



Human Rights Council

Consideration of Universal Periodic Review – Pakistan

12 June 2008

Statement delivered by Lisa Pusey on behalf of International Women's Rights Action Watch Asia Pacific (IRAW Asia Pacific)

Thankyou Mr President.

International Women's Rights Action Watch Asia Pacific (IRAW Asia Pacific) wishes to express its deepest concern that the government of Pakistan has rejected recommendations put to it during the interactive dialogue during the Universal Periodic Review on the erroneous ground that these recommendations are not universally recognised human rights.

Contrary to the assertion of Pakistan, **recommendation 23(b) and 30 (d) in the Outcome Document** relating to the non-recognition of marital rape, reflect clearly recognised international human rights norms which prohibits all forms of violence against women. The 1993 Declaration on the Elimination of Violence Against Women explicitly recognises marital rape as a form of violence against women under Article 2 and imposes on States the obligation to eradicate it and punish perpetrators¹. Similarly, the Committee of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), to which Pakistan is a state party, has recognised marital rape as a form of violence against women under General Recommendation 12 and 24.

Furthermore, the Commission on Human Rights (CHR) resolution on Violence Against Women which was adopted by consensus in 2005², calls in para 17 (h) on all member states to ensure that marital rape is criminalized and investigated with a view to prosecuting and punishing perpetrators³.

¹ Article 2 states that "Violence against women shall be understood to encompass, but not be limited to, the following:

(a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;" (General Assembly resolution 48/104 of 1993)

² (E/CN.4/2005/L.51),

³ "To ensure that marital rape is not excluded from general criminal provisions, and to investigate these acts and to prosecute and punish the perpetrators;" The same resolution includes 2 OPs that refer to marital rape:

5. Strongly condemns physical, sexual and psychological violence occurring in the family, which encompasses, but is not limited to, battering, sexual abuse of women and girls in the household, dowry-related violence, marital rape, female infanticide, female genital mutilation, crimes committed against women and girls in the name of honour, crimes committed in the name of passion, traditional practices harmful to women and girls, incest, early and forced marriages, non-spousal violence and violence related to commercial sexual exploitation as well as economic exploitation;

Mr President, Pakistan has also rejected **Recommendation 62 (e) of the Outcome Document** despite the recent Concluding Observations of the CEDAW Committee when it reviewed Pakistan in 2007, which called on Pakistan *“to ensure that the Qisas and Diyat law has no application in cases of violence against women, especially crimes committed in the name of honour”*⁴.

Finally Mr President, we call on the Pakistan government to accept the recommendations relating to the criminalization of non-marital consensual sex and adultery in Pakistan in **Recommendations 23(b) and 62(b) of the Outcome Document**. The criminalization of non-marital consensual sex and adultery has been recognized by Human Rights Committee as a violation of the human rights to privacy and non-discrimination guaranteed to all people by international instruments, and is a practice which particularly discriminates against women and sexual minorities who are more likely to be criminalized under these laws because of discriminatory social and cultural norms.

We therefore call on the Pakistan government to accept these recommendations in the Outcome Document in compliance with its international human right obligations.

Thankyou Mr President.

9. *Emphasizes that violence against women and girls, inter alia rape, including marital rape, female genital mutilation, incest, early and forced marriage, violence related to trafficking, violence related to commercial sexual exploitation and economic exploitation, as well as other forms of sexual violence, increases their vulnerability to HIV/AIDS, that HIV infection further increases women’s and girls’ vulnerability to violence, and that violence against women and girls contributes to the conditions fostering the spread of HIV/AIDS;*

⁴ Committee on the Elimination of Discrimination against Women, Thirty-eighth session, 14 May-1 June 2007. The Committee also states: *The Committee is especially concerned about the Qisas and Diyat law, which allows for the victim of violence or his/her heir to determine whether to exact retribution (Qisas) or payment of compensation (Diyat) or to pardon the accused, thus providing impunity for perpetrators of violence against women, especially perpetrators of crimes committed in the name of honour.*