case but did not withdraw the FIR. After staying with her family -- to whom she had become a liability -- she returned to her husband three months later as he expressed regrets for what he had done to her in a fit of rage. While police failed to investigate the complaint of abuse, Bilal Khar resumed physically and sexually abusing his wife, but eventually took her to the former wife of his father, Tehmina Durrani who organized reconstructive and eye surgery in Italy for Fakhra. Bilal refused to let Fakhra undergo this treatment and instead took her to his family farm where she had no medical attention. In April 2001, Tehmina Durrani had her rescued from there but before Fakhra could travel abroad for treatment, she had to apply for an identity card to obtain travel documents. This proved problematic as she could not complete the application form since she did not know who her father was. Several applications were rejected; Tehmina Durrani then approached the federal Interior Minister who reportedly opposed the idea of her travelling abroad as this could tarnish Pakistan's reputation. The Interior Minister,

however, publicly denied that there was any restriction on her travel; he told Reuters News Agency in mid-June that “the government has no problem [in allowing her to travel abroad], there is no restriction on her travel but apparently she has not even filled in the forms to apply for a passport”. The family was asked to take Fakhra to the Pakistan Institute of Medical Science at Islamabad where she was to be given the best possible attention, along with police protection which Bilal Khar’s repeated threats made necessary. However, Fakhra reported that she hardly received any adequate treatment in that hospital beside eye-drops and anti-depressants. Following several press conferences in Lahore, she was finally given travel documents in early July 2001 to travel to Italy for plastic surgery.



A Pakistani monthly, *The Herald* commented, “the real tragedy, however, lies in the fact that there are scores of young women like her who continue to suffer and whose numbers grow with every passing day. Most have no access to higher authorities who may take notice of their case, and while some are afforded a few lines in the day’s newspapers, all are eventually relegated to the dark closet where most of Pakistan’s unsavoury secrets invariably end up.”³⁴ Another monthly commented on the general indifference to yet another case of abuse: “Almost as outrageous [as her husband’s action], however, is the general response to the victim’s plight. Rather

³⁴ *The Herald*, July 2001.

than horror and condemnation, her ordeal has engendered ugly, lurid speculation, and a kind of tacit acceptance of the rationale offered by the perpetrator for his crime – not unlike the classic defence in a rape case: that the victim asked for it.’³⁵

Despite the publicity in Pakistani papers around her case and the increasing resort to acid throwing to harm women, no steps have yet been taken to ensure that acid is not so widely and easily available – despite government guidelines regarding the sale and procurement of acid. Bilal Khar meanwhile is free despite the serious charges pending against him. Hina Jilani, Secretary General of the HRCP commented: “The message is clear: A person guilty of scarring a woman’s face with acid can get away without punishment.” A newspaper commented, “This is hardly the sort of message any government would want to send out to other perpetrators of similar offences against women.”³⁶

Whether a complaint of domestic violence is registered by police and investigated is arbitrary depending on police perception of the status and public profile of accused and victim. The social and political standing of the accused stopped the police from inquiring the abuses Fakhra Younus suffered; in other cases, where it appears politically opportune, investigations may be conducted speedily. In the case of the ‘honour’ killing of Mehvish described below, political factors ensured that the investigation was speeded up, only to change gear again when political changes occurred.

³⁵ *Newsline*, July 2001.

³⁶ *Dawn*, 4 July 2001.

Mehvish, daughter of Sanaullah Khan Miankhel, a former minister in the NWFP government and member of a locally very powerful family, fell in love with a family servant, Munawar and followed him to his home village, Paroa. A member of the local administration informed Mehvish's family who forcibly took her away to their ancestral village of the Miankhels, village Gandhi Ashiq Khan in district Dera Ismail Khan where she was placed in the custody of her maternal grandfather. In the night of 26 April, Mehvish was shot dead, allegedly by one of her uncles while trying to escape from the house. People in the village, informed by the Miankhel family that she had committed suicide, widely believe that Mehvish was murdered for the sake of 'honour'. A post mortem report apparently states that she died as a result of a single bullet fired from close range. While police initially took no notice of the case, local journalists told Amnesty International that the authorities' interest in bringing Mehvish's murders to justice was enhanced when it was anticipated that a prominent member of the Miankhel tribe would emerge successful in the then forthcoming elections to the office of chairmen of local bodies. Investigations intensified for some time particularly at the behest of the Senior Superintendent of Police in Dera Ismail Khan, Dr Ejaz Ahmad Langrial; after his murder on 6 May by unknown gunmen and the completion of the elections, the police inquiry has petered out. Local observers believe that as in other 'honour' killing cases, the legal heir of Mehvish, her father, will in due course of time forgive the perpetrator of the crime, another male relative, thus ending the criminal prosecution.

