

## *Special topic*

# Violence against women in South Asian countries

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Received December 18, 2002; accepted February 5, 2003  
Published online April 17, 2003 © Springer-Verlag 2003

## Summary

In South Asian countries the amalgamation of Buddhist, Confucian, Hindu, Islamic and Christian traditions have shaped the personalities of women and determined their social status. Rigid cultures and patriarchal attitudes which devalue the role of women, result in the wide spread occurrence of violence against women. The family structure, in which the man is the undisputed ruler of the household, and activities within the family are seen as private, allows violence to occur at home. As well as traditional forms of violence such as wife-battering and sexual assault, women in these countries are also exposed to dowry crimes such as bride burning, kidnapping for the purposes of prostitution, and "honour killings". Laws permit discrimination against women and discourage reporting of violent acts. Efforts to remedy this situation must include changes in local laws as well as assistance from the United Nations and the international community.

*Keywords:* Violence against women; domestic violence; honour killings; women's mental health; gender issues; cross-cultural issues.

## Introduction

In the new millennium, Women's Rights have been the focus of vision worldwide. The Charter of United Nations Endorsement of the equal rights of men and women and the subsequent International Treaties and Declarations, the Vienna Declaration in 1993 (Khan, 2001) and Declaration of Beijing in 1995 (Khan, 2001), stands in 2002 as a sharp contrast to the reality of the life for millions of women world wide (Khan, 2001). Women's economic, social and cultural rights continue to be neglected. Women in Pakistan and other South Asian countries similarly face the threat of multiple forms of violence including: sexual

violence by family members, strangers and agents of the state; domestic abuse including spousal murder; being burned, disfigured with acid, beaten and threatened; ritual honour killings; and custodial abuse and torture.

The focus of this paper is on Pakistani women, but references will also be made to women in South Asian countries such as Bangladesh, India, Sri Lanka, Nepal, Thailand, Malaysia, Indonesia, Philippines and Japan etc. The image of Asian women has always been shrouded in mystery due to a lack of information on the part of most of the writers and scholars who generally, inaccurately, equate them with Arab or Oriental women, neither of which is true. Hence it is vital to give a brief account of the historical development of their personality in order to understand the dynamics of violence against them.

## Historical view

Besides indigenous religions such as Hinduism or Buddhism, invaders brought Islam and Christianity to the region. As these religions are all-pervasive, their impact was inevitably felt both on the way of life as well as on the status of women. In June 1980, Women Lawyers Association of Philippines in Manila organized a meeting, and 13 South Asian countries presented reports. They all pointed out that there were no laws which were discriminatory towards women, but, rather, it was the common culture or tradition which was responsible for such attitudes towards them.

The traditions and the customs in Asia are so rigid that they do not allow a woman to seek justice even when she has the legal right. Reports from the South Asian countries demonstrate a phenomenon of injustice, suppression and helplessness due to traditional attitudes faced by women, in order to obtain the rights given to them by the local legislation.

Some of the historical features which are common to Asian countries include:

1. Agriculture-based economies. The tribal feudal system and patriarchal structures accord a secondary role to women.
2. Polygamy. Hinduism and Buddhism are two old religions allowing polygamy, thus lowering the status even further. Historical customs of binding the feet of Chinese women and burning alive of the wife along with the body of the dead husband in Hindu cultures (SATTI) are some of the well known evidence of expected violence against women in South Asia. Although Islam also allows polygamy, it theoretically grants equal status to women in many areas. However, in actual practice, it has absorbed many of the cultural norms of Hinduism and Buddhism e.g. men are allowed four wives but the society disapproves of women's right to remarry, which is clearly allowed in Islam.
3. Industrialization: Having missed out on the industrial revolution, South Asian countries are now being pushed into post-industrial society. Therefore radically different levels of development are found in the different areas of these countries. Due to widespread unemployment, women were pushed out of the lucrative job market and forced to return to traditionally unpaid labour in agriculture and family business.

### *Hinduism and Buddhism*

In Hindu Culture patriarchal values support female inferiority (Segala, 1999). On the Indian subcontinent, the "theory of perpetual tutelage for women" was formulated by Manu, the Hindu lawgiver. He preached that education for girls should be stopped; they should be prohibited from public life and must restrict themselves to their homes. His dictum that a wife ought to respect her husband as God and serve him faithfully, even if he were vicious and void of any merit, was accepted as applicable to all women.

Under these laws, women become weak and subservient. Marriages were arranged by parents; they lost their identity as an individual or as a member of community and became more like a commodity which could be bought and sold. In Hinduism and Buddhism polygamy is allowed and there is no provision of divorce or remarriage for women.

