

**REMOVING “ISLAM” FROM “ISLAMIC LAW” TO
UNCOVER GENDER INEQUALITY UNDER THE *HUDOOD* ORDINANCE
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Abstract

Pakistani rape laws under the controversial *Hudood* Ordinance create a serious risk of imprisonment for the victim. The Ordinance requires that evidentiary showings and punishments for the crimes of rape, adultery, and fornication must follow the Islamic standard. However, it fails to recognize that there is no Quranic standard for rape. Further, without a confession from the accused, the law requires the testimony of four Muslim men that they witnessed the actual penetration to corroborate a rape.

At a basic level, this Article is a demand for the reform of rape laws in Pakistan to prevent a subrogation of women through an academically preached view of religion. However, in order to sustain change in Pakistan’s patriarchal society, all laws and judicial practices legitimizing or sanctioning gender inequality under the guise of religion must be repealed. Only with the repeal of the *Hudood* Ordinance will Pakistan mirror domestic progressive attitudes and provide necessary tools for the government to shape and enforce a new set of societal values, unmarred by archaic interpretation of Islam.

This Article will conduct a critical analysis of rape laws in Pakistan, as well as the overarching gender inequality perpetuated by the *Hudood* Ordinance. Part I will focus on the political context behind the *Hudood* laws in Pakistan and the creation of the Federal Shariat Court. This section discusses the text of the *Hudood* Ordinance, focusing on the Ordinance’s collapse of rape and adultery under *Shar’iah*, the requirement of four male witnesses to corroborate a rape, and implications of *zina* laws. Part I also discusses the legislative review of all laws pertaining to *Shar’iah*.

Part II of this Article analyzes the purported origins of the *Hudood* Ordinance in *Shar’iah*. This section discusses the origins of *Shar’iah*, analyzing the text of the Ordinance to demonstrate the inadequate application of Islamic law by Pakistan in regards to rape. It further highlights the stark similarities between Pakistan’s rape laws and old British common law, rather than *Shar’iah*. Part II also analyzes the “four male witness” requirement under *Hudood*.

Part III discusses the implications of the *Hudood* Ordinance on Pakistan’s commitment to international human rights movements and its quest for modernity. The section focuses on the fact that the state has an obligation to strive to prevent, investigate, and prosecute violations of human rights, which includes the unequal treatment of women. Part IV focuses on the domestic ramifications of *Hudood* laws. Part V of the Article outlines rape law reform in the United States and the need for continued reform in Pakistan, supported by the government. This section discusses the current reforms of rape law in Pakistan and recommends the repeal of the entire *Hudood* Ordinance. Further, this section notes that government action is necessary to sustain any reformation of Pakistani laws, in order to create an effective change in societal views regarding gender equality and human rights.