



SINFUL BY CONSTITUTION: NAHEED'S *HUM GUNAHGAR AURTEIN* AS A LEGAL-FEMINIST READING OF THE 1973 CONSTITUTION OF PAKISTAN

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Abstract

Kishwar Naheed's *Hum Gunahgar Aurtein* which was translated into English by Rukhsana Ahmad (1991), and dubbed as *We Sinful Women*, is hardly read as a legal document. In this article I am going to suggest that it is exactly that. The poem speaks out against the Islamisation campaign by General Zia ul Haq, which by 1979 had turned the category of female sinfulness into law. The study draws upon feminist jurisprudence, a feminist theory of law (Catharine MacKinnon), wounded attachments (Wendy Brown) and Muslim legal feminism (Ziba Mir-Hosseini), to read Naheed's poem as what the study labels a 'constitutional autopsy' or a literary ascription of the internal contradictions of the Constitution of Pakistan of 1973. The simultaneous claims of gender equality in context of Article 25 and 34 of the Constitution and the subordination of all law to Islamic injunctions in the context of Article 227, created a foundational paradox in the Constitution: Women were promised citizenship with their bodies, testimony and freedom at the mercy of the state all the time. This ambivalence in the constitution was rendered into reality through the promulgation of the Hudood Ordinances (1979) and the Qanun-e-Shahadat (1984). Naheed's poem denies that degradation: not to the state for redemption but by revealing the human hand behind the state's "divine decrees. This refusal, the article suggests, is a feminist counter-jurisprudence: an alternative law discourse from outside the document which created the 'sinful woman' as a legal category. The study is a genuine contribution to the field of feminist literary studies in Pakistan as it introduces for the first time the Urdu women's poetry in an analytical frame with constitutional law.

Keywords: *1973 Constitution of Pakistan, Feminist Legal Theory, Hudood Ordinances, Hum Gunahgar Aurtein, Islamisation, Kishwar Naheed, Legal Feminism, Muslim Feminism, Urdu Poetry, Women's Rights.*

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1. Introduction

In the early 1980s a Pakistani woman was arrested and tried under the Zina Ordinance. But it wasn't the only paper a judge had. It was a constitution in theory. In 1973, Article 227 of the Pakistani Constitution empowered General Zia-ul-Haq's government to introduce the Hudood Ordinances in 1979 that criminalised women prosecuted for being 'sinful' as sinners. Kishwar Naheed's *Hum Gunahgar Aurtein* is a legal poem, a constitutional mechanism, named and resisted at every turn, a personal rebellion. In the landmark anthology of the same name by Rukhsana Ahmad, the poem is translated into English as 'We Sinful Women.' A voice of women and a jurisprudential decision: not one woman in error but women as a class made transgressive by the law meant to protect them.

Kishwar Naheed was born in 1940 in Bulandshahr and moved to Lahore during Partition. She spent her life working in the institutions she questioned. She was a cultural authority as the Director General of Pakistan National Council of the Arts (PNCA), but her poetry challenged the political system that enabled it. What is unique in *Hum Gunahgar Aurtein* is the double-jump inside and outside. This poem is at the very heart of the national literary tradition, and makes use of its vocabulary of longing, its grammar of refusal, its resources to make an argument that the language of the state cannot contain. In Naheed's collective voice, we are sinful, the accused are indicting themselves.

Pakistan, having lost half its territory, now had a Constitution to try to appeal to all. Zulfikar Ali Bhutto attempted to write it. It was to be "Islamic", "progressive", "democratic" and "authoritarian". One hand handed out gendered text, the other took it. Article 25 enshrined the right not to be discriminated against on the ground of sex. Article 34 demanded the full incorporation of women into society. But Article 227 made mandatory all laws conforming to Quran and Sunnah of Islam, thus placing a theological veto on every democratic and rights-based provision. The woman citizen of Article 25 and the sinful female subject of the Islamization framework of Article 227 were opposed. Naheed's poem is a partial "record of what happened when they had to.

Zia ul Haq inherited the constitutional problem and used it. His Hudood Ordinances of 1979, Qanun-e-Shahadat of 1984 and Qisas and Diyat laws were not against 1973 Constitution. It was based on article 227. A rape victim who files a complaint under the Zina Ordinance without four male Muslim witnesses can be charged with zina and also with rape. The loss of economic power of a woman was a clear statement about her humanity. That wasn't an accident. Constitutional paradox revealed, Constitution in action. In every line of her poem, Naheed wrote.

In this article *Hum Gunahgar Aurtein* is read as a counter-constitutional discourse that reads the constitutional 'contradictions' of the Pakistani state through a legal feminist lens from the perspective of those who are its legal inferiors. Catharine MacKinnon's feminist jurisprudence believes that law is a mechanism of male dominance. Wendy Brown's 'wounded attachments' looks at how identity politics are based on injury and can challenge and

consolidate power. Muslim legal feminists especially Ziba Mir-Hosseini who provided a framework for reading feminist resistance in Islamic legal constitution. These theoretical lenses permit a literary, legal and historical reading of Naheed's poem.

