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CENSORSHIP AS CATALYST FOR ARTISTIC INNOVATION

Abstract: One kind of government-supported censorship of the arts targets not the expressive content of any particular artwork but instead seeks to suppress the activity of a group of people based on some feature of the group's human identity such as race, gender or class. Using examples from the history of the development of black music in the United States that followed from the legal oppression of slavery and from evidence of changes in the Punjabi theatre in Pakistan following state-sanctioned suppressions of women this paper demonstrates that human-identity-related arts censorship can actually serve to spur and enhance, rather than suppress, artistic innovation.

I. INTRODUCTION

In this paper I will focus on one intersection between law and the arts, in particular on the way that certain exercises of law affect artistic expression and innovation. My purpose here is twofold: 1) to demonstrate how law has been used to suppress the voice of a particular group of people and 2) to show how rather than succeeding entirely in that suppression it can serve instead to spur new artistic innovation. It does this by binding the targeted group together in such a way that the new artistic work they produce contains a richness of understanding that greater reveals, rather than hides, their voices and experiences. This is not, of course, to celebrate oppression or to justify the damage and silencing effect it has had on the targeted communities in any way. My goal, instead, is to celebrate the resilience of the human spirit by demonstrating a couple of creative and valuable artistic ways that communities targeted for suppression have pushed back against the censorship of their identities. They have done this in the examples to follow by channeling their pain into new forms of artistic expression that make significant contributions to the international world of art and culture.

I am construing "censorship" in a broad and atypical way here. I am *not* referring to the common conception of censorship that involves a certain committee that is charged with excising the content of certain segments of particular artworks in order to avoid such things as obscenity,

blasphemy or other content deemed injurious to the society as a whole. Instead my focus is on a different kind of censorship – namely the curtailment of expression, including artistic activity, that a state or political body exacts upon a group on the basis of the identity of who is producing the art rather than on the content of what is being produced. What this means is that the legal, political and ethical issues involved here involve not just artistic freedom of expression but larger issues of human and civil rights.

The assumption at work behind the censorship on which I am focusing is that certain groups should have their activities restricted *as a group* by virtue of some feature of their human identity that entitles them to lesser freedom of expression than others. There are a large number of groups at various points in history from which I could have chosen in order to demonstrate how this works but I will focus on two: 1) suppression of the activities of black people during the pre-Civil War period of slavery in the United States and 2) suppression of the activities of women under some interpretations of *Shari'a* (Islamic) law by government and by government-sanctioned groups in post-Partition Pakistan.

Certain trends in black music – particularly spirituals and those forms of music that have their roots in slave spirituals (such as blues and jazz) – have been enriched by the experience of slavery- and post-slavery oppression. In addition certain innovations in Pakistani Theatre have arisen due to the shared experience of the violence against lower-class women and their exclusion from certain segments of public life, including theatre, which took place most significantly during the military dictatorship led by General Zia-ul-Haque from 1978-1988. These historical case studies will here be used to demonstrate something about the nature of expressive artistic practice and creativity – how the unity created by a shared experience of

identity-based oppression can provide rich resources for communal expression, understanding and innovation.

II. RACED-BASED CENSORSHIP AS CATALYST FOR INNOVATION IN BLACK MUSIC

Under current United States laws the First Amendment to the Constitution guarantees its citizens freedom of expression, by which is meant freedom from government restrictions on expression, subject to certain limitations.¹ It covers freedom of religion, of the press and of speech, with protection also accorded to the arts as a form of communication.² It is not limited to the literary arts but covers all genres of art, including painting, sculpture, music, theatre, dance, photography, film and others. Further it is not limited to coverage of those art forms or art works that philosophers of art would construe as “expressive” – all of the arts are covered as a form of “speech.”

This First Amendment protection against government restriction on speech is not absolute. The Supreme Court has found that the First Amendment does not cover obscenity, child pornography or “advocacy of the use of force or of law violation ... where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.” If someone yelled, “Kill the cops!” during a riot, for example, this speech would not be protected. The Court has also considered some forms of speech that are less imminently dangerous subject to government regulation. These include certain cases of defamation (for

¹ The First Amendment just seeks to provide freedom from government restrictions on expression. It does not apply to private citizens or to businesses that receive no government funding. See Henry Cohen, “Freedom of Speech and Press: Exceptions to the First Amendment,” 2009 *Congressional Research Service Report Prepared for Congress* 7-5700, available at www.crs.gov, 95-815.