Women at the other end of the social spectrum from Fakhra Younus and Mehvish share the problem of access to justice. They include women who belong to religious minorities, the very poor and women bonded labourers. Christian women are particularly vulnerable to abuse and least likely to obtain state protection after suffering abuses: they are the targets of multiple forms of discrimination. Many Christian girls and women join the work force to support their families. In a society where this is not the norm, such women are often looked at with suspicion and considered easy prey for exploitation, humiliation and sexual advances, often leading to rape and other forms of sexual abuse. The following case of the rape of seven young Christian girls and women in a village in Punjab arose in this context of multiple discrimination, relating to religion, gender and low social status. The state has been extremely reluctant to assist the victims in obtaining legal redress and has taken some action only under pressure from media and human rights groups.

Around midnight of 3 May 2000, eight young unmarried Christian women aged between 14 and 22 were travelling on a bus after long working hours in a bed linen stitching factory located about 10 km from their home in village Chak 44, about 15 km north of Lahore. Near a railway crossing the bus was stopped by five Muslim men. According to the victims' testimony, the armed and masked attackers tied up the driver and three other passengers, then called out the young women from the bus one by one and raped them at gunpoint. The only young woman spared from rape, Nazia, was accompanied by her brother who negotiated with the rapists to spare her. Both were beaten. Several of the other women were also badly beaten when they resisted. Subsequently,

the attackers searched the victims' bags for valuables which they stole and released the driver who took the women home.

The Christian community in this area is very poor; while the men usually work as contract labourers, many families need the income earned by the women and girls who work in the textile industry.



The factory where the victims worked employs some 400 women who earn around Rs. 2,000 to 3,000 per month [about £ 30-40]. The factory ensures that the women are picked up around 7 am and dropped back when the work is finished, theoretically at 8 pm but more often than not well after midnight. A dozen contracted buses transport the women to and from the factory. The bus used on the night of 3 May transported some 55 women; by the time it reached Chak 44, only the eight Christian women and three other passengers were on the bus.

The families of the victims initially did not know what to do after the crime; the leader of the Christian community, Inayat said, "We were trying to hide our shame as the whole village had discovered what had happened to our girls". The elders consulted the local influentials who advised them to keep quiet about the incident. Used to their powerless status, unaware of their rights and the legal process and ashamed of

what had happened to the girls, the Christians did not at first approach police. A local journalist picked up the news which on 8 May appeared in the Urdu press. It was picked up by other media and women's rights groups and caused the local administration to take some action. The Christians then sought to have the complaint registered but were refused. An Assistant Sub-Inspector of police summoned the Christian elders of the village and warned them that pursuing legal redress in rape cases was extremely difficult, would cause local enmities and reflect negatively on the victims and their families.

Meanwhile, the driver of the bus on 5 May registered a complaint with police at Ferozewala police station alleging a minor robbery on 3 May. However, when more journalists and human rights groups obtained testimonies from the victims and published their findings, state authorities finally took more decisive action. The Christian Liberation Front of Pakistan (CLFP) office in Muridke, which had investigated the incident through its headquarters in Lahore, lobbied the media, the Punjab Governor and contacted the army monitoring team. The latter sent a team which ensured that the women were medically examined. The medical report established that rape had taken place. The army team also suspended police who had refused to register the complaint of rape. The FIR was amended to include charges against the five men under sections 392 PPC [armed robbery] and gang-rape under section 10/7/79 of the Zina Ordinance. The driver was charged under section 109 PPC for abetment but subsequently obtained bail. The five accused men were arrested. All the eight victims recorded their statements before police and finally, after a long delay, police submitted its inquiry report (challan) to judicial authorities in the last week of November 2000. The trial before an Anti-Terrorism Court in Lahore has begun. Observers

present at the hearing in December reported that the court room was packed with relatives of the defendants who had threatened and cajoled the victims and their families to drop the case. Members of the *Lashkar-e-Taiba*, a militant Sunni organization, are reportedly helping the accused in pressurising the victims to withdraw their complaints. Ashiq Masih, a local Christian community leader who has supported the victims throughout, was beaten up by unknown people in November 2000. There are allegations by local observers that police have sought to mediate between the victims and the culprits and to have facilitated compensation negotiations. Amnesty International was informed in mid-2001 that two of the victims had already withdrawn from the case; others are considering dropping prosecution in return for compensation.

It can be assumed that without the pressure from the media and human rights groups, the gang-rape would not have been pursued by police; social inequality, religious and gender bias would have contributed to the crime and the victims being ignored by the state. "Social conventions, power relations on the ground and the legal system will, in all probability, conspire to ensure that these victims will never get justice", a Pakistani news magazine³⁷ predicted. The victims meanwhile have stopped going to work - although their families need their income - and confine themselves to their homes. One of the victims, an orphan who supports her two younger siblings with her work, has left the village to live with relatives. The marriage prospects of the other victims are in jeopardy in a society where most women must marry for social, economic and cultural reasons and virginity is crucial for a woman's marriage prospects.

³⁷ *The Herald*, June 2000.