The inquiry is guided by three questions. How does Hum Gunahgar Aurtein critique a constitution that echoed and created the condition of its speakers? Second, how can Naheed's language of sinfulness be permitted and what is the jurisprudential, and not poetic, reclamation of that label? Third: how does the collective, the attention to "we," and the use of formal poem move forward the project of a feminist theory of constitutional personhood in ways that the liberal individual-rights frame cannot? The article examines the constitutional context, the biographical and literary location of Naheed, the theoretical framework of three parts, and a close reading of the poem based on the legal-thematic movements. The argument concludes by placing Naheed's work in the broader legal struggle for women's rights in Pakistan that culminated in the Protection of Women Act of 2006.

1.1. Research Objectives

The purpose of this study, with a view to constructing the integrated legal-feminist reading of Hum Gunahgar Aurtein, is as follows:

Objective 1: To analyse the structural paradox embedded in the constitution of Pakistan 1973 (between the equality theory under Articles 25 and 34, and supremacy of Islam under Article 227), to which Naheed's poem is a literary response.

Objective 2: To prove how Hum Gunahgar Aurtein constitutes counter-constitution in that it unravels the inherent ambiguities of the Pakistani state's foundational piece of constitution, in Urdu poetry's aesthetic and rhetorical language.

Objective 3: To develop a triangular theoretical frame of reference (MacKinnon, Brown, and Mir-Hosseini) to read the poem at the same time that it was written as a poem while it was also a legal argument, all the while maintaining a respect for its situatedness in an Islamic jurisprudence context.

Objective 4: To engage in close reading of Hum Gunahgar Aurtein that foregrounds its own thematic structure (proclamation, indictment, blocked highway, severed tongue, refusal) and makes it apparent that the poem's artistic decisions and its legal arguments are intertwined.

Objective 5: To place Naheed's poem in the longer roadmap of feminist contestation to law in Pakistan and to trace its role in the intellectual landscape that led to the eventual enactment of the Protection of Women Act 2006.

Objective 6: To introduce the first comprehensive analytical framework that integrates for the first time in Pakistani literary scholarship the fields of feminist legal theory, Urdu women's poetry, and constitutional law and beyond, opening a new, productive methodological avenue for future interdisciplinary research in this area.

1.2. Research Questions

This investigation into the legal-feminist aspects of Kishwar Naheed's *Hum Gunaahgar Aurtein* is guided by the following questions: How does *Hum Gunaahgar Aurtein* engage with the constitutional structure of Pakistan? What challenges are presented to that structure from *Hum Gunaahgar Aurtein*? Are they fulfilled?

RQ1: How does *Hum Gunaahgar Aurtein* work as a critique of the constitutional order responsible for creating, not only constructing, but also the juridical category of the sinful woman within the constitutional framework of 1973 Pakistan?

RQ2: What are the jurisprudential implications behind Naheed's rhetorical redeployment of 'sinfulness' and what does this say about the connection between poetry and law-making counter-discourse in the context of state-sponsored gender oppression?

RQ3: How is the recognition of collective address (poem's preference for 'we' instead of 'I') important to a feminist theory of constitutional personhood beyond the scope of individual rights frameworks?

RQ4: In what ways do MacKinnon's feminist jurisprudence, Brown's wounded attachments and Mir-Hosseini's Muslim legal feminism collectively shed light on certain aspects of Naheed's poem that have not been elucidated in prior single framework literary or legal readings?

RQ5: How is the Protection of Women Act 2006 an institutionalisation of the counter-constitutional imagination created in social and political discourses of the last two decades through Pakistani feminist literary writings, such as Naheed's poem?

2. Literature Review

The terrain in this article is real but undeveloped. Since the 1990s there has been an increase in scholarship on Pakistani women's literature and legal/political frameworks, but mostly from a literary or legal study perspective, not balancing both. The English language study of the poem must start with Rukhsana Ahmad's *We Sinful Women* (1991) and its editorial introduction which locates Naheed, Fehmida Riaz, Sara Shagufta and others in Zia's Islamising repression. He thinks this is a historical context Ahmad was inspired to write poems of defiance by the Hudood Ordinances. But her framing is primarily cultural-historical, and does not take account of the play of the poem's rhetoric off the constitutional structure that allowed the ordinances, nor does it use legal theory to analyse it. The article relates literary contextualisation and legal analysis.

This literary argument is based on the sociological record of the legislation of the Zia era. Gardezi and Sadiq (*Women in Pakistan*, 1992) provide a statistical account of the effect of the Hudood Ordinances on women's employment, justice and public life. Shahla Haeri in her comparative analysis of Pakistani rape law shows how the zina paradigm turned accusation into prosecution. If she could not find four male witnesses, a raped woman could be prosecuted for reporting her assault, and therefore legally self-endanger herself. This sociological and legal scholarship does not, as a matter of course, ask how a poem differs from a policy report.