² *Ibid.*, 2.

example, causing harm to someone's reputation with an untrue claim), libel (causing harm in the press) and slander (for example, causing harm via perpetrating a rumor), speech that may be harmful to children, commercial speech (such as false advertising) and speech by public employees.³

The First Amendment has existed since the initial drafting of the U.S. Constitution, shortly after the Declaration of Independence, but there was a time in history, less than 150 years ago, in which United States laws covered persons who were permanent residents and yet who were not afforded equal protection of any of the constitutional laws. Indeed, these persons, many of whom were brought to this country from Africa to serve as slaves, were not conceived of as full persons under the law but as living property or as a lower-level of human being that could be used like a horse or a cow in order to serve their owner's economic and other purposes. Slaves were covered by U.S. state laws – the first enacted in Virginia in 1705 and the rest codifying slavery as legal in all of the colonies by 1775 – but under special provisions that prohibited them from learning to read and write, conduct business, or enter into legal marriages.⁴ In addition in many states slaves were not afforded any legal protection from being killed, raped or punished in inhumane ways.

Further, many of the laws covering slaves extended not just to slaves but to all black people who lived within U.S. borders, even to those black people who were not or who had never been slaves. Many statutes provided that black people were not allowed to testify against whites,

³ For more on this see *ibid.*

⁴ See Paul Finkelman, "Law of Slavery," in *The Oxford Companion to American Law*, and "Laws and Legislation," in *Encyclopedia of African American History, 1619-1895: From the Colonial Period to the Age of Frederick Douglass*.

for example, or to hold certain jobs or political offices.⁵ Others prevented free black people from owning guns or from learning to read and write.⁶ In addition most states barred even free black people from congregating together and many provisions held that they could not even hold church services without white supervision.⁷

Dred Scott v. Sandford (60 U.S. 383, 1857) was a landmark Supreme Court decision holding that black people, whether slave or free, had no standing to sue anyone in federal court due to their status as non-citizens without legal rights under the U.S. Constitution.⁸ This decision thus helped to enforce the legality of the state slavery codes. Black people, due solely to their identity as black, were not afforded the full or equal protection of the laws available to white people. It took the Civil War for the U.S. to ratify the 13th Amendment to the Constitution, the provision that prohibited slavery (ratified in 1865), and to introduce the 14th Amendment of the Constitution (ratified in 1868), a provision that among other things provided “Equal Protection” of the laws and “due process” in the laws’ enforcement to all persons born within U.S. borders regardless of race or of former status as slaves.⁹

This overall censorship of the expression of black people in one period of history in the United States by virtue of nothing other than their identity as part of a particular race had a

⁵ See *ibid.*

⁶ Finkelman, “Laws and Legislation.”

⁷ *Ibid.*

⁸ For the full text of this decision see <https://supreme.justia.com/cases/federal/us/60/393/case.html> (accessed August 1, 2013). For more on the influence of this decision see Paul Finkelman, “Scott v. Sandford: The Court’s Most Dreadful Case and How It Changed History,” *Chicago-Kent Law Review* 82, no. 3 (2007): 3-48.

⁹ For more on the 13th Amendment see <http://www.loc.gov/rr/program/bib/ourdocs/13thamendment.html>. For more on the 14th Amendment see <http://www.loc.gov/rr/program/bib/ourdocs/14thamendment.html>. (Both accessed on July 20, 2013).

profound affect on *all* of the activities of black people, slave and free, thus severely hampering and changing the nature of their power and ability to engage in artistic expression as well as other kinds of expression. If it is illegal for a black person to read and write, then written communicative expression, as in literature and written song lyrics, is severely hampered. And yet black music developed under these conditions nonetheless. All artistic creation by black people during the slave era had to be accomplished either along pathways that were “approved” by the slave laws and by individual slave owners who were afforded wide discretion under these laws or had to be conducted in secret. Thus music was developed in church and in the work fields, with “call and response” emerging as a way for music to be communicated from one person to another while working.¹⁰ It is from these spirituals, from the church and from the fields, the two locations where black people were more or less allowed to congregate, that the highly communal and communicative forms of music we know today, blues and jazz, derived. Thus what is now touted as one of the most indigenous forms of American music, jazz, is what it is, in part, because of brutal oppression under United States law.

Samuel A. Floyd, Jr., a music scholar who focuses on black music, notes the connection between slave spirituals and African songs that form part of the slaves’ ancestral heritage and memory, an identity and a memory that Floyd points out “that the slave owners sought to eradicate in order to make better slaves.”¹¹ He credits Jason Berry for coining the term “cultural memory” but Floyd uses it to refer to “nonfactual and nonreferential motivations, actions, and beliefs that members of a culture seem, without direct knowledge or deliberate training, to

¹⁰ For more on this see Samuel A. Floyd, Jr., *The Power of Black Music: Interpreting its History from Africa to The United States*.