Police are usually very reluctant to register complaints relating to 'honour' killings. In January 2002, a married woman, Arbeli, was shot dead by her maternal uncle, Sabzal Rajri in Vesti Jeevan Shah, Sukkur district, who alleged that she had developed an 'illicit' relationship. Her husband who was not convinced of her guilt, wanted to register a complaint against the perpetrator but police refused to do so. No subsequent action is known to have been taken.

The manifold problems – social, legal, cultural – besetting legal redress for 'honour' crimes have been discussed on several occasions by state officials. The Inspector General of Sindh police, Aftab Nabi in November 2000 suggested that 'honour' killings be made a separate offence and not be tried under the law of *qisas* and *diyat* which allows for murder to be 'compounded'.³⁸ Aftab Nabi also suggested that the abettor of the offence be treated on par with the principal accused. In May 2001, he told a delegation of the UK High Commission that specific laws dealing with 'honour' killings and domestic violence were needed to ensure the effective protection of women.

A seminar in April 2001 in Karachi looking at human rights and policing, spent considerable time looking at problems of redress in 'honour' crimes cases. Justice of the Sindh High Court, Syed Ali Aslam Jaffri said on that occasion that the low rates of conviction in 'honour'

³⁸A criminal case can be 'compounded' if the family of the victim agrees to pardon the perpetrator and accept compensation; cases of physical injury and murder are compoundable under the *qisas* and *diyat* law.

killings and sentencing to very short jail terms had contributed to the persistence of the crime. "The custom of karo-kari in Sindh ... is a great challenge for society and needs hard labour in different directions to be uprooted. The lack of education and feudalism are the two main factors that are responsible for the crime."³⁹ A senior police officer posted in the rural areas of the province added that police were part of a society which regarded women as a man's property and often considered a killer of a woman as doing the right thing to restore the family's 'honour'. They would then file a weak case file on which no court could base an adequate conviction and punishment. In a seminar on 'honour' killings in May 2001 in Karachi, Justice Nasirul Mulk of the Peshawar High Court said that in cases of 'honour' crimes, investigating officers received little support from family members and other people and remained dependent on circumstantial evidence. He suggested that special teams of experienced investigating officers be constituted to deal exclusively with this offence. Moreover the offence was easily 'compoundable' as there was wide social approval. In such cases when the right of *qisas* [equal punishment for an abuse suffered] is waived or compounded under section 309 or 310 Pakistan Penal Code (PPC) by the legal heirs of the victim, the court could still pursue the case of 'honour' killing under section 311 PPC; he suggested: "the prosecution could press section 311 in cases where 'honour' is the motive of murder of a female." Shaheen Sardar Ali, chairperson of the National Commission on the Status of Women said that the low conviction rate of men accused of 'honour' killing was due to the "police not playing a proactive role in such matters and deeming such cases to be private affairs".

³⁹ *Dawn*, 11 April 2001.

However, despite the official recognition of the problem and manifold recommendations on how to solve it, nothing concrete has been done.

5.2 GENDER BIAS OF MEMBERS OF THE JUDICIARY

With only three women judges in the high courts of the country and none in the Supreme Court of Pakistan and the Federal Shariat Court, the judiciary continued to be dominated by men, many of whom continued to reflect discriminatory gender attitudes held by society at large. A former judge of the Supreme Court of Pakistan, Justice Nasir Aslam Zahid said during a seminar on 'honour' killings in Lahore in November 2001 that the courts needed to be reminded that under Article 25 of the Constitution, men and women are equal before the law. Male judges often had no understanding of a woman victim's world; for instance in rape cases, judges were known to have assumed consent of the women because they did not understand that women often were in no position to resist a rape attempt. Their vulnerability also accounted for the fact that barely 10% of rape cases reached a court. He also pointed out that 'honour' killings were premeditated murder and that the law relating to murder did not allow for a court taking into account attenuating circumstances.

Women charged with criminal offences appear to be sometimes treated by courts in a cursory fashion, especially if they are uneducated and unaware of their rights - which may lead to substantial denial of rights. Amnesty International has been told by lawyers in Pakistan that among the women sentenced to death for the murder of their husbands, there are several whose long history of enduring severe domestic violence was not taken into account during their trials.

While some judgments passed in the last 18 months treated women as a man's property, some other judgments adequately protected women's rights. This inconsistency indicated that individual judges' thinking on gender issues arbitrarily determined many women's fates rather than the law and its equal application to all. Women from particularly vulnerable groups, the desperately poor or religious minorities, faced particular problems in obtaining justice.

Among the judgments which positively responded to the need for the protection of women's rights, the judgment of the Peshawar High Court striking down an entrenched customary practice stands out as a landmark. It relates to the custom of *swara*, the handing over of a woman as part of compensation in settling a murder case; it is practised among Pashtun communities but is under section 310 PPC not considered part of the compensation that can legitimately be paid to relatives of a murder victim who agree to withdraw a complaint. However, it continues to be practised and is often accepted or ignored by courts.

