



Pakistan, Women Rights and the Clergy - A Case Study of the Punjab Protection Against Violence Act 2016

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Pakistan

- ▶ World Bank Report 2015 - 2016
 - ▶ Population 188.9 million
 - ▶ GDP \$270.0 billion
 - ▶ GDP growth 5.5%
- ▶ Low Human Development Index: ranked 147th out of 188 in 2015

Women Issues

- ▶ Global Gender Gap 2016 (published by World Economic Forum) ranked 143 out of 144 countries
- ▶ HRCP - since January 2004, total number of incident:

Offence	Stats
Honour Crimes	8861 (honour killings) 9085 (murders)
Women Kidnappings	5508
Sexual Violence	4734
Domestic Violence	1843

Fundamental Rights - Constitution of Pakistan

- ▶ Article 9: Security of person
No person shall be deprived of life or liberty save in accordance with law.
- ▶ Article 25: Equality of citizens
 1. All citizens are equal before law and are entitled to equal protection of law.
 2. There shall be no discrimination on the basis of sex alone.
 3. Nothing in this Article shall prevent the State from making any special provision for the protection of women and children.
- ▶ Article 27 - Safeguard against discrimination in services
 - ▶ No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste, sex, residence or place of birth

Constitution - Principles of Policy

- ▶ Article 34: Full Participation of women in national life
Steps shall be taken to ensure full participation of women in all spheres of national life.
- ▶ Article 35: Protection of family, etc.
The state shall protect the marriage, the family, the mother and the child.
- ▶ Article 37 (e): Promotion of social justice and eradication of social evils
The state shall ... [ensure] that ... women are not employed in vocations unsuited to their sex...

Article 14 Constitution of Pakistan: Inviolability of dignity of Man, etc.

- ▶ 1. The dignity of man and, subject to law, the privacy of home, shall be inviolable.
 - Interpreted to mean “Art 14 of the Constitution ensures dignity of **every individual**. [PLD 2010 SC 265].
 - It is the right of **every citizen** that they should live with respect, honour, and dignity. [PLD 2012 SC 774].

International Commitments

- ▶ Pakistan has ratified 8 out of 18 core Human Rights Treaties and Optional Protocols, including the
 1. Universal Declaration of Human Rights (UDHR);
 2. International covenant on Civil and Political Rights (ICCPR);
 3. International Covenant on Economic, Social and Cultural Rights (ICESCR); and
 4. International Covenant on Elimination of all forms of Discrimination against Women (CEDAW).

CEDAW

- ▶ Ratified in 1996 - single reservation to Article 29 (para 1) - required to comply with its provisions and ensure proper and full implementation in the country.
- ▶ CEDAW states: 'women make a 'great contribution...to the welfare of the family and to the development of society'. This 'special role' that links women to the family and the home, '**should not be a basis for discrimination** but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole'. The burdens and responsibilities of the family, then, should not fall disproportionately on women'

Punjab - Domestic Violence Against Women

Stats by HRCP

- ▶ 01/01/2005 - 31/12/2005
- ▶ **Total no of cases - 25**
- ▶ 01/01/2006 - 31/12/2006
- ▶ **Total no of cases - 44**
- ▶ 01/01/2007 - 31/12/2007
- ▶ **Total no of cases - 63**
- ▶ 01/01/2008 - 31/12/2008
- ▶ **Total no of cases - 69**
- ▶ 01/01/2009 - 31/12/2009
- ▶ **Total no of cases - 107**
- ▶ 01/01/2010 - 31/12/2010
- ▶ **Total no of cases - 154**

Stats by HRCP

- ▶ 01/01/2011 - 31/12/2011
- ▶ **Total no of cases - 180**
- ▶ 01/01/2012 - 31/12/2012
- ▶ **Total no of cases - 203**
- ▶ 01/01/2013 - 31/12/2013
- ▶ **Total no of cases - 199**
- ▶ 01/01/2014 - 31/12/2014
- ▶ **Total no of cases - 181**
- ▶ 01/01/2015 - 31/12/2015
- ▶ **Total no of cases - 220**
- ▶ 01/01/2016 - 21/11/2016
- ▶ **Total no of cases - 253**

HRCP - Domestic Violence Against Women

▶ Includes 9 categories:

- ▶ Acid attacks
- ▶ Amputation,
- ▶ Beating,
- ▶ Set on fire,
- ▶ Murder bids,
- ▶ Shaved,
- ▶ Injured,
- ▶ Various other offences,
- ▶ Tortured.