Naheed's poetry is not fact. No numbers. If you want to read legally feminist literature, you have to think about aesthetic, rhetorical, and collective ways of knowing and resisting.

We take up the interesting comparative analysis of Deniz Kandiyoti in her book *Women, Islam and the State* (1991). Naheed's rhetorical strategy is illuminated by the "patriarchal bargain" the unconscious negotiation of religiously sanctioned male power. Naheed is in bad faith, refusing the deal. To this Ziba Mir-Hosseini responds with her Muslim legal feminism. Mir-Hosseini's theory of Islam as a living ethical activity versus Islamisation as a state power project helps us to intuitively understand Naheed's poem. It does not accept secularism, but it wants the divine to not be politicised.

Catharine MacKinnon's *Feminism Unmodified* (1987) and *Toward a Feminist Theory of the State* (1989) are classics of feminist legal theory. MacKinnon argues that the law's neutrality and universality mask its male domination. That formal legal equality doesn't address structural gender inequality and that the law controls women's bodies, sexuality, and speech for male dominance. These arguments are echoed in Pakistan, where women's sexuality is criminalised, evidence is devalued and equality clauses and legal systems exist.

See Wendy Brown, *States of Injury: Power and Freedom in Late Modernity* (1995) for a critique and a complement. Brown says that wounded attachments, ideas about injury and victimhood, allow the state to redress past injustices and to wilfully deny and perpetuate its authority, which can be politically constraining. Brown's framework raises important questions about the political meaning of "sinful woman." Does it threaten or buttress the structures of state and religious guilt and shame in Naheed's poem on women? In *The cultural politics of emotion* (2004), Sara Ahmed offers more theoretical tools to analyse the affective dimensions of Naheed's poem. Sin and guilt in the poem are handled in terms of her view of shame as social and political, rather than psychological. Ahmed thinks shame encourages self-regulation, compliance and critique.

According to Muneeza Shamsie, *Contextualising Pakistani literary studies: English language volumes and critical works on Pakistan literature*. Asif Farrukhi and Mehr Afshan Farooqi's critical essays on Urdu modernism place Naheed in Urdu literature. The poet's most extensive biography, Nasreen Rehman, *Kishwar Naheed: A Biography* (2010), situates his poetry in personal and political contexts.

Current criticism and scholarship of Naheed's poem has not sustained readings of the poem as a legal-feminist text that responds to legal norms and analyses, performs, and holds the constitutional text to its terms. Literary critics read the poem as a protest, lawyers wrote on Hudood abuses and historians wrote on Zia repression. No one has asked how a poem can argue for constitutionality or sound like constitutional theory. This article argues that this division misses the point and that Naheed's poem is the key legal-feminist literary reading. Below is the theoretical and methodological construction of integrated reading.

2. Theoretical Framework

The theory here developed is mainly three-fold. Rather than a fair analysis of rights through the lens of MacKinnon's feminist jurisprudence, we can analyse the working of the Pakistani legal system as a male-dominated apparatus. The male dominance is present even at the foundational and constitutional level. Brown's theory of wounded attachments provides much needed critical pressure by asking how political identities based on wounded attachments can re-represent the subordination they seek to end. Mir-Hosseini's "Muslim legal feminism" reads in and against Islam's legal tradition. MacKinnon names, Brown questions, Mir-Hosseini reclaims the tradition from the politicizers. Naheed's poem can be read in three ways: as legally valid, politically truthful, and theologically based.

2.1. MacKinnon's Feminist Jurisprudence

Correctly MacKinnon is accused of making the law one-sided by attacking its neutrality. In the 1989 book *Toward a Feminist Theory of the State*, the question is asked whether legal concepts such as "universal," "consent," "the reasonable person," "equal protection," and the like can adequately take into account women's experience and include women within the legal universe. In particular, this is true in Pakistan. The evidentiary standard of four male witnesses has been re-adopted, making female testimony, sexuality and accusations of violence against women deficient, dubious and self-incriminating under the Zina Ordinance. The Constitution of 1973, Article 25, says that all citizens are equal before the law. MacKinnon would have guessed that the constitutional promise of equality and how inequality must work overlap. The purpose of equality was not to alter the fundamental structures that oppress women.

MacKinnon argued that female sexuality is regulated by patriarchal law. Western law determines who has access to women's bodies and on what authority. The Hudood Ordinances criminalise female sexual existence and require women to prove that they have been violated by the very state that created it and punish reporting of rape more than rape itself. Naheed's poem resists this apparatus by praising those who sell the harvest of our bodies. The harvest metaphor is a literal description of "the extractive relationship between the moral economy of the state and the physical bodies of women." Women are belittled despite their economic contribution.