¹¹ *Ibid.*, 39.

‘know’ – that feel unequivocally ‘true’ and ‘right’ when encountered, experienced, and executed.”¹²

I am here adopting usage of *cultural memory* wholesale, following the example Floyd provides of early 20th century jazz saxophonist, clarinetist and composer Sidney Bechet. Bechet once explained that there “was something happening all the time to my people, a thing the music had to know for sure. There had to be a memory of it behind the music.”¹³ Bechet described this memory as including the experience of his grandfather, Omar, who died a slave as a young man. When describing his experience as a jazz musician Bechet says:

I met many a musicianer in many a place after I struck out from New Orleans but it was always the same: If they was any good, it was Omar’s song they were singing. It was the long song, and the good musicianers, they all heard it behind them. They all had an Omar, somebody like an Omar, somebody that was *their* Omar

A musicianer could be playing it in New Orleans, or Chicago, or New York; he could be playing it in London, in Tunis, in Paris, in Germany. I heard it played in all those places and a many more. But no matter where it’s played you gotta hear it starting way behind you. There’s the drum beating from Congo Square and there’s the song starting in a field just over the trees. The good musicianer, he’s playing *with* it, and he’s playing *after* it. He’s finishing something. No matter what he’s playing, it’s the long song that started back there in the South.¹⁴

This is what cultural memory is; it is that ability to hear and play the history of the people from whom you are descended and to whom you belong. It is this memory that I am claiming undergirds some forms of innovation in expressive art. In the case of black music it changed and shaped new forms of music that emerged from “back there in the South,” in Omar’s world of the slave plantation.

¹² Ibid., 8. The full citation for Berry’s article is Jason Berry, “African Cultural Memory in New Orleans Music,” *Black Music Research Journal* 8, no. 1 (1988): 3-12.

¹³ Ibid., quoting Sidney Bechet, *Treat It Gentle* (New York: Hill & Wang, 1960), 103.

¹⁴ Ibid., 9, quoting Sidney Bechet, *Treat It Gentle*, 202.

A musical example of how censorship can strengthen expressive art works can be found in Sister Rosetta Tharpe's version of the slave spiritual, "Sometimes I Feel Like a Motherless Child."¹⁵ Recording it in 1956 Tharpe had to draw upon her cultural memory of slavery in order to give the song full expressive depth. When we listen to it we can hear that memory within it. But the cultural memory of slavery is heard not just in renditions of slave-era spirituals but in adaptations of the spirituals themselves into new artworks. Floyd points out that George Gershwin's song "Summertime" from *Porgy and Bess*, a 1935 opera about black people living in the fictional neighborhood of Catfish Row in South Carolina in the 1920s, clearly tropes the tune and harmonic structure of "Sometimes I Feel Like a Motherless Child." If one listens to a clip of Sidney Bechet's rendition of "Summertime" after listening to Tharpe's "Sometimes I Feel Like a Motherless Child" the similarities are immediately apparent.¹⁶

This example serves to show how cultural memory can expand beyond the original participants into a larger sort of community of people with whom the music is being shared. *Porgy & Bess*, for example, became popular with white audiences in the 1970s, which suggests that cultural memory can be communicated in art-relevant and art-changing ways that transcend, at least to some significant degree, cultural differences.¹⁷ That is expressive power, indeed, precisely the kind of power that the slavery-era statutes sought to eliminate in Sidney Bechet's

¹⁵ This can be found on Sister Rosetta Tharpe's audio CD, *Gospel Train* (2002, original version 1956), Verve Records, SIN: B000008LIH.

¹⁶ Sidney Bechet, *Petit Fleur*, (audio CD import 2006), ASIN: B0000AHSBI.

¹⁷ For a paper on whether one can adequately perform a piece of music on the basis that does not specifically draw on one's own cultural memory see Joel Rudinow, "Race, Authenticity, Expressivity: Can White People Sing the Blues?," *The Journal of Aesthetics and Art Criticism* 52, no. 1 (Winter 1994): 127-37, Paul Christopher Taylor, "...So Black and Blue: Response to Rudinow," *The Journal of Aesthetics and Art Criticism* 53, no. 3 (Summer 1995): 313-16, and Rudinow's "Response to Taylor," *The Journal of Aesthetics and Art Criticism* 53, no. 3 (Summer 1995): 316-7.

ancestor, Omar, and his progeny through the exercise of across-the-board censorship of the expression of black people.¹⁸

