WOMEN’S RIGHTS OR ONTOLOGICAL ERASURE?
A FEMINIST INSIGHT INTO WOMEN PROTECTION BILL (2015)

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Abstract

The schism created between man and woman in recent times of some past centuries has generated critical debates in different social frameworks. In Pakistan’s context, the recently passed bill for women’s protection has garnered a debate about certain structured gender roles that need be addressed to alleviate the sexual polarization that has ensued. While some religious factions have their apparently patriarchal concerns to resolve the perpetration of anti-patriarchal discourse that this bill seemingly initiates, this paper explores the manifestations of very pertinent anti-feminist concerns that this bill enconces in its text, the discussion of which is mandatory for the peace and stability of this society. Drawing interstitially from Gayatri Chakravorty Spivak’s concept of the subaltern in a postcolonial context, the questioning of the parochial double-bound concept of post-coloniality and womanhood by Sara Suleri, and the legacy of Islamic feminism are three possible modes of addressing these relevant trepidations in the Pakistani context. Using this multi-pronged approach as a theoretical framework, this exploratory paper impresses an imperative of deconstructing the textual implications initiated by such issues as raised in this bill. Validating the common grounds of the three adopted approaches, this study is an attempt at revealing a multiplicity of meanings for objective cognizance.
Keywords:
Postcolonialism, Subaltern, Patriarchy, family and society, Islamic Feminism, Women Protection Bill 2015

“For although the oppression of women is universal in nature...It is time to move beyond simple truisms about the situation of women to a more profound analysis of the mechanism perpetuating the subordination of women in society” (Odim 1991, 319)

If we are not what official history and philosophy say we are, who then are we (not), how are we (not)?(Spivak 1981, 6-7)

Section 1

Theoretical framework and its rationale

Ontological premises indicate an erasure of epistemological manifestations of womanhood whose genealogy needs to be traced from history. Egalitarian relations before contemporary constructed social roles of gender were a reality in most civilizations across the world. Human history regarding the feminist debate generated by the First World feminist writers of the past century upholding liberal feminism like Simone De Beauvoir (1908-86) entered the phase of radical feminism with Betty Friedan (1921-2006), Kate Miller(1934-)and Gloria Steinem (1934), to name only three. Audre Lorde (1934-92) and bell hooks (1952- ), in addition to being radical black feminist writers, geared the feminist debate toward issues related to lesbianism and black civil rights. Alice Walker (1944- ) coined new terms like womanism. With literary critics and feminists like Elaine Showalter (1941), the debate of feminism entered a new dimension of gynocriticism. Similarly, French feminists like Helene Cixous (1937- ), Julia Kristeva (1941- ) and Luce Irigaray (1930- ) underpinned the dimensions of psychoanalysis or poststructuralism or dealt with ecriture feminine.

Yet, some of their dimensions are questioned by two-thirds of the world’s postcolonial critics and feminists, who do not favour the label of feminist for themselves, such as Gayatri Spivak (1942- ) and Sara Suleri (1953- ). Spivak interrogates the position of French feminists, in which they station themselves with a “disinterested” stance on society as functioning structure” which, instead of questioning, makes them “applaud a system”(Spivak 1981, 154). Spivak scrutinizes their standpoint and relates it to her own position which she defines as “ideological victimage [resulting as] ‘naturalization’ [that has] transformed into privilege”(Spivak 1981, 157). Spivak clearly establishes a link between her own privileged position of being a part of American academia and these French feminists who theorize about feminist issues. She points out that “Kristeva’s text seem to authorize,
the definition of the essentially feminine and the essentially masculine as non-logical and logical”. Spivak also believes that in “Western cultural practice, the ‘classical’ East is studied with primitivistic reverence, even as the ‘contemporary’ East is treated with realpolitikal contempt” (Spivak 1981, 160). Spivak, therefore subverts Kristeva’s idea of “polymorphism” (qtd. in Spivak 1981, 157) and rejects Kristeva’s stance of rendering different sets of treatment, i.e. reverence for antiquity of the East while disdaining the contemporary mores of the East.

In her critique of the French Feminists, Spivak therefore proposes a certain kind of “planning a class” (Spivak 1981, 164-5) of academic feminists who should be able to not only “talk about ‘woman’ [but also] about ‘man.’” (Spivak 1981, 171). Spivak believes in the need of a group of people, a “masculist vanguard”, as she calls it that should lead the way in new developments or ideas. These researchers should be able to escape the fetters of “the inbuilt colonialism of First World feminism toward the Third” (Spivak 1981, 179, 184). What Spivak actually suggests is the need to consider the possible modes of scholarship that may not only focus on either subverting or subscribing to first world feminism but also builds on a body of learning unique in its purport. It is for this reason that while discussing the texts of Charlotte Bronte’s Jane Eyre and Jean Rhys’ Wild Sargasso Sea as a rewriting of Jane Eyre, and Mary Shelley’s Frankenstein as an ideological text, Spivak warns third world feminists to understand the pitfall of reproducing “the axioms of imperialism” (Spivak 1985, 243). In other words, Spivak impresses the need for third world feminists to institute their own narratives and not to establish themselves in just writing back to the empire, one way or the other, by the standards and axiom of imperialism.