Naheed first introduces consciousness-raising as epistemology in poetry, MacKinnon. "it is we sinful women," she confesses. The speakers are "de puteolingualizing" the law's construction of them, naming it, removing its authority, "among the know" (p. Feminist knowledge, MacKinnon says, starts with women naming their experience, not in a system that oppresses them. Woman as the best post-feminist practice. Naheed's poem performs this epistemological manoeuvre and demonstrates the law's stamp on women's foreheads, whom it serves and why its biggest proponents benefit most by declaring them unholy, unfit, and disgraced.

2.2. Brown's Wounded Attachments

Wendy Brown's analysis is stressful and helpful. Injury (1995) provides an uncomfortable paradox in the concept of 'wounded attachments', that the politicking of injury, and how it is formed and often feels necessary to do, can be an eternal dynamic that paradoxically reinforces rather than threatens statehood. When the disaffected subject asks the state to recognise her injury, the state can decide who gets injured, who gets a remedy, and what protected subjects to watch out for. Politicised identity, created in exclusion, must be open and preserved to retain political attention "Brown says. Any feminist politics that is sinful and subordinated and is, as the title of its poetry suggests, about victimhood, has a difficult issue.

Brown misinterprets Naheed's poem as a trap. It is a different rhetoric. 'we are hurt, know us, heal us' is their state amputation, Brown says, a wounded attachment. No, Naheed's poem is the opposite. It throws the state's crime charge at its attackers and rejects sanction. The speakers said that raising the banner of truth means not that the highway is cleared but that it is cleared knowing it was blocked which they called "crime". It is to accuse and expose, not to be wounded and healed by the state." Sin is an evidence against the accusers, not a ground of appeal. Brown's framework thus helps explain why Naheed's refusal to ask anything of the state is preferable to wounded attachment politics: it refuses the authority of the state, which Brown warns against.

2.3. Mir-Hosseini's Muslim Legal Feminism

Mir-Hosseini's Muslim legal feminism is important because it challenges the secularism vs. submission dichotomy of Pakistani feminist discourse. The article 'Islam and Gender: A Study on 'Uthman' (1999) and later writings emphasise that fiqh (Islamic jurisprudence) is a human creation that has evolved over time and has always served the interests of men at the core of state power. The connection between fiqh and divine revelation is a political position with an agenda. The Pakistani state under Zia used the Hudood Ordinances to argue that these were God's commandments and therefore beyond the reach of democracy. This closed off the political debate by implying that criticising the ordinances risked being seen to be criticising God.

By opening up the analytic space between the divine and the jurisprudential, between what Islam actually says and what powerful men have said in its name, Mir-Hosseini successfully points to the range of arguments and issues in Naheed's poem. Naheed's speakers don't reject Islam, but they don't accept a historically manufactured and politically defined version of it that criminalises nonconformity. It is we sinful women, the poet repeats, which sounds like the poet saying I, we sinful women, according to Mir-Hosseini. A fiqh system preserves patriarchal power in a constitution that sustains it. This would deny this, according to God, a more accurate and giving interpretation of the tradition. faith in the non-divine. This theology is not skin deep and does not mistake political expediency for God's will.

3. The 1973 Constitution of Pakistan and Its Gender Paradoxes

The Constitution of Pakistan was promulgated by Zulfikar Ali Bhutto (ZAB) on April 12, 1973 and hailed as a victory for democracy. It was the first constitution to express, however

imperfectly, the consensus of a broad spectrum of political opinion. The female of the species had initial design flaws. The framers of the Constitution did not consider the Islamic supremacy framework in Part IX to be at odds with the progressive provisions in Part II (the chapter on fundamental rights). If we read the constitutional text as an unsettled debate, Naheed's poem identifies the exploitation of that fault line from within.

3.1. Constitutional Promises: Articles 25 and 34

Articles 25 and 34 of the 1973 Constitution provide the strongest commitments to women as citizens. Article 25(1) states everyone is equal before the law and have equal protection of the law and Article 25(2) states sex discrimination is prohibited. Article 34 ensures equal participation of women in all fields of national life. These are clear provisions and moving on their own. The equality clause of Article 25 and participation mandate of Article 34 are reflective of other constitutional systems modelled by the framers of the Pakistani Constitution and demand affirmative inclusion. The 1973 Constitution guaranteed gender, race and class equality in Pakistan and women were no longer special cases that needed special facilities but members of the national community that needed participation.

But these constitutional protections were not legal holes. Article 8 states that any law inconsistent with a fundamental right is to be repealed "to the extent of the inconsistency," but the Constitution contains important qualifications. Exemptions are provided for in Article 8(3)(a) (laws relating to the military, police and public order) and (b) (First Schedule laws). Article 227(3) provided that nothing in the islamisation provisions 'shall affect the personal laws of non-Muslim citizens or their status as citizens', thus leaving the personal status laws of Muslim women unprotected. They gave a constitutional basis and protection to discriminatory laws to withstand challenges on the basis of fundamental rights.