Buddhism, very much like Hinduism, considered women subservient to men. Buddhism further taught that women lure a man away from the path of NIRWANA or SALVATION. The Buddha had to leave his kingdom, wife and child to attain purity. Women were considered to be temptresses who hinder a man's rise above the worldly status. Buddhism almost disappeared from India around birth of the Christ. It entered China, Korea and Japan in 400 A.D., where it flourished for a long time in modified forms. It also traveled to Burma, Thailand and Sri Lanka.

The status of women in both Hindu and Buddhist doctrines is complex. At one level she is considered as a Goddess (Devi). Like SEETA the wife of RAMA, a personification of sweet long-suffering wife, she is the embodiment of motherhood who bore a male child, therefore having the potential to become LAKSHMI (the harbinger of luck). On the other hand, she is blamed for all the ills and degradation of man's moral and spiritual self.

### *Islam*

Islam is relatively new in Asia. It penetrated the Sindh province of Pakistan through the historic Khyber Pass, on the border of Pakistan and Afghanistan in 12<sup>th</sup> century A.D. and through other countries of Asia via sea route.

The status of women in Islam was much higher than the one granted by Hinduism and Buddhism. Islam gave women the legal right to own property, to marry and divorce. Her status in the community was very much like a man and determined by her deeds. In early Islam, women excelled in scholarship, medicine and warfare. However, with the passage of time and due to its basic teachings of tolerance, and respect for other religions, Islam absorbed much from the local cultures in India, and changed its view of women's status according to the culture of the host country. Thus one finds blends of Muslim and Hindu culture during the Mughal Era, which lasted for more than 600 years in the Indian Subcontinent. During this time there were many women rulers,

eminent scholars, poets, philosophers and writers. Education was widespread (Hasan, 1982).

During British rule, women's education, especially within the poor classes suffered a great setback due to the closure of Maktabas (elementary schools) on mass scale. Skill-training was also discontinued. Women continued to keep the crafts alive whereas most men switched to more profitable jobs. Industries such as hand-woven cotton cloth of India, and those connected with silks and spices from China, and rubber were destroyed due to the flooding in of cheap manmade materials. The result was local unemployment and women were pushed to the confines of their homes or to work as unpaid farm labourers. According to some historians, there was 90% literacy among women in 1847, which was reduced to 12% in 1947.

Islam absorbed the Hindu culture patriarchal values which support female inferiority and these values were transmitted to the younger generations, resulting in family violence tolerated as a male right to control those who are dependent. Hence Islam in most countries of the world today is the male interpretation of uneducated or semi-educated Maulanas, (Ulema/priests). This interpretation came to include all the negative implications of other religions such as the inequality and subjugation of women, denying women's rights of inheritance, divorce and marriage etc. Today the culture prevalent in the South Asian Muslim countries is completely contrary to Islamic religious teachings. In Afghanistan, for example, under Taliban rule, women were totally deprived of the right to education, work, health care, legal recourse and recreation.

### *Confucianism*

The Japanese traditional family structure, based on Confucian principles, is patriarchal. The father is the leader whose authority is not questioned. Due to this traditional hierarchical family structure, relationships among family members can be conflict-prone. The Japanese tend to avoid conflict for the sake of maintaining harmony and peace. Japan's history as a totalitarian regime had a significant influence on the Japanese people's attitudes toward violence. Violence was justified as a means of discipline and punishment. As rape and sexual abuse are considered sexual acts, the victims are made to feel embarrassed and rarely speak out, let alone prosecute their perpetrators (Kozu, 1999).

Women's participation in decision-making, both in public and private areas, is very poor compared to other countries. Women occupy less than 1% of all managerial positions in the national administration (Yokohama Women's Association for Communication and Networking, 1997).

In Japanese social systems and practices, there are many policies and systems that are based on gender stereotypes. Even those which seem to be gender-neutral on the surface function differently for men and women, reflecting their different status in society.

In Pakistan and other South Asian countries, the situation of women varies considerably depending upon the geographical location and class. For instance in the less-populated frontier provinces of Pakistan, life for women is very restricted and women are expected to comply with tribal beliefs and traditions. Any woman who deviates from these traditions, such as being seen with a man to whom she is not related or married can suffer penalties including death. The women observe strict *Pardah* (seclusion of women) and are rarely seen outside their homes. However, in the more heavily-populated Sindh and Punjab provinces (accounting for well over half of Pakistan's population) women have relatively greater social mobility. They are visible working in village areas and in the fields, and they have access to education and health care. In urban areas of Pakistan, a small minority of a total female population have the greatest mobility, with greater access to jobs, education and greater freedom in marriage and divorce.