She steers clear of any labels that may place her with the rest of western feminists “under that one rubric, which follows from the logic of neo-colonialism” (Spivak 1990, 114). With terms like “Third Worldism” (Spivak 1990, 115), Spivak has built her critique on three types of feminism: literary feminism, public or high feminism, and practical feminism. She defines public or high feminism as an “ethereal feminist theory where the female sexed subject is constantly theorized in terms of absences in texts” (Spivak 1990, 119). Spivak exhorts the feminists of the third world to choose from these three types of feminism, i.e., literary, public or high and practical feminism and build their critique upon them. My paper incorporates this aspect of Spivak’s critique, along with the other theorists.

The preceding discussion of Spivak’s critique regarding the role of third world feminists and the subsequent appraisal of Suleri’s deportment which follows, is to build a rationale for an argument regarding exegesis of the Women’s Protection Bill (2015). The text of this bill invites adoption of the standpoints of these two post-colonialist feminists and expands upon reasons why they do not favour the term feminists for themselves, making their views quite relevant for this study. Similar to Spivak’s and Suleri’s disinclination,
Islamic feminists, like Asma Barlas and Riffat Hassan are not disposed link themselves with the term Islamic feminism, though their works may indicate a strong import toward feminist scholarship. It is however seen with Spivak, and shortly will be manifested with Suleri, Barlas and Hassan, precisely why and how their scholarship falls out of the fetters of third world feminism, defined as having “common differences [for the] third world feminist perspectives” (Mohanty, Preface 1991, ix). Spivak’s conviction is different from Mohanty’s viewpoint because she asserts the need for becoming “aware of the textuality of the socius” (Spivak 1990, 120), abinding argument, which needs to be discussed at length.

Mohanty and other third world feminists, and black feminists likewise, believe in “rewriting of history based on specific locations and histories of struggle of people of colour and postcolonial peoples” (Mohanty 1991, 33). She is of the opinion that “contextual issues” and construction of the identities as a “macrostructural phenomena” is unique to all people because “[w]ritten texts are not produced in a vacuum”(Mohanty 1991, 33). This standpoint is discussed, at length, by Sara Suleri in her article “Woman Skin Deep: Feminism and the Postcolonial Condition” (1992). For Suleri, postcolonialism should be taken as a free-floating metaphor and as “an almost obsolete signifier” which no longer carries the same meaning as is accorded to it (Suleri 1992, 759-60). In other words, Suleri is of the opinion that postcolonialism and the feminist struggle pertaining to race should not be overly emphasized by juxtaposing the two entities.

Suleri questions Mohanty’s viewpoint of the authenticity of “the naked category of lived experience” (Suleri 1992, 761), when Mohanty stresses the authenticity of the rhetoric that “only a black can speak for a black; only a postcolonial sub continental feminist can adequately represent the lived experience of that culture” (Suleri 1992, 761). Suleri believes that the coupling of two identities of post-coloniality and womanhood is actually tantamount to making a racially female voice as only a metaphor. She also questions Trinh Minha’s “relocate[jion] of gendering of ethnic realities on the inevitable territory of postfeminism” (Suleri 1992, 761). Not approving of Trinh Minha’s relocating the gendered identities from a post-feminist perspective, Suleri believes that this kind of “‘radical subjectivity’ too frequently translates into a low-grade romanticism that cannot recognize its discursive status...The subject of race, in other words, cannot cohabit with the detail of a feminist language [because it is too parochial [and]...phantasmagoric” (Suleri 1992, 762). Suleri considers it parochial because it is “a self-defeating project, [as] feminism has surely long since laid aside the issue of an individualized female loyalty as its originating assumption” (Suleri 1992, 763). However, Suleri herself expresses lived experience in her autobiographical fiction, Meatless Days (1989), for instance, but it belongs to a genre which does not negotiate either the postcolonial or the feminist rhetoric at the cost of subscribing or subverting western feminist patterns of textuality; discourse rather provides an alternativist precept.
That is precisely why she is critical when “feminist intellectuals like hooks misuse their status as minority voices by enacting strategies of belligerence that at this time are more divisive than informative” (Suleri 1992, 765). Suleri asserts that the third world woman needs to rise above the debilitating object status as it will redouble the issue of a woman speaking from the perspective of first a woman, and then again as a postcolonial one. She does not accept the imbrications or overlapping of being given the double-binding iconicity of race and gender.