In November 2000, the Peshawar High Court described the practice of *swara* as 'tyrannical', illegal and against Islamic law and suggested that a penalty be imposed on anyone upholding this custom. It held a marriage contract or *nikha* void if made in the context of *swara*. In the case before the Peshawar High Court, a 26-year-old woman, Bakht Mana, had been handed over as an infant in compensation for a murder committed by her father's sister-in-law. She was contracted to marry Hamaish Gul, the son of the complainant. As a result of this compensation agreement, the woman responsible for the murder was not prosecuted. However, Hamaish Gul did not make

arrangements for Bakht Mana to leave her family home to live with him; instead in 1996, Hamaish Gul took another wife while Bakht Mana stayed at her family's home. Hamaish Gul refused to divorce Bakht Mana or to take her to his house on the ground that she was given to him as *swara* and he could therefore decide her life circumstances. Bakht Mana filed a suit for dissolution of marriage and maintenance for the preceding 25 years before a local family court which granted her the dissolution but dismissed her claim to maintenance.

Hamaish Gul subsequently challenged the family court's decision in the Peshawar High Court claiming that it violated his right under *swara*. The Peshawar High court then decided that whenever the right of *qisas* in case of murder was compounded, the handing over of a woman in marriage shall not be valid and lower courts should not accept *swara* agreements.

A discriminatory provision under the law relating to murder was overturned in another landmark decision of a sessions court in Lahore in the year 2000. A Supreme Court judgment in 1999⁴⁰ had confirmed the view of a lower court in a review petition that cases of a husband murdering his wife with whom he has common children should be treated like any other murder and should fall within the purview of section 302 PPC, i.e. murder.⁴¹

⁴⁰1999/SCMR/2203.

⁴¹For details of this provision, see *Pakistan: Violence against women in the name of honour*, AI

Index: ASA 33/17/99, p. 45-46.

The present verdict, a first application of the Supreme Court position, was pronounced in a case relating to Yacoob Masih of Lahore who had murdered his sixteen-year-old wife, the mother of their two children. He had burned 90% of her body when she refused to give him money for buying intoxicants. She died seven days later. Under sections 306 and 308 PPC, a person cannot be sentenced to life imprisonment or death if he is the legal guardian of the victim's children. Instead a lesser punishment of payment of *diyat* [compensation] amounting to a maximum fine of Rs. 225,000 is imposed while the court may also impose a sentence of up to 14 years' imprisonment. The provision had created the impression that murdering one's spouse was a less serious offence than other murders and therefore to be punished less severely. It may have contributed to the spate of such killings in Pakistan. Yacoob Masih was convicted of murder and sentenced to life imprisonment.

Among the positive judgments was the Lahore High Court ruling of January 2001 that a woman cannot be forced to live with her husband or her parent against her will. The court responded to a petition by Shahnaz Akhter (25) which alleged that she had been forced to marry a man, her cousin, whom she did not choose or agree to marry and that she feared for her life if she was sent back to her parents where she said her brothers would kill her. The court directed that she be lodged in the local state-run shelter, the Darul Aman, where no one would be allowed to meet her without her consent. Months earlier, Shahnaz had written to the High Court complaining that her family was getting her married without her consent; the court had taken note of this but sent her back to her family after her brothers pledged before the court to respect her wish. Days later she was forced to marry the man her brothers had selected. Shahnaz Akhter had then appealed again to the High Court,

saying: "In the days before Islam, girls were buried alive. Now they are sold like sheep and goats. I have been sold to a man I never wanted to live with. What kind of Islam is this? I am a very unlucky woman who has been thrown to the wolves. My marriage is cruel and arbitrary."

In a similar situation, the Lahore High Court at its Multan bench in August 2001 asserted that no one, even a close relative, has the right to keep a woman in illegal confinement. Robina of Kabirwala, Multan district, had filed a *habeas corpus* petition alleging that her daughter Shehla was detained by her husband Khalil against her will, not allowed to meet other people and abused by him. The court summoned the couple; Shehla confirmed her mother's allegation and was permitted to leave her husband to join her mother.

The Lahore High Court also clarified the legal position relating to allegations of adultery in March 2000. It said that whenever an accusation of adultery is made, courts must put the accusation to the strictest proof, which consists of the testimony of four male Muslim witnesses. If relevant evidence is not available but only the accuser's own statement, the accuser may be asked to take an oath on *li'an* [oath taken by a spouse on the Qur'an when accused of adultery]; if the accused person similarly takes oath denying the allegation, the court must dissolve the marriage. An accuser cannot retract the accusation to avoid divorce as this would amount to admitting the falsehood of the allegation. Failing to substantiate an allegation or making a false allegation makes the accuser liable to payment of compensation to the falsely accused, Justice Fakhharun Nisa Khokhar said. In the case concerned, a husband had filed a writ petition against the dissolution of marriage by a family court sought by his wife whom he had accused of infidelity. Judge Khokhar found that the family court had the inherent power to dissolve a marriage where an

allegation of adultery was made without strong evidence and that it could penalize the husband for violating his wife's reputation.