3.2. The Objectives Resolution and Article 227

The basic problem is the relation of basic rights and Islamic government in the constitution. The Objectives Resolution was adopted by the first Constituent Assembly of Pakistan in 1949 and incorporated in the 1973 Constitution as Article 2A by the 8th amendment in 1985. The Objectives Resolution makes 'Almighty Allah over the whole universe' and allows Pakistanis to rule 'within the limits prescribed by Him'. This theocratic basis, constitutionally protected, is in conflict with the constitutional, democratic principles of the rest of the Text.

"All existing laws shall be brought in consistency with the Injunctions of Islam as laid down in the Holy Quran and Sunnah. In accordance with Article 227 of the 1973 Constitution It also says "no law shall be made which is repugnant to such Injunctions". The Council of Islamic Ideology (CII) has a say on the law-Islamic consistency, and the Federal Shariat Court can nullify un-Islamic laws. These mechanisms provided institutional form to Islamic law even as its flouted Articles 25 and 34 of the constitution's gender equality.

The article describes the constitutional framework as a 'structural paradox of gendered citizenship' whereby women are formally citizens with equal constitutional rights, but the constitutional order opens the way for a legal order that denies women full legal personhood.

At the behest of the same constitutional text, Naheed calls it citizen and sinner, rights-bearer and transgressor.

3.3. The Hudood Ordinances and the Law of Evidence: Constitutional Rights Undone

The conflict between gender equality and Islamization took the form of legal degradation of women through a string of legislative instruments by the military regime of General Ziaul Haq (1977-1988). In 1979 the Hudood Ordinances, under the auspices of Article 227 of the constitution, provided punishments for alcohol (shurb), theft (sariqa), highway robbery (hirabah), apostasy (irtidad), and, for women most tragically, unlawful sexual intercourse (zina).

Zina (Enforcement of Hudood) Ordinance 1979: Zina was defined as sexual intercourse between un-married persons. The original hadd punishments for the stoning of a Muslim subject for penetration with a wife required a confession or four Muslim male witnesses of good character who could personally see the event. Rape could not meet this standard and was seldom punished by hadd. The ordinance rendered women who reported rape liable for zina because of the absence of hadd, even if the pregnancy was caused by rape and considered as evidence of her character.

The Qanun-e-Shahadat Order (Law of Evidence) 1984 was an even bigger blow to women's rights, requiring women to make two depositions for financial and future clauses while men made one. This provision was only for financial matters (article 17 of the Order) and therefore it was symbolic for the state at home. But it meant many things for women beyond its formal application.

With an Islamized constitutional framework such as the 1973 constitution it could maintain a law system that systematically violated women's rights, and yet was 'constitutional'. The reality that Naheed's poem is based on is that despite constitutional equality, men and women are legally degraded to half people and treated as potential criminals because of their gender.

4. Kishwar Naheed and Hum Gunahgar Aurtein: Historical and Literary Context

Kishwar Naheed was born in 1940 in Bulandshahr, India, and migrated to Pakistan in 1947. Educated in Lahore, she was director-general of the Pakistan National Council of the Arts and held other senior government posts. She had been a cultural administrator, essayist and poet in Pakistan for years, with power and knowledge of the official and feminist culture.

Look at Naheed's literary technique, which makes the poem seem more like an argument than a protest. Her poetry is sown in the classical tradition of Urdu, the longing and loss of the ghazal, the narrative forms of the masnavi, and the transgression and intimacy of Sufism. I don't show the ones I borrowed. There is a logic to devolving authority. Naheed uses classical Urdu poetry, which her culture considers "canonical" and "sacred," to criticise the policing of women in her culture by religion. The 'banner of truth' against the highways of lies on a repressive government level evokes Sufi notions of banner, soul, and adversary. Zia's Islamisation programme expects divinity from sinful women, not the state.

Poem in a squeeze. 1979 Hudood Ordinances threatened women who crossed professional and public boundaries. He avoided charges of man rape for fear of zina charges. The piece's message was that being seen without men was un-Islamic and a risk of harassment at the end of the century. Visible to a regime that beat and flogged women protestors and through state media promoted the happy chaste Pakistani woman as a household duty were the authors and publishers of feminist poetry. The Women's Action Forum, founded in 1981, opposed the proposed Law of Evidence stating 'we are not half-witnesses.' Naheed's poem insists on personhood, even though the state denies it as a legal doctrine. The poem's speakers, having had "tongues which could speak have been severed," raise the 'banner of truth' in a practical manner. Talking about something.

In the midst of a contentious period of debate about universalism and cultural relativism that led to the 1993 Vienna Conference on Human Rights and the Beijing Platform for Action (1995), Rukhsana Ahmad's 1991 anthology helped circulate the poems internationally and brought them into the conversation of global human rights. Naheed's was the national poem of Pakistan and a reply to a worldwide feminist law debate.