It can be deduced from the preceding discussion that contrary to the “alternative realism” (Suleri 1992, 762) so favoured by hooks, Mohanty, Trinh Minha, and other third world feminists, both Spivak and Suleri favour the production of an alternativist pattern of discourse and scholarship that does not juxtapose postcolonial concerns with feminism. For the present study of the Women Protection Bill (2015), in addition to their standpoint, a third interstitial mode of inquiry, i.e. certain aspects drawn from Islamic feminism, aid the explication of the nuances in the subtext of this bill. The textual analysis of the proposed bill makes it imperative to validate and understand the rationale for the adopted paradigm of Islamic Feminism, applicable for this study. Zayn Kassam, Professor of Religious Studies at Pomona College, Claremont, California, distinguishes Asma Barlas from other Islamic feminist theorists by stating, “Asma Barlas’s more recent Believing Women join their ranks in examining how the accumulated tradition regarding gender roles in Muslim societies might be re-envisioned...Barlas' central question is "whether or not the Qur'an is a patriarchal text". Zayn Kassam believes that Barlas’s works exhibit “a feminist liberation theology within the framework of Islam” (Kassam 2003, 2004, 156), which addresses feminist issues in a more holistic way. Thus, the patriarchal issues and their subsequent discussions raised in this bill can substantially be studied in this relevant paradigm.

Asma Barlas, a prolific writer with her ongoing books and papers, maintains in her seminal book, “Believing Women” in Islam: Unreading Patriarchal Interpretations of the Qur’an (2002), that practice of rights and justice are the vantage point for the study of Islam. She, like the other two theorists, Spivak and Suleri, is wary of being called an Islamic feminist unless it mandates gender equality and social justice. Her unreading of patriarchal interpretations of the Qur’an validates her position as the third pillar carved for this interstitiality of space employed for study of this women’s protection bill passed by the Punjab Provincial Assembly in 2015.

It will be significant to understand the viewpoint of Asma Barlas and what specifically sets her apart from Islamic feminists. While Fatima Marnissi believes Islamic Feminism to be a “sacred stamp onto female subservience” (Barlas 2008, 18), Professor Asma Barlas is critical of being labelled as feminist due to ethnocentric undertones in her “unreading [of] the patriarchal interpretations of the Qu’ran [which] has provided great
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inspiration for many Muslims and non-Muslims, interested in critical hermeneutics and in discovering egalitarian ideals in the Qu’ran” (Kinselhto 2008, 11). She calls herself a believing woman instead and does not want to be called a feminist because after reading bell hooks she realizes that the differentiation by white feminists in rendering women of colour is reason enough for her to distinguish herself from being labelled as feminist. However, she agrees that her concern of “sexual equality” (Barlas 2008, 18) is common between the two stances.

Section 2

A brief overview of Women Protection Bill (2015)

The Women Protection Bill (2015) is a bill drafted by the Chief Minister’s Special Monitoring Unit of Law and Order and passed by the Provincial Assembly of the Punjab, which was signed into a law on 1 March 2016. According to this law, physical violence, abusive language, stalking, cybercrimes, sexual violence, psychological and emotional abuse against women is a crime in the province of Punjab, home to 60% of Pakistan’s population. Additionally, it creates a toll-free universal access number (UAN) to receive complaints while district protection committees are to be established to investigate complaints filed by women. As per the directives of this bill, centers will also be set up for reconciliation and resolution of disputes. Every district would have both women’s shelters and district-level panels to investigate reports of abuse. The bill also mandates the use of GPS bracelets to keep track of offenders.

In the context of the issue of gender equity in Pakistani society, it may be seen that the sensationalization of news motifs, especially related to women, which were locked in the inner pages of newspapers a decade or so ago, are becoming an encashing escapade for some mercenary individuals. Perhaps this mode of news reporting might be, in some cases, helpful as a deterrent for a mindset favouring heinous disregard of femininity and women’s rights. However, one cannot overlook the mercantile approach of showcasing such incidents for personal aggrandizement. A number of examples show that the projected females in any such news or documentaries, either still remain aggrieved or may have to rise as a phoenix from their own ashes on a self-help basis [see the documentaries, Saving Face (2012) and A Girl in the River (2015)]. The narrative of the Women Protection Bill (2015) raises many such concerns, particularly when the “absences in the text” (Spivak 1990, 119) are highlighted.

By doing an alternativist perceptual feminist reading of the bill, in this paper, I propose that the narrative of this bill is heading towards a conundrum instead of the intended goal of women’s protection. A scrutiny of it, from a feminist perspective, reveals an ontological erasure of women’s emancipation.
**Women Protection Bill (2015): First Insight**

Societies do not thrive if the laws that are passed take into account some aspects while leaving out considerations of other very vital aspects. Such skewed understanding, at this stage of the twenty-first century in Pakistan’s law formulations, may lead to a total disintegration of the society rather than for any concern to protect it.

The first insight into the text of this bill exposes intratextual binaries or paradoxes within the text of the apparently pro feminist stance of the *Women Protection Bill (2015)* versus the actual anti-feminist implications that may be read into the proposed bill. In other words, the bill, instead of giving real indemnity to women victims, is actually anti-feminist in its purport, and needs to incorporate alternate forms of relief measures for women’s protection (suggested and discussed briefly, toward the end of this paper). Citing and explaining some examples of different clauses can clarify this thesis point.