Lower courts have in a few cases convicted men of physically injuring women. Zahida Parveen (24) was pregnant in 1998 when her husband suspected her of an illicit relationship; he pushed a stick into her eye blinding her and cut off her ears and nose. He was eventually convicted of attempted murder and sentenced to 24 years' imprisonment in 2000. Zahida Parveen has obtained medical treatment in the US financed by Pakistanis abroad and the Pakistan government.

*Judicial rulings that negatively impact on women's rights were reported as well. The one with the most wide ranging impact was the ruling of the Federal Shariat Court (FSC) which after hearing 37 petitions since 1993, in January 2000 declared certain provisions of the Muslim Family Law Ordinance 1961 void. The most serious change envisaged by the judgment relates to section 7 of the Ordinance which lays down that a man who has divorced his wife by pronouncing *talaq* [literally: 'I divorce you'] must inform the Chairman of the Arbitration Council of this step and that the divorce only becomes effective 90 days after this notice. The FSC held that parts of section 7 "implied violation of the injunctions of Islam" and therefore "cannot be maintained". This means that divorce takes immediate effect upon the pronouncement of *talaq*, while the period of *iddat* [the compulsory waiting period after divorce or widowhood during which a woman cannot remarry] could be observed subsequently.*

*Human rights groups have criticised the FSC judgment pointing out that the immediate effect of the pronouncement of *talaq* is detrimental*

to the protection of women; the uncertainty about their marital status would increase which has already exposed dozens of women to the risk of zina charges if they enter a new marriage.⁴² Women's rights groups, in a meeting in January 2000 in Lahore called the decision 'contradictory, without jurisdiction and destructive of the protection afforded in the Ordinance'. They subsequently filed appeals, challenging all the substantive parts of the judgement as well as the jurisdiction of the FSC to examine the Muslim Family Law Ordinance.

The Lahore High Court in 2000 persuaded a young woman who had been gang-raped to go home with her father who had agreed to compromise with the rapists. The young woman had been transferred to a *Darul Aman* [house of peace] but when she made a plea before the High Court to be allowed to move to a private women's shelter, the court reportedly observed that in Pakistani society a woman whose parents are alive, could not be allowed to live anywhere else. They eventually persuaded her to return home with her father who had compromised with the criminals who had committed the offence and traumatized her.

In a custody case the Lahore High court demanded that the divorced couple appearing before it should re-unite once more for the sake of the welfare of their children. It ignored the wife's assertions that she had been subjected to repeated violence.

⁴²For details see: Shirkatgah: *Women's Rights in Muslim Family Law in Pakistan: 45 years of recommendations vs. the FSC judgment*, Lahore, January 2000.

Perpetrators of 'honour' killings in a large number of cases continued to get away without or with little punishment for their crime as family members did not come forward to testify against them or forgave them under provisions of the law of *qisas* and *diyat*. Responding to a letter to the editor by Law Minister Shahida Jameel on 23 December 2000, human rights lawyer Asma Jahangir wrote in early January 2001: "The law minister is rightly shocked at the number of accused who are released because of lack of evidence in karo kari cases. The root cause is systematic discrimination of women in law and society. She must also be informed that many accused have been convicted but given very light sentences. Our courts have ruled that killing of 'immoral' women, is an act of 'honour', because of provocation offered by such women. The law allows the victims' heirs to forgive the accused. In almost 90% of karo kari cases, it is the family themselves who kill women. Is this law gender sensitive?"⁴³

In a few cases, perpetrators of an 'honour' killing were convicted of murder. While Amnesty International welcomes the fact that a court convicted men of this offence, the organization opposes the death penalty in all cases and hopes that the death sentence will be overturned upon appeal. Additional Sessions Judge in Sukkur, Sikander Ali Bhatti, in August 2000 imposed the death sentence and a fine on Shaukat Chohan and his brother Ashgar Chohan for murdering the wife of the former, Lal Khatoon, in October 1998 when they had suspected her of an illicit relationship.

⁴³ *Dawn*, 8 January 2001.

Courts of the higher judiciary have sometimes enhanced sentences for murder in 'honour' killings contexts where lower courts had shown great leniency. A division bench of the Lahore High Court at Multan on 26 October 2001 imposed the death penalty on Abdul Hamid. He had been convicted of murdering his niece Hafeezaan (15) and a boy, Abid Hussain (16) in 1996 on suspicion of intimacy and sentenced to seven years' imprisonment by a sessions court in Rajanpur. Justices Tasaddug Husain Jilani and Raja Muhammad Sabir observed: "We have had a string of government functionaries, ministers, judges and senior police and law enforcement officials saying publicly that legislation against 'honour' killings needed to be toughened. Following this, one would have expected certain changes in the law but unfortunately none came. ... It would be a significant step forward if the government ... makes up its mind and introduces legislation that makes 'karo-kari' premeditated murder."