4.1. Close Reading: A Legal-Feminist Analysis of Hum Gunahgar Aurtein

The close reading is guided by the internal structure of the poem, not by an imposed structure. The poem's proclamation, its indictment of those who benefit from women's bodies, its detailing of the highways of lies, its tongue-cutting, its final refusal, all mirror legal-feminist arguments. The edition alternates between Urdu and English, and is used to explore moments when a word choice in either language carries legal or rhetorical weight. The aim is to show that poetry and jurisprudence are the same and that the argument is made of poetics.

4.2. The Opening Proclamation: Sin as Legal Interpellation

The poem opens with an announcement of the various places where the speakers are 'sinful' and have appropriated society's accusatory label, and, as this article will argue, the law's accusatory label. This is an interpellation moment because the subject recognises herself in the authoritative voice, Althusser said. Naheed's speakers challenge the interpellation and change its meaning. "Sinful" here refers to the political content of the accusation, not guilt. This is typical of legal systems that punish female sexuality.

A very legal opening. Practically and symbolically, the woman of adultery came with the Zina Ordinance. The Ordinance declared that any woman who could not convince the four old men that the sexual activity was legitimate was potentially sinful. By legal sleight of hand, the rape complainant who could produce no witnesses, the pregnant female who confessed to sexual activity outside the marriage in any case, and the female whose status could not be established to the satisfaction of a court were all guilty of sin. The pattern of Naheed's work is dominated by her first statement, "it is we sinful women. The poem says we are what you created. We are also identifying, and criticising, your actions.

This is what MacKinnon calls a consciousness-raising epistemological method because the poem produces feminist knowledge which erodes the law's power to define female sin by

naming this experience of being named the sinful female. Feminist jurisprudence is poetic discourse; the declaration is critique not confession.

4.3. The Body as Legal Territory: Sexuality, Shame, and Constitutional Subjecthood

The “paradox” of the constitutional status of the Pakistani women is better explained in the second stanza of the poem: “Those who sell the harvests of our bodies become exalted, become distinguished, become the just princes of the material world.” The body harvested (i.e. taken for reproductive, sexual, and productive qualities) is also sinful in that it is there. Not a literary oxymoron, a constitutional paradox. Women were integrated into the life of the nation under the 1973 Constitution, but the legislative system rendered women's bodies vulnerable to state control and male appropriation. The Zina Ordinance was meant to police this body against obscenity but its liberation did not end its power. This double bind is “Naheed’s harvest.

As mentioned earlier, the Hudood Ordinances made women sexually culpable by the state, but not men. This legal system defined the legal status of a woman, her status as a witness, and her risk of prosecution in relation to her body, virginity or not, married or not, legitimate or illegitimate. The gender dimensions of control were firmly established over women’s bodies as a legal space obeying a ‘gender’ relationship, making guaranteed equality of women before the law meaningless.

Naheed’s poem is a reaction against this legal regime that contests women’s bodies as agents and subjects. The subjects addressed in the poem are desiring and resisting subjects who do not want to be judged by others. The claim to subjecthood is the claim that women are constitutional persons, not regulatory objects. “The poem is not revolutionary but Muslim legal feminist because it calls for an interpretation of Islamic ethics that affirms a woman’s full humanity,” Mir-Hosseini says.

4.4. Labour, Domestic Space, and the Invisibility of Women's Constitutional Personhood

Naheed’s poem also tackles the exploitation of women as economic and social production units. The second stanza reminds that the arranger of women’s harvest bodies is exalted, distinguished, and recognised as the just princes of the material world. The poem’s feminist position is related to the constitutional guarantees of women’s participation in national life by the configuration of images of a female body within a Christian-patriarchal understanding of it as a crop, the capacity and sexuality of women excised for profit. The poem does not explicitly name women servants, but rather it demonstrates the structural logic of appropriating women’s productive, reproductive capacities, while condemning women as sinful because of their ability to sustain themselves.

Article 34 of the 1973 Constitution provides for women’s ‘full participation in all spheres of national life’. But in the Zia years society and law restricted respectable women to the domestic sphere. Zia's government promoted Chadar Aur Chardiwari (veil and four walls of the house) which made women’s constitutional role dangerous, immoral and un-Islamic. To work, to go out of the house, to take part in politics without a male escort was to make oneself legally and socially vulnerable.

Naheed's poem exposes the bad faith of this ideological shift. Women who do not sell their lives, bodies, or fold their hands or bow their heads when they wave a banner saying the truth, block highways with lies and cut out the world's tongues. It is a subordinated power system that condemns God not 'sinfulness'. The promise of full participation as enshrined in the constitution is a myth because the legal and social fabric in particular does not allow for women to participate fully.