The primary intention of this bill is stated as “gender equality... [and]...effective service delivery to women victims” (*Bill 2015, 1*) but in the given social context the modus operandi thus adopted, instead of safeguarding, is jeopardizing its primary purpose. The paradox can be validated by studying the methods adopted to accomplish these stated goals of gender equality and effective service delivery to women victims or the subaltern (to use Spivak’s terms). The aspired intentions should follow proper legal framework for safeguarding the women’s right *prior* to the damage, not after it. Facilitation after they have attained the status of victim will have a very different implication as compared to prevention of the victimization in the first place. I emphasize the need for women to be given protection before they are reduced to the status of victims or subalterns. Only then, it can be “An Act to establish an effective system of protection, relief and rehabilitation of women against violence.” My critique that women should not be reduced to the status of victims in the first place, in my view, should be the main focus of this Act, not relieving the damage after women are reduced to victims. A number of ways may be suggested for implementing such a remedy (an approach, which is out of the scope and focus of this paper and may be dealt with in a separate paper). This feminist praxis of being twice oppressed, by gender and by law, makes a woman a subaltern who is left with a Hobson’s choice of remaining only a subaltern with no agency.

Speaking from an Indian perspective, Spivak raises a very pertinent point, which is analogous to our situation regarding the bill. According to Spivak, “certain European codes, of largely English common law as law as such over a legal structure of performance that was very different” (Spivak, The Intervention Interview 1990, 126) had a very devastating negative impact on the Indian education system: it created an “epistemic violence and chromatism [because of the] Foreclosure, [a term she used in the meaning
that] when you are vigorously denying something, because it is present in excess” (Spivak 1990, 126). Applying this to the apparently pro-feminist text about women victims or subalterns, it may be seen that disregard of the social context, as pointed out by Spivak in her situation, generates an epistemic violence in our context, giving it a colour—chromatism, a foreclosure or a semblance of aiding the subaltern. In actuality though, the construct of safety of this subaltern/victim foregrounds a patriarchal order, which is the actual cause of such victimization.

Taking into consideration the feminist perspective, it may be seen that the gender equality the bill aspires to, is already granted by Islam, which is the official state religion of this country. And if this gender equality is not taken from within the framework of Islam and the Quran, then will ensue the same colonial pattern of subjection that Spivak refers to when she declares that “[i]n the Indian case at least, it would be difficult to find an ideological clue to the planned epistemic violence of imperialism merely by rearranging curricula or syllabi within existing norms of literary pedagogy” (Spivak 1985). Spivak’s concern that merely rearranging the existing syllabi cannot atone for the impediments put forth by imperialism is similar in spirit to Suleri’s censure for the conflation of post-coloniality and feminism, which, she believes, had resulted in off the cuff and not so properly thought-through third-person narrative, i.e. the law. Suleri indicates that this conflation had led to a situation of implementing the Hudood Ordinance—a worst-case scenario that could have been envisaged in the decade of the eighties in Pakistan’s legal history (Suleri 1992, 766).

Appropriating this analogy into the context of this proposed bill in 2015, the actual spirit of the Quran as the “Magna Carta of human rights and that a large part of its concern [is ] to free human beings from the bondage of traditionalism, authoritarianism (religious, political, economic, or any other), tribalism, racism, sexism, slavery or anything else that prohibits or inhibits human beings from actualizing the Qur’anic vision of human destiny”(Hassan 1996, 1) is being disregarded in its real form and essence. In her article, “Religious Human Rights in the Qur’an” (1996), Riffat Hassan’s elaborating upon the rights to life, respect justice, freedom, privacy, acquiring knowledge, developing one’s aesthetic sensibilities and enjoying the bounties created by God, and a good life (Hassan 1996)is not something supported by the subtext of this bill. Consequently, many discrepancies can be deciphered when the text of the Women’s Protection Bill (2015) is seen in this context. Imposing a bill by merely rearranging a subaltern position without taking into account the framework of the actual spirit of Islamic injunctions, according to which the details of this bill need to be chalked out, will certainly be pledging implicit anti-feminist repercussions.
**Women Protection Bill (2015): Second Insight—Practical Implications and Social Disintegration**

The subtext of this bill is an *undercurrent of contradictions*, which is runs parallel to, but in the opposite direction of actual statistics of subalterns that may acquire agency or may actually attain the status of assisted subalterns in the true sense of the word. With the aid of a case study of a hypothetical aggrieved victim or the subaltern, it will be proven that the bill’s anti-feminist sub-textual reality or implication actually subverts the apparently feminist rhetoric.

Let us assume the case of a hypothetical aggrieved woman or subaltern who actually wants to seek asylum in the “protection centre” (*Bill* 2015, [Definitions: part l,] 1). Again, let us consider a situation in which this subaltern has two to three children above the age that is permissible for accompanying her to the “shelter home” (*Bill* 2015, [Definitions: part q,] 2). Let us further assume these older children as a boy and a girl. The practical implication of such an arrangement raises the question as to where she would leave them? Should she leave these older children in the company of an abusive, raging defendant so that he may further blackmail her? Do the holders of this bill actually think that the subaltern will actually obtain a voice or agency, or would she be reduced to being only a further aggrieved and exploited woman? The practical repercussions of such a situation are actually very punishing because the children, even if they are more than twelve years of age, the permissible age for accompanying their mother, cannot be left to the mercy of the one from whom their mother is seeking shelter.