Seventy-five percent of Pakistan's female population live in rural areas and the average Pakistani woman is burdened with the "crippling handicaps of illiteracy, constant motherhood and poor health" (Jalal, 1991). Women's participation in the economic arena is disproportionately low, with women constituting only 28 percent of the country's labour force (Women's Environment and Development Organization 1998; World Bank, 1997). According to the official data, just over 35 percent of women in the country are literate. Pakistan ranks far behind other South Asian countries and indeed remains amongst the ten lowest-ranking countries of the world in terms of education for girls. Women's health in Pakistan is also in very poor state. Pakistan's mortality rate of 350 per every 100,000 live births stands as one of the worst in the world. According to UNICEF's Progress of Nation's report

for 2000 (Human Rights Commission, 2000a), only 26 percent of women between 15–49 years of age are attended by health personnel and that just during pregnancy.

Since the founding of Pakistan, a continuing controversy over the role of Islam in the nation's political life has had a direct bearing on the trajectory of women's advancement. Following partition, the constitutional debates and arguments ensuing between the Ulama and politicians produced a constitution that "demonstrated [an] unwillingness to articulate and implement an Islamic ideology" in that the "relationship of modern constitutional concepts of Islamic principles was asserted but not delineated" (Eposito, 1986). The collapse of the political institutions paved the way for the military to assume a dominant role in Pakistani politics. All fundamental rights guaranteed in the 1973 Constitution were suspended, including the right to be free of discrimination on the basis of sex. A series of laws were introduced that gave legal sanctions to women's subordinate status, including the Hudood Ordinance (which changed the law of rape and adultery and made fornication a crime), the Qanun-e-Shahadat Order (Law of Evidence Order which relegates women to inferior legal status and, in some circumstances, renders the testimony of a woman equal to only half the weight of a man's) and the Qisas and Diyat Ordinance (Islamic penal laws governing compensation and retribution in crimes involving bodily harm). The coming to power of a civilian government in 1988 heralded a new era which promised an unprecedented alignment of state power with an apparently progressive woman's rights policy. But soon after the election, it became evident that, once again, the protection of women's rights had been subordinated to the need to maintain a delicate balance between various political forces, including those representing conservative religious values. Although the campaign pledged to resurrect the women's rights and to repeal the Hudood laws, the other discriminatory statutes had great appeal during terms in office, and not a single Islamization law was repealed.

In 1997, the new government which assumed the office of Prime Minister adopted policies which appeared to have blocked all opportunities for the advancement of women's rights. The government of the time in parliament enacted the Qisas and Diyat Ordinance which instituted Shari-based changes in Pakistan's criminal law, making it a permanent part

of the Pakistan Penal Code rather than an ordinance subject to periodic renewal. The continuing Islamization efforts not only reinforced the legitimacy of discriminatory Islamic laws but, in effect, also bestowed greater discretion and authority on judges to invoke the so-called Islamic precedents and references at random.

During the last year, under General Pervaiz Musharaf's government, women have been encouraged to participate in the national politics. The discriminatory laws against women's rights are being looked into for repeal of the old ordinances. Present Minister of State Rtd. Justice Majida Rizvi of the Women's Commission recently organized a workshop on Hudood Ordinance and other discriminatory laws. The prevailing trends in the health and education sectors are encouraging. Presently three federal ministers pertaining to the Departments of Education, Law and Population are women. Women have 33% seats in the National Assembly. Women's awareness of their rights have increased, undoubtedly due to the relentless endeavours of Pakistani Women's Rights groups. However, most women still remain ignorant of even their most basic rights.

But still clear violations of International Law in the Rights of Women occur daily in Pakistan and other South Asian countries. Laws that discriminate against women remain on the books and are actively enforced, discrimination in access to government resources and services continues unchecked, and discriminatory practices go unpunished.

### **Prevalence of various types of violence**

Cross-cultural anthropological and ethnographic studies of violence against women, such as that of Levinson (1989) and the review of 14 cultures by Counts, Brown and Campbell (1992), also identify the role of social and cultural mores, including those around gender relations, in the acceptance and promotion of violence against women. Counts et al. found that the presence and severity of wife beating ranged from very frequent to almost non-existent, although physical chastisement of wives was tolerated and even considered necessary in most societies. They identified that the presence of "sanctions" against violent behaviour and/or "sanctuary" for women experiencing violence, e.g. the family and community being able to intervene in marital disputes and divorce was associated with low levels of violence and vice-versa. Cultures with

a “macho” concept of masculinity associated with dominance, toughness or male honour also were found to have higher overall levels of violence against women (Campbell, 1985).