III. GENDER-BASED CENSORSHIP OF LOWER-CLASS WOMEN AS CATALYST FOR INNOVATION IN THEATRE IN PAKISTAN

I will now try to speculatively extend the idea that attempts to suppress the voice of a certain group of people can lead to greater expressivity of that resisting group to the case study of the suppression of women in Pakistan on the part of the government and government-sanctioned groups that claimed they were (and are) enforcing the laws of *Shari'a* (Islam). There is evidence that certain forms of Pakistani theatre are developing in ways that they would not have but for this human-identity based censorship. This has ethnic and cultural as well as gender- and class-based underpinnings because women in Pakistan have experienced suffering not only as a result of the oppression of men of their own ethnic and cultural backgrounds but from the conditions that were created by British colonialism and its after-effects. The people who live in the Punjab region of Pakistan (and northern region of India), for example, have the cultural memory of women in their midst who were subjected to horrible violence, which included maiming, abduction and rape, that occurred during the Partition years following 1947. In addition violence against lower-class women in was revisited in the period during and following the period of time during which Pakistan was controlled under a military dictatorship led by General Zia-ul-Haque (who will hereinafter be called “General Zia”) from 1978 until his death in 1988. It is in this latter period that raids against women in theatre took place, providing an

¹⁸ Nina Simone’s song, “Four Women,” and Langston Hughes’ poem, “Deep Like the Rivers,” are also examples of innovation in art that make heavy use of cultural memory, both in content and depth of expressive resonance.

example of how both censorship of the expression of black people under slavery in the U.S. and the censorship of the expression of lower-class women in Pakistan were extended to censorship of the artistic expression created by these groups.

After British India was divided into primarily Hindi India and Muslim Pakistan in 1947, it is estimated that about 10 million people were displaced as people tried to move to the countries designated for their religious affiliations.¹⁹ During these displacements there were mass riots, rapes, abductions of women and girls, mutilations, and “honour killings” of women by their families to prevent these women from being victims of invading rioters.²⁰ In 1949, after many of the surviving women had converted to their abductors’ religion and had children and become part of new families, the Abducted Persons’ Act of India was enforced in both India and Pakistan. This returned women to their original homes and families even when the women objected to being returned and even when their own families no longer wanted them due to their having been raped.²¹ The same women who were not protected from abduction in the first place were now again not protected from exportation and their voices went unheard. In both cases the

¹⁹ See Crispin Bates, “The Hidden Story of Partition and its Legacies,” last updated on March 3, 2011, http://www.bbc.co.uk/history/british/modern/partition1947_01.shtml (accessed at BBC History on August 21, 2013).

²⁰ See Jisha Menon, “Rehearsing the Partition,” *Feminist Review* no. 84, Postcolonial Theatres (2006): 29-47 and Lata Singh, “‘How Many More Fragments?’ (Aur Kitne Tukde): Exploring Gendered Violence on Partition(ed) Women in Theatre,” *Cultural and Social History* 6, no. 2 (2009): 448-466. For a thumbnail review of the Partition violence and its effects on women see Bina D’Costa, “Partition: The Price of Freedom and the Price Paid By Women” (August 6, 2009) in the weblog, *South Asian Masala*, hosted by the College of Asia and the Pacific at the Australian National University. <http://asiapacific.anu.edu.au/blogs/southasiamasala/2009/08/06/partition-the-price-of-freedom-and-the-price-paid-by-women/> (accessed August 21, 2013).

²¹ Menon, “Rehearsing the Partition,” 39-40.

power of law was either silent where it should have helped or over-reaching when in many cases it was too late to do anything but create fresh heartbreak.

Stories from these women were collected in a book by Urvashi Butalia called, *The Other Side of Silence: Voices from the Partition of India*.²² In 2001 Kirti Jain put together a theatre production on the book called *Aur Kitne Tukde* (“How Many Fragments?”) that presented four of these women’s stories in Indian and Pakistani towns populated by many women and by the friends, relatives and descendants of women who had been abducted.²³ The third story is that of Zaahida, a young Muslim girl who was abducted to India during the Partition but who subsequently had a loving relationship with her Sikh husband, Kirtar Singh. After the Abducted Persons’ Act, however, she was forcibly sent back to her parents even though it tore her new family apart.²⁴

It is not hard to see how this play is an innovative artwork that emerges from the oppression that is at the root of human-identity-based censorship of expression. First, the stories are derived from actual memories of real women who were not protected or heard by the state. This may not involve censorship of arts activity, per se, but it did involve suppression of these women’s power to exert their voices on their own behalf in a way that was heard. They were not given the opportunity, for example, to defend their rights in court.²⁵

²² See Urvashi Butalia, *The Other Side of Silence: Voices from the Partition of India* (New Delhi: Viking Penguin India, 1998).