Let us further assume a situation of the actual "violence" (*Bill* 2015, [Definitions: part r,] 2) happening to the suffering woman. The relevant clauses fail to give protection against the question of the contentious nature of the actual status of being aggrieved. By this, I mean two situations: One, being an actual aggrieved person and the other a pseudo-aggrieved one. How does the legalese of this bill cover the situation of encouragement of instigation/ abetment that may be due to the allied (i.e. other family members) women - mother in law or sister in law, who may have started the actual instigation for the actual act of violence by the defendant (the man) against the aggrieved woman? The protection against any such instigation is a very pertinent question. Would parties responsible for such covert instigation, which cannot be detected by the Act, per se, be also incarcerated?

On the other side of the picture is the situation in which the supposed aggrieved woman/pseudo-aggrieved one concocts or fabricates the whole affair and threatens the defendant by supposed protection of the shelter home or the law thus introduced. It is true that this bill does mention a penalty for launching a false complaint; but what is the protection against the ploy or gambit of a pseudo-aggrieved woman, who manoeuvres the
matter to her own advantage in such a way that she may get a slap or two to seal the sentence of law over the defendant with the supposed allegations, while she, in fact, is using or abusing the law for her own advantage. Thus, my feminist critique at this point and time is that the actual subaltern may never obtain agency, and the imposter/pseudo-aggrieved may take the law for a ride in such a case.

Misuse and abuse of law is nothing new in Pakistan’s history of passing, out of context, bills which either were never implemented properly due to their double-edged propositions [see Cyber Crime Bill April 2015] or other similar laws of this dualistic nature but certainly with more colossally devastating results in history, i.e. the Hudood Ordinance passed in 1979. Sara Suleri deconstructs this ordinance at great length when she questions: if a postcolonial nation chooses to embark on an official program of Islamization, the inevitable result in a Muslim state will be legislation that curtails women’s rights and institutes in writing what has thus far functioned as the law of the passing word...the second ordinance—against Zina (that is, adultery as well as fornication)—is of the greatest import.... While such infamous laws raise many historical and legal questions, they remain the body through which the feminist movement in Pakistan—the Women’s Action Forum—must organize itself"....It is important to keep in mind that the formulation of the Hudood Ordinances was based on a multicultural premise, even though they were multicultural from the dark side of the moon. These laws were premised on a Muslim notion of Hadd and were designed to interfere in a postcolonial criminal legal system that was founded on Anglo-Saxon jurisprudence.... Such a statement, unfortunately, is not the terrain of rhetoric alone, since the post-Hudood Ordinance application of the Tazir has made the definition of rape an extremely messy business indeed... Let me state the obvious: I cite these alternative realisms and constructions of identity in order to reiterate the problem endemic to postcolonial feminist criticism. It is not the terrors of Islam that have unleashed the Hudood Ordinances on Pakistan, but more probably the United States government’s economic and ideological support of a military regime during that bloody but eminently forgotten decade marked by the "liberation" of Afghanistan’(Suleri 1992, 766-8). This quote of Suleri imports the seriousness, gravity and complexity of the situation of imposing an out-of-context law implemented in our history and its overwhelming effects. Her rhetoric brings home another very important aspect (discussed earlier), namely, the alternative realisms and constructions of identity. Suleri believes that these constructs of identity need to be contextualized without the intervention of some foreign elements, which she states as US economic and ideological support for foregrounding the Hudood Ordinance implementation in 1979. The quote also imports the differentiation between the injunction with the actual spirit of Islam and Islamization imposed with the likes of this bill. Therefore, Suleri’s critique emphasizes the need to build identities that are re-contextualized in the indigenous situation of Pakistan, lest they become an epistemic violence or foreclosure to borrow Spivak’s terms.
This point propels the discussion toward yet another situation provided in the bill whereby the clauses may be abused for one’s own advantage: a situation in which both categories of the aggrieved woman or the pseudo subaltern are given amnesty against the defendant. In such a case, the defendant may actually become the aggrieved when he has been wrongly alleged; when “the defendant or any relative of the defendant is restrained from entering the shelter or place of employment or any other place frequently visited by the aggrieved person” (Bill 2015,[Right to reside in house: 5f,] 4). The provision of filing “a habeas corporate case” (Bill 2015, [Women Protection Officer: 14f,] 7) by the pretender may further push the matter in favour of the mala fide intent of that pseudo-aggrieved woman. The ambiguous and confused state of affairs, instead of the intended “periodic sensitization and awareness” (Bill 2015, [Measures for the implementation of the Act: 3M,] p 2) will actually desensitize and will orchestrate near anarchy on the societal level. The ground reality of appointing "necessary staff at a protection centre for mediation and reconciliation between the parties..." (Bill 2015, [Measures for the Implementation of the Act: 3c,] 2), may in fact be actually counter to the intended achievement of such an end when such personnel might further victimize the actual aggrieved. This situation may be hypothetical, but the likelihood of this hypothesis can be seen in various examples.8
Therefore, in a legitimate case of domestic violence, for instance, her situation would be to be out of the frying pan into the fire. Such "relocation [] from the house of the shelter for purpose of relief protection and rehabilitation" (Bill 2015, [Residence order: 1d,] 4) may actually make the real aggrieved woman’s situation more precarious. Instead of giving protection to the actual aggrieved subaltern, the rhetoric of the bill seems to be give an apparent superficial semblance of protecting women’s rights.