In some cases, prison authorities have interpreted court orders in a way that benefits males convicted of domestic violence. Zainab Noor, married in the tradition of *watta-satta* in 1987 to her cousin Qari Sharif, an Islamic cleric, in February 1994 was permanently impaired when her husband thrust an iron rod into her vagina and connected it to electricity. Her vagina, rectum and bladder were destroyed. With the help of a women's rights group, she filed a complaint; a Rawalpindi Anti-Terrorism Court sentenced Qari Sharif to 10 years' imprisonment for each of the destroyed organs, to be served consecutively, and Rs. 210,000 for each damaged organ. Upon appeal, the Rawalpindi bench of the Lahore High Court ordered that the three sentences be served concurrently, thereby reducing the sentence to 10 years' imprisonment but it specifically denied Qari Sharif the benefit of section 382 of the

Code of Criminal Procedure, according to which convicts may be entitled to remission.

*In January 2001, Qari Sharif was released from Rawalpindi's Adiala Jail after the Qarshi Foundation paid the compensation to which he had also been sentenced. A spokesperson of the Foundation said it had made a collective payment of Rs. 10 million for those convicts who were languishing in prison due to their inability to pay *diyat* or compensation. The list of deserving beneficiaries, which included the name of Qari Sharif, had been collated and submitted to the Foundation by the Adiala Jail authorities. Qari Sharif had stated before the original trial court that his assets were no more than Rs 20,000; he would have had to stay in prison after serving his sentence, as release is only possible after the court imposed compensation has been paid.*

Zainab Noor appealed against the remission and Qari Sharif's release to the Supreme Court where her petition is currently pending. It is not clear if the compensation reached Zainab Noor. Shahnaz Bokhari of the Progressive Women Association in Islamabad said in February 2001 that Zainab Noor had not received any money and had on account of her poverty ceased buying colostomy bags for the removal of body waste and was now washing the bags with her own hands.

6. SHELTER FOR WOMEN AT RISK

*Shelters for women at risk continued to be inadequate in number and the kind of support they offered. The state-run *Darul Amans*, some of which are severely overcrowded, were consistently described by women's groups as constituting virtual jails where women are denied freedom of*

movement. Moreover, women sheltering there are merely shut away and do not acquire, during their period of stay, any proficiencies that would enable them to rebuild their lives outside the shelter. The dire need for shelter is evident from government statistics: of 780 women who approached the six governmental Women Crisis Centres, 291 women sought legal assistance, 55 medical help and 60 shelter; the latter were sent to *Darul Amans*. Rumours that *Darul Amans* only perpetuate women's servitude and merely assist women at risk to marry someone more or less suitable, were fed by events in the *Darul Aman* in Sukkur, where the woman in charge of the *Darul Aman* was alleged to have sold one of her wards to a local widower for Rs. 50,000. Criminal charges were brought against her and the man who had arranged the 'deal'; both were arrested.

Staff of the state-run women's shelters, the *Darul Aman*, also frequently advised women inmates to accept conciliation and return to what must be assumed to be unchanged abusive situations -- sometimes with painful consequences. Shazia, (28), a resident of Bagh, in October 2000 left her husband after years of abuse and sought shelter in the *Darul Aman* in Rawalpindi. Her parents shortly afterwards took her back home with assurances to the *Darul Aman* staff that they would give her protection and assist her in getting a divorce. There were no follow up visits by staff or efforts to ensure compliance. When shortly afterwards her husband and his family visited Shazia at her parents' home, apologized for their behaviour and promised to treat her well, her parents returned her to her husband's home but Shazia was again abused and beaten. When her husband threatened to kill her she sought protection in a private shelter, *Aasra*, run by the Progressive Women's Association in Rawalpindi. Her husband registered a criminal case against her alleging that she had stolen family jewellery.

The lack of shelter homes for women in need has led some of women to opt for detention in jails. There are several women sheltering in Peshawar Central Jail, detained under section 107 Code of Criminal Procedure (CrPC) which deals with anyone likely to breach public peace and tranquillity. The local *Darul Aman* is devoid of basic facilities and women may prefer to stay in jail.⁴⁴ One of the women held in Peshawar Central Jail is a 19-year-old whose parents had separated and who had been married to a man by her uncle; when three months later her husband asked her to leave his home she had nowhere to turn, as both her parents refused to take her back. In mid-2000, she asked police to send her to prison so she could lead a peaceful life there; the Executive Magistrate in Swabi subsequently ordered her detention for one year in Peshawar Central Jail under section 107 CrPC. Other women are reported to have sought detention in jail for fear of being sold or of being killed after having obtained bail in connection with criminal charged pending against them.

In other cases, women are detained under section 107 CrPC because courts do not know where else to send them. According to reports, one of the women in Peshawar Central Jail had after years of domestic violence divorced her husband and returned to her brother's house who allegedly tried to sell her to another man. She went to the police with her two children and was sent to a *Darul Aman*. She alleged that *Darul Aman* authorities tried to arrange her marriage to an old man; when she refused to agree to the arrangement she was brought to court again which sentenced her to one year's imprisonment under

⁴⁴ *Dawn*, 16 April 2001

section 107 CrPC. She had already stayed there with her children for many months when she was interviewed by a journalist.⁴⁵ Another inmate was held in the prison after her father who had contracted a second marriage had her confined to the *Darul Aman*. When he decided to take her back, the authorities would not hand her over unless he paid for her expenses in the *Darul Aman*. When he refused, she was sentenced to imprisonment under section 107 CrPC.