Cultural norms around violence, gender and sexual relationships are not only manifested at the individual level, but are also re-enforced or not by the family, the community and within the broader social context, including the media. Dobash et al. (1992) have shown how historically, husbands’ domination over wives, including the use of violence, has been sanctioned by cultural beliefs.

Globalization and the growing urbanization of developing countries however, may be contributing to the disappearance of some of these protective factors. They contribute to the isolation of women from their extended families and have also attenuated community sanctions (Finkler, 1997).

The cross-cultural applicability of definitions is one of the issues that arise in the context of international studies. Anthropologists and women’s health advocates have highlighted the difficulties of creating international classifications, and that concepts of what constitutes violence against women vary profoundly across cultures. Because universal classification systems cannot fully account for the variance that exists between cultures they need to be used with caution (WHO, 1996). All societies have forms of violence that are tolerated, or at times even encouraged by social norms and customs. Whether socially condoned or not, these acts as well as their effects on women’s health and lives, need to be recorded. Addressing only culturally-unacceptable forms of violence fails to meet the spectrum of women’s needs.

Statistics published in 1997 by the World Health Organization (WHO) revealed that, according to 40 studies conducted in 24 countries on four continents, between 20% and 50% of the women interviewed reported that they suffered physical abuse from their male partners. Also according to “Where Women Stand”, an international report on the status of women in 140 countries (1997–1998), between 21% to 60% of women reported physical abuse by a male partner during the period 1986–1993 (Neft and Levine, 1997).

#### *Domestic violence*

Before partition in 1947, India and Pakistan shared the same country. The Indian Muslims acquired

several traditions from the Hindu culture. Consequently both in India and Pakistan, women are generally treated as second class citizens and wives are battered for misconduct or minor mistakes. In India, nearly 25% of women suffer from physical abuse (Yoshihama, 1999). In another study, 18 to 45 percent of married men in five districts of Uttar Pradesh, (a large state in northern India,) acknowledged that they physically abused their wives (Narayana, 1996). A study in 1999 by Fikree and Bhatti, showed that 34% of women are physically abused, 15% had been physically abused whilst pregnant and 72% of physically abused women were depressed. Statistical evidence on the actual prevalence of domestic violence in India is scant. However the few studies available indicate that physical abuse of Indian women is quite high, ranging from 22 percent to 60 percent of women surveyed (Rao, 1997; Mahajan, 1990).

In Japan, physical violence is the second most common reason for wives to seek divorce. Murder by a partner accounts for a third of the deaths of women in Japan (Yoshihama, 1999). Evidence from Sri Lanka shows that 60% of 200 women interviewed said that their partners physically abused them. Fifty-one percent of these women, said their partner used a weapon during the physical assault (Sonali, 1990). In Malaysia, a study revealed that 39% of adult women reported being physically abused by their husbands, while 68% of battered women were abused while they were pregnant (Rashida et al., 1994).

#### *Sexual assault*

According to the report released by Madadgaar (a joint venture of UNICEF and lawyers for Human Rights (LHRLA) in Pakistan) (UNICEF, 1999) figures about sexual harassment and gang rape of women showed that violence against women in one or the other form continued unabated. During 2001, at least 587 cases of rape, including gang rape and sexual assault were reported in various parts of the country (Khan, 2001). Data about reported “rape cases” showed that there was an upward tendency in this form of violence against women. Four-hundred cases occurred in Punjab, 163 in Sindh, 12 in Balochistan and 12 in NWFP. In Karachi alone, 60 cases were reported whereas in Lahore there were 23 cases.

The Human Rights Commission of Pakistan (HRCP) found a sharp rise in cases of rape over the

decade with estimates suggesting that for every two hours, one woman was raped somewhere in the country (HRCP, 2000b). Other reports suggested the figure could be far higher, given that many instances of rape are never reported, as a result of social pressures. Incidents of abusive incest and rape within marriage are also said to be common although most occur in a hidden form in the society. According to the newspapers compilation of cases, in Punjab alone over 300 cases of rape had been reported during the year 2000 by the end of June (HRCP, 2000b). The incidence of gang rape has increased over the recent years (HRCP, 2000b). Last year 212 cases of gang rape were recorded. The high incidence of sexual assault in the country is partly fostered by the societal subordination of women to men and by the custom of avenging oneself up on one's enemies by raping their women, who are seen as repositories of family honour. These rapes take place not only in public places but also in homes, in front of male family members.