Women Protection Bill (2015): Third Insight

As to a rationale for the clause stating, "not to have any communication with the aggrieved person, with or without exceptions" (Bill 2015, [Protection order: 1a,] p 3); one is obliged to inquire as to the legal, social or religious justifications of such a clause. The background of ostracizing the supposed defendant cannot be validated from either legal or religious positions. Even the divorce laws clearly favour the two to keep on living together under one roof even after the first divorce. This clause seems to suggest that the defendant has turned into a monster or an ogre overnight. Alternatively, if he is an ogre he would not have any regard for the "bond" (Bill 2015, [Protection order: 4,] p 3) thus executed. Dr Riffat Hassan has elaborated on a point which is most relevant in this situation. According to her, In the context of justice, the Qur'an uses two concepts: "'adl" and "ihsan." Both are enjoined, and both are related to the idea of "balance," but they are not identical in meaning. "'Adl" is defined by A. A. A. Fyzee, a well-known scholar of Islam, as "to be equal, neither more nor less." Explaining this concept, Fyzee wrote, "in a court of Justice the claims of the two parties must be considered evenly, without undue stress being laid
upon one side or the other. Justice introducing the balance in the form of scales that are evenly balanced" (Hassan 1996, 2).

This statement means that not empowering the victim herself and directing the police and women protection officer to help the defenceless victim is actually an anti-feminist stance. It is only by empowering women that the strength of nations, throughout history, has depended upon; by making them strong and making them realize the exercise of their matriarchal powers instead of portraying, projecting and reducing them to defenceless *femmes fatales*.

Alternatively, in the absence of real-capacity building measures for true womanhood, the *femme fatale* /pseudo-victim may exercise her lady boobyish means of throwing the defendant out of the house; the defendant would then be the victim in such a scenario. In such a case, her lady boobyish means will give her the power for great ploys or gambits of making the defendant "wear ankle or wrist bracelet GPS tracker" (Bill 2015,[Protection order: 1d, p 3]) or get a "transfer [of] the house [not] to any other person [save the pseudo] aggrieved person" (Bill 2015,[Residence order: 1c,] p 4) for herself. Monetary order number 9 (Bill 2015, 7), giving some relief to the aggrieved, may become superficial, even ironical, on account of the *mala fide* intent and scam on the part of the pseudo-aggrieved. In such a case, any "due regards to the financial needs and resources of the parties before passing any order having financial implications" (Bill 2015,[Residence order: 3,] 4) or any such relief/"compensation" (Bill 2015,[Monetary order: 1a,] 4) will become redundant, even satirical, i.e. when the pseudo-aggrieved is the one who is, in reality, pulling the strings of the law. It rather becomes detrimental for the defendant and sacrilegious to the sacrosanct institution of marriage and home.

Giving provision for making application after the "interim order" (Bill 2015,[Duration and alteration of orders: 1,] 4) cannot set any benefit for the subaltern unless and until the real emancipation and empowerment of the aggrieved women is assured. Without any mandatory education to understand the intricacies of any such rights would only end up making the aggrieved women further aggrieved, unless they are properly equipped with the modes and means to exercise them. The example of the failure of the Hudood Ordinance and Cyber Crime Law is a clear precedent for the failure of any such aborted attempt for passing bills without taking the holistic picture into consideration. In the 3rd and 5th points of the 11th clause about the District Women Protection Committee (Bill 2015, 8), it may be seen that it is too theoretical and amorphous and could be used to the advantage of exploiters and to the disadvantage of the exploited.
Another example of the convoluted set of principles is the standard operating procedure of enlisting "women volunteers" (Bill 2015, [Functions of the committee 1i,] 5). It is very likely that women would keep on withstanding the domestic abuse by one man rather than being put in a "protection centre [or a] converging point for all essential services to ensure justice delivery, including police reporting, registration of criminal cases, medical examination, collection of forensic and other evidence" (Bill 2015, [Protection Centres and shelter homes 2a,] 6). This illustrated clause reminds one of the place where Mephistopheles asks Dr Faustus, "Oh Faustus! Leave these frivolous demands, which strike a terror to my fainting soul" (Marlow 1592, Scene III, l 79-80). The aggrieved subaltern would rather keep on taking domestic abuse the way she is used to rather than being abused by outsiders supposedly providing refuge in a protection centre. This mediation "between an aggrieved person and the defendant for resolution of disputes under the Act; and act as a community centre to guide women in all Government related inquiries (Bill 2015, [Protection Centres and shelter homes 2m, n,] p 6), and "psychological counselling" (Bill 2015, [Protection Centres and shelter homes 4e,] p 7) should guidance be provided in the first place by mitigating the abuse of patriarchy.