²³ A clip of this play can be accessed here (in Hindi): <http://www.youtube.com/watch?v=1QSKw5JLNNQ>, published on August 8, 2013 (accessed on May 12, 2014).

²⁴ See Menon, “Rehearsing the Partition,” 39-41.

²⁵ See *ibid.*

Second, Kirti Jain, the producer and director of the play, made use of cultural memory in the way she trained the actors to perform in their roles.²⁶ Jain started with actors who mostly came from the Punjab region, many of whom had friends and relatives who had experienced Partition first-hand. She then asked them to speak with these people, thereby deepening their personal connections to the play. Before working on the script Jain also gave the actors improvisational exercises and games that asked them to probe some of the issues that were involved for the women experiencing the violence of Partition, which included feelings of displacement, loss, the bewilderment of childhood, the permanent effects of choices and lack of choice, and others.²⁷ This deep and personal mining of memories increased the expressive power of the production in a way that is not dissimilar to the expressive power one can hear in slave spirituals and music descended from those spirituals. As one historian notes about *Aur Kitne Tukde*: “The whole production process generated an emotional response among the actors and the audiences. While working on the production several actors became aware for the first time of the dimensions of the women’s suffering during Partition, even though many of them were from the Punjab, the region worst hit by Partition violence on women.”²⁸

In addition, *Aur Kitne Tukde* can be connected to the specific censorship of theatre, particularly of women’s participation in it, that occurred under President General Zia’s period of martial law in which *Shari’a* law became part of Pakistan’s government.²⁹ During General Zia’s

²⁶ The following information is culled from Singh’s article, “How Many More Fragments?”

²⁷ Singh, “How Many More Fragments?,” 450-451.

²⁸ *Ibid.*, 461.

²⁹ Claire Pamment, “A Split Discourse: Body Politics in Pakistan’s Popular Punjabi Theatre,” *The Drama Review* 56, no. 1 (Spring 2012): 114-27.

reign, for example, the performing arts were often banned or restricted in schools and colleges, there were public floggings based on purported violations of the law, which included strict gender codes governing female propriety, sexuality, morality and segregation from men, and there was a general ban on dance.³⁰ These bans and restrictions were legal via the institution of a new Federal Shariat Court (the “FSC”).³¹

After Partition, Pakistan was based on the legal system of British India, following the common law of England and Wales. But it was also acknowledged to be an Islamic republic influenced by *Shari’a* law with specific constitutional provisions that were set aside in order to allow for this. Thus General Zia was able to institute the FSC, a court that still governs today. He did this via President’s Order No. 1 of 1980, under the authority of Section 3A of the Constitution of Pakistan, 1973, which allowed for the creation of a system of Islamic law to operate within the country of Pakistan.

Under the provisions of the FSC eight Muslim judges appointed by the President of Pakistan after consulting with the Chief Justice of the Court, three of which must be well-versed in Islamic law, have the authority to decide whether any of the provisions of the Pakistan Constitution or other laws violate Islamic law and to what extent. If any of the provisions are deemed to violate Islamic law the government of Pakistan is then required to amend the laws and these laws, or provisions of the law in question, immediately cease to take effect.³² What this means is that, in effect, Pakistan is not a Parliamentary system governed equally by executive,

³⁰ Ibid., 115-6.

³¹ For more on this see their official website at www.federalshariatcourt.gov.pk (accessed August 21, 2013).

³² See Provision 3A of the Pakistan Constitution (allowing for the FSC), Section 203D, (3) (a) and (b) http://www.federalshariatcourt.gov.pk/Chapt_3A.html (accessed August 21, 2013).

judicial and legislative branches. The executive branch has control over the FSC and the FSC has the ultimate right to definitively veto and make null and void any law that the legislature constitutionally enacts if it finds a violation of Islamic law.³³

In the 1990s, during the post-Zia period, the restrictions on women's participation in theatre and dance started to loosen. Nowadays, Punjabi theatre scholar Claire Pamment points out, female comediennes are more prominent than they once were, often engaging "in racy language battles with their male counterparts" and in some cases commanding fees that are higher than those of male performers.³⁴ Women in the theatre are still, however, arrested periodically by the government on charges of vulgarity.³⁵ It seems that the censorship of the Punjabi theatre focuses to a disproportionate extent on the activity of female performers, while allowing male performers and producers to perform undisturbed. Thus the censorship is not entirely content-based – it does not merely seek to avoid obscenity and to segregate the genders – but it is identity-based, having a primary effect on the curtailment of female expressive participation in theatre.