7. AMNESTY INTERNATIONAL'S RECOMMENDATIONS

The abuses described above violate the right of women to be free from torture and unlawful killings and to equality before the law. Torture, unlawful killing and discrimination in law and practice are violations of fundamental human rights, condemned by the international community as an offence to human dignity and prohibited under international law. Yet they persist, daily and in all parts of Pakistan.

Immediate steps are needed to confront and eradicate the torture and unlawful killing of women. The following recommendations are well within the powers of the Government of Pakistan to implement and do not require a huge investment of resources. They do require political will and the determination that torture and unlawful killings of women can no longer be allowed to continue. However, these measures will not end torture and unlawful killings of women unless the discrimination underlying these abuses is addressed. Amnesty International believes that everyone has a part to play -- the government, political parties, religious groups, all elements of civil society and individuals. Everyone has a responsibility to commit themselves to the equality of all human beings, irrespective of gender, age, social status, racial, national or ethnic origin or sexual orientation.

■ CONDEMN ALL ACTS OF VIOLENCE AGAINST WOMEN

The Government of Pakistan should clearly and publicly condemn all acts of violence against women, whether committed by law enforcement agents or private individuals. It should develop policies and disseminate materials to promote women's safety in the home, community and in detention and undertake legal literacy campaigns to inform men and

⁴⁵*Dawn*, 16 April 2001

women of their legal rights. It should also collect statistical data on the prevalence of violence against women and make these publicly available.

■ **PROHIBIT ACTS OF VIOLENCE AGAINST WOMEN AND ESTABLISH ADEQUATE LEGAL PROTECTION AGAINST SUCH ACTS**

The Government of Pakistan should prohibit in law all acts of violence against women whether committed by state officials or by private individuals, including domestic violence, marital rape and 'honour' crimes.⁴⁶ It should also review existing laws, including the *zina* law and the *qisas* and *diyat* law with a view to ensuring their consistency with the UN Women's Convention; laws found to discriminate against women or to allow for or condone violence against women or to hamper legal redress should be removed or suitably amended. It should ensure that legislation prohibiting slavery, debt bondage and the trafficking of women is strengthened and strictly implemented. All law enforcement officers, police personnel and judicial staff should be thoroughly familiarized with the laws protecting women and Pakistan's obligations under the UN Women's Convention.

■ **PREVENT CUSTODIAL VIOLENCE AGAINST WOMEN**

Women detainees should be held separately from male detainees; they should only be interrogated in the presence of female staff who alone should be entrusted with body searches. There should be no contact between male guards and female detainees without the presence of a female guard. The imprisonment of mother and child together must never be used to inflict torture or ill-treatment on either by causing mental or physical suffering.

■ **INVESTIGATE ALL ALLEGATIONS OF VIOLENCE AGAINST WOMEN**

The Government of Pakistan should ensure that all reports of violence against women, whether perpetrated by state officials or private individuals are promptly, impartially and thoroughly investigated with a view to holding the perpetrators to account. For this purpose, clear guidelines must be issued to law enforcement personnel stating that deterring women from reporting acts of violence will not be tolerated and that it is the duty of law enforcement personnel to register promptly and without bias all complaints of women victims of violence, investigate all allegations of acts of violence against women, whether perpetrated in custody or within their families. Contravention of the duty of police to register and investigate should result in sanctions such as dismissal. The Government of Pakistan should also ensure that

⁴⁶Model legislation on domestic violence was developed by the Special Rapporteur on violence against women in 1996 in UN document: E/CN.4/1996/53/Add.2

women reporting abuses are not subjected to further abuses in the process of seeking redress because of laws, attitudes or practices insensitive to gender considerations. To curb and ultimately end gender bias in the police force, adequate gender sensitive training should be provided to both senior staff and new recruits to enable them to deal with complaints of violence against women with sensitivity. An adequate number of women police officers should be recruited and trained. Their investigative techniques should be improved to ensure that women victims of violence are not subjected to further humiliation; particularly when sexual abuse is alleged, a competent, and if possible, female medico-legal practitioner should be promptly involved in the examination of the victim.

■ **PROSECUTE AND PUNISH**

Gender discrimination, particularly relating to evidence, should be removed from the statute book and members of the criminal justice system should receive adequate, if necessary additional and continuing training to enhance their understanding of violence against women, its causes and consequences. An adequate number of women judges should be appointed and trained. Similarly, specialized prosecutors to handle cases of sexual abuse and rape should be appointed and additionally trained in gender violence to deal with such offences. Impunity for violence against women must end so that potential perpetrators understand that they will not get away with harassing, injuring or killing women.