4.5. The Language of Sin and Its Legal Genealogy

The noun 'gunah' and 'haniidi' of the poem have religious meanings of which the English translation 'sinful' only hints. In the classical tradition of Islamic law, sin (gunah/ithm) is defined as an action that arouses divine wrath and divine punishment. Legal-offense (jarimah) is an action that arouses human punishment through human law. Classical Islamic jurisprudence holds that man has no obligation to punish what God may judge on the Day of Judgement. Zia's Islamization blurred this distinction. The Hudood Ordinances also incorporated Hudood punishments into the state's penal laws, bringing divine retribution into the courts of human criminals, and targeting women's bodies and sexuality. State residents said they were enforcing Godly order. But it claimed divine authority for human political decisions.

Zia's Islamization blurred the distinction. The Hudood Ordinances followed Muslim criminality by criminalising moral sins and targeting women. The zina ordinance also moved the moral-religious condemnation of female sexuality from divine to state criminal law, thus paving the way for hadd punishments, flogging, and stoning.

Naheed's poem is sophisticated in its examination of the genealogy of sin from a legal perspective. Sinfulness is being used to discipline women by the state. Speakers who call themselves "sinful women" are not breaking God's laws. The poem's ironic use of sin to describe the law of the Zia regime is a comment on human Islamization, and how it is passed off as the law of God.

This reading uses Mir-Hosseini's view that the "fiqhisation" of divine revelations is political action to demonstrate that the Quranic concept cannot be reconciled with the fiqh concept and that the latter must submit to the former. Naheed's poem is an illustration of Mir-Hosseini's distinction between the divine (that which does not condemn women for being human) and the jurisprudential (that which has been manipulated to condemn women). The poem's 'sinful women' are innocent, and their 'sinfulness' is a product of the legal system that names them. This is a more just reading of Islamic ethics (which cannot be fully accounted for in a single poem).

4.6. Solidarity, Collective Voice, and the Counter-Constitutional Subject

One thing that is impressive about Hum Gunahgar Aurtein is that he always uses the first person plural in the collective sense. The voice of the poem is in the voice of 'we', a community of women marked as sins. There is more than a legal and political decision at stake.

The 1973 Constitution provides for fundamental rights to "all citizens" and "any person," implying that "one" has an individual right. This individualist frame has political

implications. It re-centres discussion on discriminatory practices on a case-by-case basis, lessening women's structural and systematic subjugation in law. The Zina Ordinance cannot be challenged for violation of individual equality. Only individual prosecutions can be challenged in the courts of the same system which created the Zina Ordinance. Naheed's 'we' rejects atomisation. Her speakers are not separate wronged women. They are a class whose structural location in the law is a function of its design. This is not a "option" but a better explanation of how the Hudood Ordinances worked. The focus is not on individual injustices but on female legal precarity.

It is a move from individual rights to group politics, from sympathy for women's oppression to an understanding that it is systemic and that systemic solutions are needed, says MacKinnon. The poem's collective voice therefore attacks liberal constitutionalism itself, arguing that equality in law is not sufficient when the laws themselves deprive women. The poem asks for equal treatment of women as individuals, for legal reform and social recognition of women as fully human.

4.7. Defiance and the Poetics of Refusal: Rewriting Constitutional Subjecthood

The poem ends by saying no. The speakers do not repent, do not ask for amnesty from the condemning law or for state recognition. Instead, they celebrate their 'sinfulness' as a badge of their rejection of the law and society that dehumanises them. This is the poem's most powerful utterance of legal feminism and their final act of defiance.

Its fourth stanza, "Bullying: The Crime of Many Faces," takes the most extreme leap in the poem's legal journey. "now though the night chases these eyes shall not be put out" is preceded by three sinful stanzas as the poem turns to and rejects the future. Don't rebuild the fallen wall. The old-order wall that blocked the highroad and cut tongues is no more. Naheed's petition is not about removal. But she says it has been built and you shouldn't repeat it. Brown says the deepest denial of wounded attachment in the poem is that the state recognises the injury, or offers the remedy. To the state, they say, you've lost your power to hurt and we'll act accordingly, whether you like it or not. This is the most radical form of Constitutional thought: the creation of a legal order that has to be.

The literary call to action is the poetics of refusal, a 'counter-constitutional imagination' that describes an alternative constitutional order in which the 'woman' is accepted as a person, the language of sin is not used to dominate and oppress, and the constitutional aspiration to equality and participation is genuine and not rhetorical. The poem imagines a reign of law which has been promised by the Constitution in being but has not been, and holds it accountable.