Post Zia, the period of General Pervez Musharraf's government (1999-2008) was a time of controversy for the Punjabi theatre, with Musharraf opening up the country to multinational

³³ In 1981, during General Zia's reign, the Punjab Arts Council ("PAC") in Lahore was also given constitutional authority to guide and regulate arts activities in the Punjab region of Pakistan. For more on this see <http://www.punjabartscouncil.com/>, accessed August 28, 2013. In an unconfirmed Wikipedia link on Pakistani Theatre a claim is made that every theatre script must be cleared by the PAC but no source was listed for this claim and I was unable to determine whether or not it is true. See http://en.wikipedia.org/wiki/Theatre_of_Pakistan (accessed August 28, 2013). It does seem that in any case that the PAC is one of the organizations involved with setting the standards for state-sanctioned arts activities in the Punjab.

³⁴ Pamment, "A Split Discourse," 117.

³⁵ *Ibid.*, 119.

corporations and international satellite channels and yet also allowing the country's "moral custodians" to censor the arts, in particular women's behavior and participation in the theatre.³⁶ In 2002, for example, police raids targeted the female performers, with policemen calling the women "tinsel town babes," "obscene" and "vulgar."³⁷ 2002 was also the year when one of the most popular female dancers, known as Nargis, threatened to expose some elite government officials to whom she had given private dances in their homes. As a result Nargis was attacked by "ex"-police who cut her hair, shaved off her eyebrows and inflicted 39 wounds on her body."³⁸ She fled to Canada for two years and in 2004 returned to become one of the most popular dancers and successful producers of the Punjabi theatre.³⁹

It is lost on no one who participated in the Punjabi theatre during the time of the raids that the women there were targeted for censorship in part because of their gender and in part because of their identity as lower-class women. The caste system in Pakistan has a long and complicated history that began in India before Partition. It is an "endogamous" practice, by which is meant that it primarily affects marriage and social relationships among ethnic groups, with one's caste named for occupation (such as landowner, weaver, blacksmith and the like) but one's caste is determined by birth regardless of what occupation one eventually has.⁴⁰ Entertainers fall at the

³⁶ See *ibid.*, 118-9.

³⁷ *Ibid.*, 119, citing various newspapers at that time.

³⁸ *Ibid.*

³⁹ *Ibid.* A Wikipedia site on Nargis claims that has been living in Canada since 2012 but this entry has been flagged as in need of citation and confirmation. See [http://en.wikipedia.org/wiki/Nargis_\(actress\)](http://en.wikipedia.org/wiki/Nargis_(actress)) (accessed August 28, 2013).

⁴⁰ For more on the caste system of Pakistan see <http://www.nytimes.com/1990/12/08/opinion/1-pakistan-certainly-has-a-caste-system-224690.html> and https://www.newworldencyclopedia.org/entry/Caste_system (accessed May 4, 2014).

lower end of the spectrum but are slightly higher than the “scheduled castes,” commonly referred to as “Dalits,” among which are the untouchables, or the poorest of the poor.⁴¹ Women in the scheduled caste in Pakistan have few constitutional safeguards, particularly if they are Hindu rather than part of the Muslim majority.⁴² If they are abused or assaulted, for example, there is little that can be done by way of redress, particularly if they are abducted into a Muslim family via marriage and a religious conversion to Islam takes place.⁴³ Indeed, General Zia made amendments to the Pakistan Penal Code that made it easier for a Muslim to initiate legal proceedings against a scheduled caste member on such charges as “blasphemy,” changes that made it harder for people of the scheduled castes to resist class-based discrimination in Pakistan’s courts.⁴⁴ It is within this larger social caste system, and tolerance for oppressive activities against those of the lower classes, particularly women, in which the raids on women in the Punjabi theatre took place.

That the Punjabi theatre raids at the end of the 20th century and the beginning of 21st connected gender with class can be seen in the fact that during the same period of time the Pakistan government allowed scantily clad dancing models to appear on local and foreign television channels. Further, the government-controlled Pakistan National Council of the Arts

⁴¹ See <http://www.nytimes.com/1990/12/08/opinion/l-pakistan-certainly-has-a-caste-system-224690.html> and Pakistan Dalit Solidarity Network, “Schedule Caste Women in Pakistan,” 2.

⁴² Ibid., 4.

⁴³ Ibid., 3.