Rather than adopting a reactive approach, so favoured by this bill, a proactive approach needs to be implemented, lest it culminate in the annihilation of the social fabrication. The preceding bills of the Hudood Ordinance and Cybercrime law are too close in time and space not to be taken as precedents. It is precisely this point that Dr. Barlas has researched, when, at one place, she states that "I view patriarchy as a continuum at one end of which are representations of God as Father and of fathers as rulers over wives/children, and at the other end, a politics of sexual differentiation that privilege males while Otherizing women" (Barlas 2006, 5-6). The ideal situation is to empower the aggrieved woman with proper education, civic, social, ethical and religious values rather than collecting the remains and then trying to glue them together afterwards.

The programme of establishing a shelter for the rehabilitation process will certainly be effective in maintaining stability of the environment and society only after these timely measures are adopted. It would be more proper to safeguard the sanctity of womanhood if it was to give equal parity to all human beings and not just, as stated in the text of this bill, "queries of women on internet" (Bill 2015, [Women protection officer: 3b,] 7) or only on toll free numbers, as it will further make their position more vulnerable. Already many convoluted, concocted and fabricated narratives can be seen to elbow out actual women's empowerment and their emancipation, which is the apparent agenda of this bill. It has been replaced by pneumatic propaganda and "exploitation of women" uproar.

For instance, a pseudo-aggrieved woman can very conveniently concoct a narrative to show herself aggrieved and even pay off the meagre amount of the penalty stated in the clause 19 (Bill 2015, [Assistance on request:] 8). Similarly, rule 21 of Cognizance and
Summary Trial (Bill 2015, [1], 9) can very conveniently be played around in case of a *mala fide* intent by driving the District Women Protection Officer to one's own advantage. The genuinely aggrieved woman, if it may be so, will remain distressed unless aware of her proper rights and that may be a real help only to the cause of women's rights. Appealing and getting into litigation should be, and actually is, a last resort. Making it the first step for supposed emancipation of the subaltern is going to not only damage the integrity of the institution of marriage but also shove society toward an irrevocable loss, and even, annihilation. The annual report about the "reasons for delay, if any, in reaching the aggrieved person in need of help of the protection system and proposed solutions" (Bill 2015, [2b], 9), will get lost in tons and tons of paper files and will become a case to refer back upon. The aggrieved woman will, nonetheless, remain in stasis. The dictum, *Justice delayed is justice denied*, is what rules out any critique that may be raised on this above observation.\(^\text{11}\)

Finally, the immunity thus provided to the "Government, any officer of the Government, a Committee, convener or any member of Committee, District Women Protection Officer, Women protection Officer or official of a protection system for anything which is done in good faith under this Act or the rules" (Bill 2015, [30], 10) will give full reign to the reprobates to use this immunity for any ill usage. The woman's rights will get lost in the annals of history and will become sod as was the experience specifically concerning women, i.e. the Hudood Ordinance and cybercrime law. The "statement of objects and reasons" (Bill 2015, 10) will remain a mirage unless it addresses the real issues of genuinely empowering and emancipating women, and not just a formality, which can be talked around across the playground of the society.

In order to give voice and agency to the subaltern and to avoid double marginalization of the feminal ventriloquism by patriarchal straight-jacketed mercenary machinations, the interstitial mode of inquiry adopted by this paper can be quite helpful. Spivak's concept of 'masculist vanguard' can be re-modelled in the context of Pakistan's society by making a cultural vanguard with possible modes of scholarship that may not only focus on either subverting or subscribing to first world feminism but also build on a body of learning unique in its purport. The inbuilt cognitive colonialism of society needs to be revised from the current position of absences for womanhood implicitly being embroidered as anti-feminist rhetoric manifested in the intratextuality of this bill. The axioms of imperialism or neo-colonialism need to cater to the textuality of the socius as suggested by Spivak. The social complexities expressed in the legalalese of this bill also need to be studied from an alternativist perspective of free-floating metaphor in discourse and scholarship, as stressed by Suleri. It may otherwise become too parochial and self-defeating.
The study of a she subaltern of Pakistani society and actually raising her position from that of a *caviacobaya* or guinea pig to someone with voice and agency, is a rigorously metamorphic process. This impasse should also be addressed by the unreading of patriarchal interpretations of the sacred text of Quran, as studied and emphasized by Barlas. In the absence of such measures, the textuality of bills like *Women’s Protection Bill* (2015), instead of safeguarding, will jeopardize its primary purpose. The ambiguous and confused state of affairs, instead of the intended periodic sensitization and awareness, will actually desensitize and will orchestrate near anarchy on the societal level. Without taking into account the framework of the actual spirit of Islamic injunctions, the feminist praxis of twice oppressed by gender and by law will lead to an acrimonious conundrum. The option of appealing and getting into litigation should be and actually is a last resort. Making it the first step for supposed emancipation of the subaltern is going to disintegrate the social fabric of society. It is only by proper education of the subaltern as to her rights and duties that she will obtain agency that will not only relieve her of her dilapidated condition, whether she be a real subaltern or a pseudo subaltern, but will also make her an integral part of global dialectics.