■ **PROVIDE ADEQUATE REMEDIES AND ENSURE REPARATION**

The Government of Pakistan should ensure prompt reparation, including compensation, medical care and rehabilitation to women victims of violence; existing shelters should be made more accessible, be run as places of voluntary recourse for women and increased in number to ensure that every woman at risk of abuse or after abuse finds a safe haven where medical attention, psychological support and counselling, legal advice and childcare support are available if required and from where women are not returned to situations of abuse.

■ **PROTECT WOMEN'S RIGHTS DEFENDERS**

The Government of Pakistan should recognize the valuable contribution made by human rights groups, including women's rights groups, in raising awareness of women's rights and combatting abuses. It should ensure that human rights defenders and human rights groups can pursue their legitimate activities without harassment or fear for their own or their families' safety. Governmental bodies for the protection of women's rights should be adequately staffed and resourced and given enough powers to adequately protect women's rights. For instance the statute setting up the Commission on the Status of Women should be amended to allow it to adequately protect women's rights by making its recommendations binding; allowing it free access to information, giving it powers of a civil court in summoning a

person; making it independent of any government ministry and giving it long term constitutional cover.

APPENDIX: INTERNATIONAL CONDEMNATION OF HONOUR CRIMES

The European Union and the United Nation have on several occasions condemned honour killings in Pakistan and elsewhere. Below are a selection of these statements.

On 16 August 1999 the Finnish Presidency of the EU Council in a declaration requesting Pakistan to prevent 'honour killings' said: "The EU has followed with great concern the recent political discussion on 'honour killings' in Pakistan society. Such killings motivated by 'family honour' transgress the principles of human rights. The EU condemns these killings as it condemns all such acts of violence. It urges the Pakistani Government to ensure full protection of all citizens accorded to them under Pakistan's Constitution. The EU welcomes the statement of the delegation of the Government of Pakistan at the UN Commission for Human Rights in Geneva on 14th of April condemning the 'honour killing' of Samia Sarwar in the office of the advocate Hina Jilani in Lahore. The EU urges the Government of Pakistan, in accordance with that statement and in conformity with international human rights instruments, including the International Convention on the Elimination of All Forms of Discrimination against Women, to initiate measures to prevent such killings, to prosecute their perpetrators and leave no doubt about the Government's disapproval of such acts. ..."

The European Parliament Annual Report on Human Rights in the World 2000 and the European Union Human Rights Policy said in paragraph 94 that it condemned “in particular ‘honour killings’ in Pakistan and Jordan; [and] urges all governments to formulate legislation against all forms of domestic violence and to refrain from invoking religious or cultural considerations to avoid obligations in this respect”.⁴⁷

In April 2001 the European Union through Swedish envoy to Geneva Johan Molander said before the UN Human Rights Commission in Geneva that governments worldwide must take action to end harmful traditional or customary practices, including ‘honour’ killings of women. He said that the EU was determined to combat all crimes committed in the name of ‘honour’ that threaten the life and dignity of girls and women and that social, cultural and religious factors could not be invoked as a justification for violating the human rights of women and girls.

On 23 November 2000, in his message for the International Day for the Elimination of Violence against Women on 25 November, President of the UN General Assembly Harri Holkeri (Finland) stressed that “violence against women is a crime against humanity, be it in times of peace or in times of war”. He also said that “I am proud to note that in the statute of the international criminal court, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and other forms of sexual violence constitute war crimes and crimes against humanity.” On 25 November 2000, Kofi Annan said “There has been worldwide mobilization against harmful traditional practices such as so-called ‘honour killings’ – which I prefer to call ‘shame killings’”.

⁴⁷RR\441196EN.doc

In November 2000, UN members voted on a resolution on 'honour' crimes sponsored by the Netherlands, after six months of negotiations had failed to find a common ground on the scope of the resolution and the obligation of states to prevent such crimes. The resolution 'Working towards elimination of crimes against women in the name of honour'⁴⁸ was adopted with a record vote of 120 countries in favour, 25 abstentions (including Pakistan) and zero against. The 25 abstaining nations were mostly Arab or Muslim countries which objected to the resolution's selectivity in denouncing a particular violation of women's rights. In choosing to abstain, they argued that the motivation of the resolution's sponsors was 'to target a culture', simplistic in its understanding of the nature of 'honour' crimes and selective in its advocacy of eliminating one particular type of violence against women. Supporters of the resolution argued that the revised resolution constituted a historic step for the UN towards the elimination of 'honour' crimes, an effort that required fundamental changes in societal attitudes and the use of legislative, educational, social and other awareness-raising measures. Subsequently a resolution, entitled 'Elimination of All Forms of Violence against Women including Crimes identified in the Outcome Document of Beijing +5'⁴⁹, was adopted which, as the title indicates is more inclusive relating to all forms of violence against women.

⁴⁸A/C.3/55/L.11/Rev.1

⁴⁹A/C.3/55/L.13/Rev.1