⁴⁴ Zulfigar Shah, “Long Behind Schedule: A Study On the Plight of Scheduled Caste Hindus in Pakistan,” Submitted to: Indian Institute of Dalit Studies (IIDS) & International Dalit Solidarity Network (IDSN) (December 2007), www.dalits.nl/pdf/LongBehindSchedule.pdf (accessed May 4, 2014), 23.

allowed female bodies to be on display via fashion shows.⁴⁵ Finally restrictions on theatres that show plays in the English language are not subject to the police raids, with one government official describing the Punjabi theatre as “primitive” and the English-language theatres as “civilized.” Shows in the English theatre, for example, include such plays as *The Vagina Monologues* (2003), *Moulin Rouge* (2003, 2005), *Chicago* (2008) and *Mamma Mia* (2010).⁴⁶ The implication here is that it is not female performers as a whole who are being censored but Punjabi females who perform from and for the working class.

Plays such as *Aur Kitne Tukde* show that identity-based oppression and censorship have changed the Punjabi theatre as an art form. One sign of this change is that now during periods when the government launches frequent raids on female performers male colleagues often either take on exaggerated female roles or engage in dances with female mannequins.⁴⁷ In addition new comedies and plays have been written that allude carefully to the dance ban and to various other suppressions of women in the theatre.⁴⁸ Nargis herself has done a lot to change the Punjabi theatre through choreographing dances in which she fluidly transitioned between male and female traits, thereby challenging gender norms and subverting the traditional male gaze.⁴⁹ All of these developments rely on the communal understanding of the oppression of lower-class women

⁴⁵ Pamment, “A Split Discourse,” 120.

⁴⁶ Ibid., 121.

⁴⁷ Ibid., 119.

⁴⁸ Ibid., 120.

⁴⁹ Ibid., 123-4. For a clip of Nargis in performance see: Nargis, in *Billo, Billi aur Baali* (2004), Sky Tip Top production, http://www.youtube.com/watch?v=FUMhZGN_0MQ (accessed July 15, 2013).

in Pakistan, as part of the performers' and audience's cultural memory that in fact reaches beyond this theatre back to at least the time of Partition, when women's expressive voices were silenced and their bodies were used to wage political and religious wars.

Fawzia Afzal-Khan is another theatre scholar who has documented the development of Punjabi Theatre in the period following General Zia's reign.⁵⁰ In her article "Street Theatre in Pakistani Punjab" she demonstrates various ways that The Parallel Theatre Movement (or "Street Theatre") in the Punjab in Pakistan can be seen to be a reaction against what she calls "the state's coercive relationship with its female citizenship," particularly those of the lowest economic class.⁵¹ Afzal-Khan points out that Madeeha Gauhar, the founder of Ajoka, one of the Punjabi street theatre companies, was herself a member of the urban middle class of Lahore who had the personal experience of being beaten up and jailed for participating in a women's rights demonstration against General Zia's policies in February of 1983.⁵² Gauhar denies that Ajoka is a "feminist" theatre but it does perform feminist plays such as those in *Khasman Khanian* (1992), "the Husband-Eaters," by Shahid Nadeem.⁵³ In addition Ajoka has resisted the legacy of class-based oppression and colonialism by including performers (both male and female) from

⁵⁰ See Fawzia Afzal-Khan, "Street Theatre in Pakistani Punjab: The Case of Ajoka, Lok Rehas, and the Woman Question," *TDR (The Drama Review)* 41, no. 3 (Autumn, 1997): 39-62, Afzal Khan's book, *A Critical Stage: The Role of Secular Alternative Theatre in Pakistan* (Calcutta: Seagull, 2005), and her article, "Performative Interventions in the Body Politic of Pakistan," *TDR (The Drama Review)* 54, no. 2 (Summer, 2010): 18-28 for more on how the Punjabi street theatre resists Islamic extremism in Pakistan.

⁵¹ Afzal-Kahn, "Street Theatre in Pakistani Punjab," 39-40.

⁵² Ibid., 42. For more on the Ajoka theatre company see their website: <http://ajoka.org.pk/> (accessed May 14, 2014).