A study in Indian Punjab estimated that for each rape case reported to the police, 70 went unregistered. Similarly, for each case of molestation filed, 375 were not registered. These unregistered cases were documented by panchayats, municipalities, mihila mandal and voluntary organizations (Johnson et al., 1996).

A high rate of sexual assault is found in other South Asian countries. In Iran, the number of reported cases of rape has increased alarmingly. From 1980 to 1993 reported cases increased by 15.67% each year, making it the second most common crime in the country (UNICEF, 1999). Sixty percent of Japanese women suffer sexual violence at the hands of their partners (UNICEF, 1999). It is estimated that 5,000–7,000 Nepali girls are trafficked across the border to India where they end up as sex workers in Mumbai or New Delhi (Subas, 2001). According to the Uttar Pradesh (India) Police Report in 1999, every year there are more than 1,500 cases of rape, and nearly 2,500 cases of indecent molestation, sexual harassment and trafficking (UNICEF, 1999). In Afghanistan, sexual crimes against women and gang rape were common during the rule of the pre-Taliban Fundamental Government.

#### *Sexual harassment*

In Pakistan, apart from reports of harassment within the workplace, in the year 2000 an alarming increase

in the molestation of women, often in populated, public places has been seen. Female patients are molested by staff of mental hospitals. College girls are molested quite often by their male teachers (HRCP, 2000b).

#### *Kidnapping*

About 934 children, boys and girls, went missing during the year 2001 in various parts of Pakistan (Khan, 2001). According to a newspaper report, by June 2000, a total of 337 cases of kidnapping of women were reported that year in Punjab (HRCP, 2000c). These women are later used for trafficking across borders and for prostitution etc. The frequency of true kidnapping of women has always remained an issue of some controversy. Although a significant number of women are believed to be kidnapped, others leave home in order to marry partners of their own choosing. The registering of FIR (First Incident Report) to the police often is a social cover-up for abduction by the family.

#### *Traditional modes of violence*

Although the threshold to the 21<sup>st</sup> century has been crossed, traditional modes of violence against women have continued to grow. The impact of tradition on women's lives is powerful. They are seen as property and disallowed a choice in marriage. Even among educated sectors of society, girls are frequently given no say in matters of marriage. The old tribal customs still bind society, and families go to extremes to prevent women from violating tradition. For instance, to protect the family's property from distribution, hundreds of girls each year from Sindhi families are still married to Holy Quran. According to a report by an Islamabad-based NGO, there are currently over 5,000 such women in Sindh. Child marriages are very common in all the provinces of the country. Equally prevalent is the custom of "watta satta" or the marriage of a brother and sister to another brother and sister. The purpose behind the custom is essentially to: ensure a mutual exchange of property; remove pressure for a dowry as both sides are in equal position; and retain some control against mistreatment of the girls since her husband's sister remains in the home of her parents, as a kind of insurance. However, in many cases the system works against the success of marriage (HRCP, 2000d).

### *Honour killings*

Honour killings (Karo Kari) are carried out by men who assume that their wives, daughters, sisters have, in some way, violated norms relating to the behaviour of women, which damages a man's honour (Dawood, 1999). According to a report by Amnesty International on June 15, 2000 several hundred women and girls die each year in so-called "honour killings" in Pakistan. In its "Dimensions of Violence" report released in January 2000 (HRCP, 2000e), the HRCP found that in 11-month period, at least 266 women had been victims of "honour killing" in and around Lahore. According to the reports by HRCP in the year 1999, the ratio of women who faced such kind of violence was highest in Punjab and 266 women were killed. In the year 2000 about 672 women were killed in Punjab but only 128 cases were recorded by the police station while the relatives of others refused to take action against the murders. In Sindh, from January 2000 to April 2000, about 93 women were killed which was attributed to "Karo Kari". Hundreds of "honour killings", especially in tribal areas of the North are believed to go unreported each year as a result of social connivance, often involving district administration, which results in failure to report such murders to the police (HRCP, 2000e).

### *Murders*

Women are also killed for other motives, often linked to disputes involving their families. Over 2,000 women are estimated to have been killed over the year across Pakistan (HRCP, 2000f). In January 2001, about 130 cases of physical abuse occurred as a result of which 68 women were brutally killed. In Bangladesh, 50% of wives were killed by their husbands (Stewart, 1989). A New Delhi study on violence showed that in almost 94% of cases, the victims and the offender were members of the same family. In nine out of ten cases, husbands murdered their wives (Action Aid India, 1994).