▶ Reasons for violence

- ▶ Enmity between the parties,
- ▶ financial hurdles,
- ▶ marriage choice,
- ▶ property issues,
- ▶ domestic reasons and
- ▶ illicit relations.

HRCP - Domestic Violence Against Women

▶ Attackers relation to the victim:

1. Husband (154),
2. Father (42),
3. Brother (24), and
4. Relative (43)

▶ Relationship status of the victim:

1. Married (229),
2. Unmarried (4),
3. Widow (2),
4. Divorced (4)
5. 67 incidents - data not available

Government Stance and Legislation

- ▶ Salman Sufi Senior Member Chief Minister's Special Monitoring Unit Law and Order
 - ▶ “[...] in Punjab, daily, 6 women are murdered or attempted to murder, 8 raped, 11 battered and assaulted and 32 women are abducted. “
- ▶ “[...] after holding numerous meetings to thoroughly address and incorporate all reservations of members of the civil society, leaders of the opposition, Islamic scholars and members of the committee this bill was passed.”
- ▶ An Act passed through proper channels to combat ‘Violence Against Women (VAW) in Punjab - Punjab Protection of Women Against Violence Act 2016

Punjab Protection of Women Against Violence Act 2016 - Violence Against Women

- ▶ “An Act to establish an effective system of protection, relief and rehabilitation of women against violence”
- ▶ “[...] it is necessary to protect women against violence including domestic violence”
- ▶ “[...] establish a protection system for effective service delivery to women victims”
- ▶ “[...] create an enabling environment to encourage and facilitate women”
- ▶ Aims to provide timely relief to victims of violence

PPWVA 2016

- ▶ “Violence” - any offence committed against the human body of the aggrieved person (s: 2(r))
 1. Abetment of an Offence
 2. Domestic Violence
 3. Psychological Abuse
 4. Sexual Violence
 5. Economic Abuse
 6. Stalking
 7. Cyber Crime

Violence - Explanations

- ▶ Economic Abuse - denial of food [...] in a “domestic relationship” to the aggrieved person by the defendant
- ▶ Psychological violence - psychological deterioration of aggrieved person which may result in anorexia, suicide attempt or clinically proven depression resulting from defendant’s oppressive behavior or limiting freedom of movement of the aggrieved person - certified by panel of psychologists
- ▶ Cyber crime - not defined
- ▶ Sexual Violence - not defined
 - ▶ Rape within Marriage - does ‘sexual violence’ include rape within marriage?

The Act and Discrepancies in it

- ▶ S: 2(e) “dependent child” - male child below the age of 12
 - ▶ i.e. female children are not included;
 - ▶ Male children above the age of 12 are not included.
- ▶ “aggrieved person” - a female who has been subjected to violence by the defendant; yet “house” includes a place where the aggrieved person lives in a domestic relationship irrespective of right to ownership or possession of the aggrieved person, defendant or joint family.
 - ▶ What does “domestic relationship” mean? Personal relationship, a domestic partnership not including legal marriage?
 - ▶ Between spouses or partners; family members; sharing household with other persons; close relationship?
 - ▶ What of employer-employee relationship or employee-employee relationship? E.g. house maids, drivers, servants?

- ▶ S: 7 - Protection Order - issued by Court, if satisfied any violence committed or is likely to be committed - direct the defendant:
 - ▶ 7(1)(d) - wear ankle or wrist bracelet GPS tracker for any act of grave violence or likely grave violence which may endanger the life, dignity or reputation of the aggrieved person
 - ▶ 7(1)(e) - move out of the house in case of an act of grave violence if the life, dignity or reputation of the aggrieved person is in danger;
- ▶ 7(3) - Court may impose any additional conditions or pass another direction which it may deem reasonably necessary to protect and provide for the safety of the aggrieved person or any dependent child of the aggrieved person

- ▶ S: (8) Residence order - in case of domestic violence pass a residence order directing:
 - ▶ Aggrieved person shall not be evicted
 - ▶ Aggrieved person has a right to stay in the house
 - ▶ Aggrieved person may be relocated from the house to a shelter home for relief, protection and rehabilitation