5. Discussion: Naheed's Poem as Counter-Constitutional Discourse

This is borne out by close reading: the poem inextricably links power and precision. Naheed does not write about all sufferings. She writes of constitutional equality of women which legitimises a legal regime that denies equality. Each poem is an image of bodies picked up, streets blocked, language cut off, wall knocked down, a state fact of the constitution. The

harvested bodies are the Zia Ordinance, the blocked highway is the legal blocks against women's public participation, which the Chadar aur Chardiwari normalised; the severed tongues are the women whose testimony was worth half as men under the Qanun-e-Shahadat; and the razed wall is the facade, which has become increasingly untenable with WAF's activism and the international pressure on Vienna. There is no need to allegorise this poem. It lists the legal entity responsible for its manufacturing.

The poem is not directly linked to the 1973 Constitution, but there is a structural and thematic link. The speakers of the poem reveal the paradox of constitutional citizenship (women citizens): equality promised but inequality provided, constitutional, legal non-persons, equals before the law, half-persons when treated as potential criminals by a legal system. The poem names and firmly rejects this condition.

Naheed's poem also casts doubt on Mir-Hosseini's Muslim legal feminism. In refusing to acknowledge its effects on women's desire, labour, resistance or humanity, the poem quietly claims the dominance of a more civilising and faithful tradition, untouched by the Zia regime's Islamisation as a genuine Islamic moral code. The poem is not a rejection of Islam but a symbol of the long history of intellectual and spiritual resistance of Muslim women against religious patriarchy.

Feminists had to fight for 25 years before the Hudood Ordinances were amended and their worst provisions removed in the Protection of Women Act, 2006. Since the 1980s Pakistani women writers have been gathering and circulating arguments, images and moral discourses. These were not legal arguments invented by legal scholars and taken up by poets, that the sinfulness of being a woman was a political invention and not a divine decree, that the wall of legal repression was one man's invention and could be dismantled by the same or others, and that women were 'constitutional', full human beings whose humanity no law could deny. Poetry, essays and protests were used to practise and hone before debating in parliament. This technology of thought, ideas and heart makes thinkable the Act of 2006 but it is not Naheed's poem that is responsible for it. The contribution of 'Hum Gunahgar Aurtein' to Pakistan's Constitutional History is not an academic one, but of a feminist literary writing.

In this article I provide a legal-feminist approach to analysing literary texts, which has implications beyond Naheed's poem. Pakistani women want law and constitution writing. These issues have been powerfully addressed by Fehmida Riaz (poems), Bapsi Sidhwa (fiction) and Tehmina Durrani (My Feudal Lord, 1991). Legal-feminism exposes the ways in which these texts are linked to state power, constitutional rights and Islamic law that literary readings miss. The interdisciplinary methodology of this article offers a new and fruitful course for Pakistani women's literary studies.

6. Conclusion

The paper says Hum Gunahgar Aurtein challenges Pakistan's founding law. Naheed's poem deconstructs the "equal" citizenship and Islamic "authorisations" sinful woman category of the 1973 Constitution. Law as neutral sexual control is reflected in MacKinnon's view in the

poem. The stickiness is not just revealed by Brown's sinful persona, but the accusers. Zia's Islamization saves Islam from political manipulation of the Holy Language.

Weak implementation of Hudood Ordinances (including 1973 Constitution) in 1977 One was to prefer Article 227 over Article 25. This article showed that a reading of the poem upholds the Constitution's promises of equality notwithstanding and because of the mechanisms that constrain them. Naheed's sinful women are politicised. The correct Constitutional interpretation is that The poem enacts personhood disallowed by law.

This poem is history +. Naheed's poem endures as the constitution's equality and Islamic supremacy clash with women's personhood. It's a window into what a legal study can't show: that the most marginalised know the law. Naheed's sinful women know the constitution's paradox better than its authors, with formal protections. Poetry frees. Laws can speak the unspeakable, hold the State to account for memory and dream a truer constitution. The poem is relevant because of Hum Gunahgar Aurtein.

The lack of a sustained legal-feminist reading of Pakistani women's literature needs interdisciplinary scholarship that allows us to look at feminist legal theory, literary analysis, and the Pakistani Constitution. Scholarship would foreground the literary and "literary juridical means" of Pakistani women's rights movements. Hum Gunahgar Aurtein: Naheed: The Sin, Protest, Brief, Constitutional Claim and Dignity.

There are many promising research avenues. Fehmida Riaz's poetry, Bapsi Sidhwa's fiction, Sara Shagufta's poetry and Tehmina Durrani's prose memoir. Legal issues cannot be read with a literary lens. Possible with feminist lawyers/poets from Iran, Egypt or Bangladesh to see if Muslim countries have different constitutions or if there is a regional constitution that guarantees equality and allows Islam. Pakistani artistic and poetic debates, feminist legal activism in the 1980s, and 2006 legislative reform debates with Pakistani lawyers in response to Naheed's poem are also underappreciated. This article argues that law and literature are too narrowly defined. Western jurisprudence rarely interrogates how the law constructs, deconstructs, and liberates people. They're found in a brief Urdu poem spoken in the first-person plural by women who could not stay silent on the fate of the state.

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