### *Suicide*

Women in these societies are so suppressed that, instead of fighting for their rights, suicide may appear to be the only way out. Suicide rates of women have continued to escalate. A study by Kumari (1989) of dowry abuse revealed that one out of every four dowry victims was driven to suicide. Five hundred women in Pakistan are believed to have killed

themselves during the year 2000 (HRCP, 2000g). In two cases, women killed themselves and their small children because of the deprivation they saw the children endure as a result of economic hardship. Most of the deaths were due to "domestic disputes" quite often due to adverse economic circumstances. In a relatively new phenomenon, three teenage girls killed themselves by an overdose of poisonous pills after they failed their Matric (High School Exam), fearing they will not be allowed to study, and instead be married off.

### *Dowry violence*

One of the most extreme forms of domestic violence is the continued occurrence of stove-burning. Many of these burnings appear carried out by husbands and in-laws due to dissatisfaction with the victim's dowry. According to newspaper reports in the year 1999, about 201 Pakistani women were reported to have had injuries "while cooking" (UNICEF, 1999). In year 2000, about 206 women died of stove-burning. According to Progressive Women Association, in all the cases more than 30 percent of the body was burnt and in some cases it exceeded up to 60–90 percent (UNICEF Report) The HRCP, in its report "Dimensions of Violence", noted that 163 stove-death had taken place in an 11-month period in Lahore alone in year 1999 (HRCP, 2000h).

The only large-scale indicator of violence against women is the data relating to crimes against women published by the National Crimes Record Bureau, Ministry of Home Affairs, Government of India. The records of the bureau reveal a shocking 71.5 percent increase in cases of torture and dowry deaths during the period from 1991 to 1995 and may reflect increased reporting of violence. In 1995, torture of women constituted 29.2 percent of all reported crimes against women. According to the Annual Report of the Rajasthan Police (Women Report on Gender based Violence, UNICEF Report, 2000), dowry deaths from 1997–1999 increased by 24.43%. In Bangladesh, insufficient dowry claims have been punished by throwing acid at the brides. It is estimated that there are over 200 acid mutilations per year (Heise et al., 1994).

### *Violence in custody*

The incidents of abuse of women detained by police and the involvement of policemen engaged in the

rape of women during imprisonment are reported commonly. Incidents of the rape of women in police custody are also reported very commonly. From January 1999 to November 1999, about forty-one women faced custodial violence. Only six cases of these were of minor type, while 21 were gang-raped and 14 were physically abused. In the year 2000, at least three incidents of deaths of women resulting from maltreatment or grave abuse at the hands of law enforcers were reported.

### **Theories about violence against women**

Many traditional social attitudes towards women still persist amongst the people across these countries. Even increased access to education and information has often failed to wipe out deeply engrained concepts about women. One such idea is that a girl-child is only a “visitor” in the house where she is born and that, eventually she has to go to her “real” or married home. That is why she has no rights and is considered to be the most unimportant part of the household, thus making education and other opportunities in life unnecessary for her. Tragedy does not end here as, for a woman, there is no place outside the house of her father, guardian or husband. At her husband’s house, her only role is of a housekeeper and a child bearer. Societal traditions dictate honour killings or other punishment if a custom is violated. In 2002, in a rural village in Pakistan, an eleven year old boy was seen walking with a girl of a higher caste. As a punishment, it was ordered that his eighteen year-old sister be gang-raped by four older village men.

Certain theories explain the prevalence and occurrence of violence against women in South Asian societies. First is the perception of males as macho beings. Aggression is an important aspect of macho traits. Men consider themselves strong and show off their strength by being aggressive to women.

Second is the theory of male chauvinism. It explains that, in South Asian society, life is considered indispensable without males. Women consider themselves insecure, incomplete, ineffective and inefficient without males. On the basis of this concept, the male member is dominant in society and the female members are expected to be docile. The men are able to exploit women’s weaknesses.

The third concept is that of loss of control. According to this concept, when a male member

of society finds that the woman is somehow getting stronger either by her educational qualifications or economic independence, he tries to regain control by battering or other forms of violent acts until she surrenders. The purpose of this evil act is to limit the personal growth and progress of women.

Lastly, is the concept of displacement of affect. The rampant *klashinkoff* culture following 20 years of war, unemployment and inflation in Afghanistan has led to a lot of frustration and aggression in society, which requires an outlet. Men find an easy outlet for it by carrying out domestic violent acts against women, which is, obviously less threatening for him. Therefore, carrying out the violent acts against weak and dependent females serves to displace the aggression of the dominant and powerful male without putting him at personal risk.