In the final analysis, it can be deduced as asserted by Dr Barlas, “[t]here is really no religious reason to insist that women and men should continue to relate to each other as if they were still living in patriarchy. This view would be like expecting people to go on acting as if they were slave-owners when slavery has ended. Of course, unlike slavery, patriarchy has simply reconstituted itself; however, [] just because an institution was normative once doesn’t make it so in perpetuity”(Barlas 2009, 4). In other words, the Quran’s injunction needs to be borne in mind, at all times, about the mutual goodness which spouses need to render each other when it is enjoined by Allah: “And forget not grace towards one another: Verily Allah sees what you do” (2: 237). If only we would be able to understand the depth of the words thus stated, we would think a thousand times before proposing and legislating such bills that may occasion the ventriloquism of misogynistic phallogocentrism and generate such mindlessly conscious polarization that subscribes to a specious feministic agenda. These feminist schemata, in reality, are actually ensuing imminent social disintegration and are extremely anti-feminist in purport.
Endnotes

1 I would like to give a disclaimer at the onset of this paper. While my paper gives a feminist critique of the implicit anti-feminist slant that I find in the text of this Act, and that is something which may be inferred and manipulated upon by certain anti-feminist agendas of some factions, this paper does not have any affinity with hardliner religious factions and their critique of the bill. Nor do I seek any similarity between my critique and the critique of hardliner religious bodies.

2 For ready reference, the bill may be accessed at: The Punjab Protection of Women against Violence Act 2016 (Xvi Of 2016): A bill was initially proposed in 2015. The updated version came in February of 2016 with the addition only of navigation facility through the text. However, I have consulted and cited from the original version and its pages. The updated version of the bill can be accessed at http://www.lawsofpakistan.com/punjab-women-protection-bill-2016-free-pdf-download or http://www.punjabcode.punjab.gov.pk/public/dr/PUNJAB%20PROTECTION%20OF%20WOMEN%20AGAINST%20VIOLENCE%20BILL%202015.doc.pdf.

3 Although this Act is made under Article 25 (3) of the Constitution of Pakistan, which is a positive discrimination clause, it allows the state to take special measures for the advancement of the interests of women. Gender equality is enshrined in Article 25 (1), but the actual ramifications are diametrically opposite, as explained in the examples of hypothetical case points.

4 This mode of referencing is used across all the references quoted from this bill, as there are too many clauses and subclauses to be referenced in any regular style of referencing like APA, MLA, etc. The in-text citation and the references are given in the Chicago style (sixteenth edition) of referencing. However, the square brackets within the in-text citation entail the details of the relevant clause, followed by the page number after the close of the square bracket, in line with the regular Chicago style of referencing. For example: (Bill 2015,[Definitions: part l,] 1)

5 The italics are used by me as emphasis in the text.

6 In this reference, (Bill 2015, [Definitions: part l,] 1) for instance, the square brackets contain the clauses and the subclauses, where the last number before the closing of the parenthesis denotes the page number of the document of the Bill.

7 Although, the definition of ‘violence’ (sec: 2 (1) (r)) - abetment will be considered violence, is something clearly stated in this clause. However, clandestine abetment cannot be covered in this clause of the Act, which is what my critique of the clause is, primarily.

8 One of the many examples for validating my point can be approached at: https://www.devex.com/news/how-the-legal-system-is-failing-to-protect-women-and-girls-from-sexual-violence-89573
A term coined from a character in *Joseph Andrews* (1742) by Henry Fielding

To cite an example: https://www.aljazeera.com/news/2016/06/pakistan-laws-fail-check-violence-women-160611045032781.html

For instance, an objection may be raised on my overt presumption that the pseudo-aggrieved will readily avail ALL remedies available under the Act; while the actual aggrieved, for whom, I believe, the system will be overburdened, corrupt and suffer from serious structural issues and thus fail to provide the relief envisaged. My answer to such objections may be studied at the following links citing similar concerns:

http://ohrh.law.ox.ac.uk/violence-against-women-in-pakistan-between-law-and-reality/


And read the section under the heading, Legislative Measures and Lacunae in the Law at: http://rsilpak.org/violence-pakistan-gendered-perspective/


Allah’s actual injunctions in the Quran, and not the patriarchal interpretations of the same, may be a starting point for real implementations of any protection for the victims of any sort, and women victims in the context of this paper.

References


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