⁵³ Ibid., 43.

both the lower and upper-middle classes, performing in inner city as well as in higher-class locations, and by performing their plays in Urdu and Punjabi rather than in English.⁵⁴

The Ajoka theatre company also creates and performs plays that are in direct response to the Zia regime. *Barri* (“Aquittal”) by Shahid Nadim, one of the plays that premiered in 1987 for Ajoka, centers on the character of Miriam, a Sufi shrine dancer who is an inmate in a Pakistani prison on charges of public dancing. In prison she was raped by a number of police officers and wardens. Although this play is fictional (there was no “actual” Miriam), the context and situation is not, but is instead based on real circumstances many women, including artists like dancers and theatre performers, found themselves in during the time of Zia. Indeed, General Zia had initiated laws (the “Hudood Laws”) that made it difficult for women to bring charges against men for rape for two main reasons: 1) four adult males had to testify as eye witnesses to a rape in order for a rapist to be convicted, and 2) the rape victim could subsequently be found guilty of adultery or fornication, after which she was often arrested and then assaulted by the police.⁵⁵ *Barri* takes place in a cell where Miriam is imprisoned with three other women: 1) an abused peasant woman who had killed a man she had been forced to marry at a young age, 2) a servant woman who had been imprisoned for refusing to turn over her son to police on trumped-up charges of theft, and 3) a middle-class activist jailed for having gone on a hunger strike against General Zia’s laws. The third woman is under the mistaken impression that she can use legal methods to change the laws in favor of women. After hearing the stories of the other women, however, including

⁵⁴ Ibid., 41 and 45.

⁵⁵ Ibid., 47-48. For more on Zia’s Hudood laws against women and religious minorities see Naeem Shakir, “Women and Religious Minorities Under the Hudood Laws in Pakistan,” *Article 2 of the International Covenant on Civil and Political Rights* 3, no. 3 (June 2004): 14-22, <http://www.humanrights.asia/resources/journals-magazines/article2/0303/women-and-religious-minorities-under-the-hudood-laws-in-pakistan> (accessed May 12, 2014).

Miriam's who is five months pregnant as a result of the rapes, she realizes the real conditions of oppression and the need for methods of greater resistance.⁵⁶

In addition to focusing on Zia-specific issues of relevance to women, the Ajoka theatre company made the artistic choice of performing this play at the Goethe Institute of Lahore in March of 1987. This location ensured that its audience would have a large constituency of exactly the demographic (urban middle-class intellectuals) represented by the third woman with whom the "madwoman" in *Barri* shared a cell. There can be no doubt that this move was an attempt to express the perspective of class- and gender oppressed women under General Zia's regime in Pakistan to those audience members who might be outwardly sympathetic and yet also in need of additional consciousness-raising to the plight of women whose class circumstances they do not share. Thus there is artistic innovation here in many different ways: in the subject matter, focus, characters, plot structure for the play's vehicle of expression and in the location chosen for the performance of this play. There are also undoubtedly expressive performative elements that can be brought to the performance by the different classes from which Ajoka pulls its actors that occur during a live performance that would have to be experienced as an audience member to be fully appreciated and understood. One can imagine that these rely on the shared cultural memory of General Zia's reign that parallel that of the cultural memory of Partition shown in *Aur Kitne Tukde*. Suffice it to say here that this play is one of many that arose due to conditions of class- and gender-based oppression in Pakistan.

IV. CONCLUSION

⁵⁶ Ibid., 48.

In conclusion, I have avoided the normative question of when it should be permissible to censor the arts and if it is ever justified to suppress artistic expression for some worthwhile purpose (whatever that may be). I have also avoided the question of when, if ever, a government organization established for the purpose of funding public art can decline to fund an artist, organization or exhibit on grounds that it provides artwork that is harmful, offensive or otherwise contrary to the public good. Instead, if I have taken any normative stance on the kind of censorship involved here it is an implied and a pro-equal protection one, holding that whatever the laws of censorship may be of any given country, they should be applied equally and fairly to all the people within its borders without regard to that person's race, gender, class or other features of human identity.

Indeed, as the examples provided in this paper of the development of music after the oppression of slavery and the development of theatre after the oppression of gender- and class-based laws in Pakistan have shown, human-identity-based censorship is *not* entirely successful in eliminating the expressive work of the group the laws of a country is trying to silence. Instead it can create community feeling, shared memory and resistive efforts among the oppressed group that can and does lead to changes in the art that is produced and/or inspired by this group. Whether the innovative changes are shown in new genres of art, or in the emergence of new works of art within established genres, this kind of cultural identification and memory both enriches and strengthens the art-making and art-performing voices of the targeted groups rather than fully suppressing them as intended. Thus while we can condemn wholesale censorship of the artistic expression of people from excluded human-identity groups we can applaud the innovation shown in the new styles and forms of art created in resistance to this oppression. We can also learn from them, as empathetic audience members who may not have shared the first-

hand experiences of these groups ourselves, about the lived experience of identity-based oppression and suffering that these new forms and styles of communicative art convey.

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