Although there are many theories as to the cause of domestic violence, it is the structure of the family which allows it to occur. The structure of the family leads to or legitimizes the acts, emotions or phenomena which are identified as the causes of domestic violence. Family structures, which place men as the undisputed head of the family and maintain that what goes on in the family is personal and secret, allows violence at home to occur.

### **Policies and facilities that perpetuate violence**

Pakistan is supposedly bound by its ratification of the International Treaties to ensure respect for women’s human rights and fundamental freedom. As a party to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW, 1992; Burney and McArthur, 1999), Pakistan is obliged to pursue “by appropriate means and without delay” a policy of eliminating discrimination against women, including any distinction made on the basis of sex, which has the purpose of impairing or nullifying the recognition of women as being equal to men in regard to human rights and fundamental freedoms. Gender-based violence is a form of discrimination which seriously inhibits women’s ability to enjoy rights and freedom on a basis of equality with men. The conditions enumerated by the CEDAW extend beyond the criminal justice system and encompass preventive and protective measures (CEDAW 1992; Niaz, 1995).

However, violence against women remains an enormous problem in South Asian countries,



exacerbated and perpetuated by the governments' inadequate response to the problem. The state's response to domestic violence in Pakistan is so minimal that, despite the staggering levels of intrafamilial violence against women, it is widely perceived by the law enforcement system and society at large as a private family matter. The state is not able to provide protection and effective remedies to women victims of violence. The current procedures for obtaining medical evidence in assault cases, particularly in cases of sexual assault of women are woefully inadequate, neither ensuring that perpetrators are convicted nor providing women with appropriate treatment. Women victims of violence encounter widespread bias against them and their cases, official incompetence and corruption at all levels, a systemic lack of professionalism and administrative inefficiency.

Gender bias pervades the criminal justice system. From the initial lodging of complaints until the final resolution of cases, women seeking redress for sexual and other assaults regularly encounter law enforcement institutions and officials with hostile and indifferent attitudes to their complaints. Even judges frequently give free rein to biases against women in the name of law and harass women victims of violence (Burney and McArthur, 1999).

Pakistani law is inadequate in protecting women victims of domestic violence and penalizing batterers. Violence against women is not explicitly prohibited by a specific, targeted and distinct set of laws; most acts of domestic violence are encompassed by the Qisas and Diyat Ordinance of 1990. Commentators have noted that the Qisas and Diyat Laws have, in many respects, converted serious crimes, including murder and aggravated assault into crimes against the individual rather than the state. In the absence of explicit criminalization of domestic violence, police and judges have tended to treat it as a private or family matter or an issue for civil rather than criminal courts (Amnesty International Pakistan, 1990).

Honour killings are also encompassed by the murder provision of the Qisas and Diyat laws. In many cases these Honour Killings are justified on the basis that victims are engaging in immoral behaviour that could not be tolerated in an Islamic State such as Pakistan.

The Zina Ordinance discourages rape victims from filing charges by presenting the threat of potential prosecution for adultery. These laws

are also seriously flawed because they failed to criminalize marital rape and to establish the crime of statutory rape with or without the consent of minor. The definition of rape encompassed by the Zina Ordinance is also incomplete. The Qanun-e-Shahadat Order of 1984 in cases of rape and attempted rape allows for the admission of evidence to show that the "the prosecutrix was of generally immoral character" which adds to the difficulties of victims in obtaining justice (Associated Press of Pakistan, 1998).

In the last two decades, the Indian women's movement has contributed to a growing public awareness of violence against women. Women activists have mobilized and pressed for significant changes in the criminal code and police procedures in order to address various acts of violence. For example, throughout the 1980s, Indian society witnessed numerous protests by women's organizations against dowry deaths, custodial rape, abductions of women, sati (the burning of a widow on the funeral pyre), amniocentesis used for sex selection of children, sexual harassment of young girls and women in public places, trafficking, and prostitution. These campaigns have mostly focused on those acts of violence that either occurred in or had impact upon the public space. Therefore, while the subordination of women in the private sphere was implicitly included in these campaigns, for many of the activists, the public-private divide still continued in practice. State response to violence such as passing the amendment 498A to the Dowry Act of 1983, establishing All Women Police Stations, or setting up family counselling cells, marked the beginning of attempts to provide some options outside the family to women facing domestic violence. However, except for sensational cases, the insidious everyday violence experienced by huge numbers of women has remained hidden in the private domain (International Center for Research on Women, 1999).

### **Recommendations**

There are a number of changes which are necessary in order to combat violence against women. Changes are required at the level of specific countries, the United Nations and the international community.

a) *Individual countries:*

The following recommendations, while being specific to Pakistan, can be generalized to other South Asian countries.

- 1) The offence of the Zina Ordinance, which codifies Pakistan's current law on rape and fornication, does not provide an adequate legal avenue for victims of rape to obtain justice and should be repealed. The former provisions of the Pakistan Penal Code on rape should be re-enacted into law with amendments to make marital rape a criminal offence to incorporate the broader definition of rape.
- 2) Article 17 of the Qunan-e-Shahdat order of 1984 should be amended to explicitly guarantee the right of women to have their testimony given equal weight to that of men in all cases.
- 3) A provision should be added to the Criminal Law Act of 1997 to specify that "honour killings" are punishable as intentional murder and to prohibit the practice of mitigation of sentences in such cases. There should be an explicit prohibition against the application of the common law defence of grave and sudden provocation to cases of honour killings.
- 4) The Criminal Law (Amendment) Act of 1997 should set out clear guidelines for assessing and distributing diyat (blood money or monetary compensation) based on the principal of gender parity and non-discrimination.
- 5) Police must be trained to eliminate gender biases in their responses to cases of violence against women. In particular, police should be trained to realize that domestic violence is not to be excused, tolerated, or condoned under any circumstances. In addition, the police should be trained in investigative methodology applicable to the cases of domestic violence.
- 6) The medicolegal system should be improved and rape victims should have access to medicolegal exams performed by female practitioners twenty-four hours a day, seven days a week, including national holidays. In large metropolitan centers like Karachi and Lahore, there should be at least two geographically dispersed and fully staffed venues where victims of rape may obtain medicolegal examinations at all times.
- 7) Special prosecutors should be identified in every district to try cases of rape and other forms of violence against women. Prosecutors responsible

for cases of violence against women should be trained to eliminate gender bias in their approach to and handling of these cases and to recognize the serious and criminal nature of domestic violence.

- 8) The government should help fund telephone hotlines for women victims of violence in all major cities. These hot lines should be widely publicized and operated by trained staff who can offer basic counselling and refer women to specialized services for women shelters.

b) *The United Nations:*

- 1) The Secretary General of the United Nations and the United Nations High Commissioner on Human Rights should ensure that all United Nations agencies operating in South Asian countries pay particular attention to the issue of violence against women and develop programs and strategies design to curb that abuse and promote accountability.
- 2) The World Health Organization (WHO) should provide technical assistance to the governments of these countries in developing standardized protocols for conducting medicolegal examinations in cases of rape and sexual assault and identifying effective medicolegal techniques and requisite equipment to implement the protocols.
- 3) WHO should also assist these governments in designing and implementing training programs for medicolegal doctors responsible for conducting these medicolegal examinations.

c) *The International Community:*

- 1) Grant funds for and design, in cooperation with non-governmental organizations, programs to provide basic services for women victims of violence. These services should include women's shelters, medical care, counselling, and legal aid, which are necessary to encourage and enable women to come forward and seek safety and justice for abusive treatment.
- 2) Encourage South Asian countries to repeal any discriminatory laws (such as the Zina Ordinance in Pakistan) and to amend laws to include marital rape as a criminal offence.
- 3) Use influence to encourage South Asian countries to implement specific legislation that would explicitly criminalize domestic violence.

- 4) Provide funds to South Asian governments for improving its medicolegal services. Funds should be earmarked for training personnel as well as upgrading physical facilities and equipment.
- 5) Organize and fund programs to train police, prosecutors, medicolegal doctors, and judges to eliminate gender bias in handling cases of violence against women.

## Conclusions

Despite the awareness of the widespread prevalence of all types of violence against women in South Asian countries, governments appear to be unable or unwilling to put a stop to it. The HRCP reports and the government's own Commission of Inquiry for Women reported that domestic violence in Pakistan has been described as the most pervasive violation of human rights. Similar situations are found in other south Asian countries. The dismissive official attitudes towards violence against women shows that gender biases pervade the state machinery and law enforcement apparatus. Because of the deep-seated and widespread biases against women, the criminal justice system doesn't operate as an avenue of redress and justice for women victims of violence. A comprehensive program of concrete measures and reversal of existing government attitudes and policies is required to provide women victims of violence with effective remedies and equal protection of law. At the legislation end, laws must be enacted that explicitly considered domestic and other familial violence as crimes. Non-governmental organizations must be supported to services for victims of violence: provide shelters, legal aid, counselling and medical services.

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