- ▶ S: (9) Monetary Order - defendant to pay monetary relief
- ▶ S: (14) - Women Protection Officer (WPO) may
 - ▶ 14(3)(d) - direct the defendant to immediately move out of the house for a period not exceeding 48 hours in order to protect life, dignity or reputation of the aggrieved person
- ▶ S: 15 Power to Enter - WPO at any time, enter in any place or house for the purpose of rescuing an aggrieved person but shall not rescue the aggrieved person without her consent
 - ▶ Give reasonable notice to the in charge of the place before entering and the in charge shall allow free access and afford all reasonable facilities to meet a woman residing or kept there
 - ▶ If access cannot be obtained under above section then it will be lawful for her to enter in collaboration with district authorities including police

Reactions and the Council for Islamic Ideology (CII)

- ▶ Representatives of more than 35 religious parties and groups came together for a conference called by the Jamaat-e-Islami party:
 - ▶ “The whole law is wrong,” Council for Islamic Ideology (CII) Chairman Maulana Muhammad Sheerani
 - ▶ ““The bill is totally against the Constitution of Pakistan and Sharia Law,” Chairman of Jamat-e-Islami (JI) Siraj-ul-Haq
- ▶ Joint Declaration:
 - ▶ “The controversial law to protect women was promulgated to accomplish the West's agenda to destroy the family system in Pakistan,” ““This act ... is redundant and would add to the miseries of women.”
 - ▶ Fazlur Rehman, chief of Jamiat-i-Ulema Islam said: “This law makes a man insecure. This law is an attempt to make Pakistan a Western colony again.”

Objections and the GPS Tracker

- ▶ The law should be repealed - or there will be country wide protests
- ▶ Letter sent to Rana SanaUllah
 - ▶ Section: 2, 3, 5, 7, 8, 9, 15 and 30
- ▶ Right to reside, GPS Tracker, Residence Order, Monetary Order, Power to Enter, Immunity.
- ▶ **“Grave Violence” - the GPS tracker:**
- ▶ “Making a man wear a bracelet or a 'qara' is the same as humiliating him,” says Liaquat Baloch.
- ▶ “A man can’t leave the house wearing a bracelet,” senior lawyer Aftab Ahmed Bajwa agrees. “Is he an animal that you’re making him wear a *patha* [leash]?”
 - ▶ ‘grave violence’ not defined in the Act - No references made in the previous case law
 - ▶ Rana SanaUllah’s press statement: “there was misconception about tying of the tracker. In fact, the device is meant for alleged rapists and acid throwers, who walk out of jail after getting bail or exhausting their prison term, [...] that it is not to be applied to errant husbands.”

Sanctity and Privacy of Family Life - CII

- ▶ Home is private - disputes at home are private
 - ▶ Islamic teachings: family life should be preserved; family matters should be resolved privately
- ▶ State cannot intervene in the private sphere - couples to solve disputes on their own
- ▶ Contrary to Part IX: 'Islamic Provisions' and Article 35 of the Constitution of Pakistan

Lessons Learned - Culture and Problems of Implementations

- ▶ Pakistan has a plural culture - a diverse country with cultures and norms which do not set well with existing laws
 1. E.g. legitimacy of forced marriages - even though coercion in contractual settings is prohibited
 2. silence towards abuse of women, even though assault is outlawed,
 3. reluctance to raise private matters in public, even though laws exists,
 4. Rape within marriage, even though rape is penalized.
 5. These create problems for effective implementation of relevant laws.

Debunking the Myths and a Conclusion?

- ▶ Overall impression one receives from the reaction of Clergy to the 2016 Act
 - ▶ Even though progress has been made in some areas, e.g. law-making; Profound difficulties arise from the resistance to women's rights in traditional cultures.
 - ▶ Such reactions discourage public debate, endorse violence against women in domestic settings, make violence against women a norm
 - ▶ Sanctify family life and preserve family life at the expense of women
 - ▶ Home is sacred - right to privacy of the home is absolute, cannot be breached in Shariah, and yet our Article 14 allows it "in accordance of law" e.g. - money laundry cases, murder cases
 - ▶ Family matters are to be resolved within the family - outside interference is contrary to Islamic teachings - the Act provides for reconciliation and mediation between parties
 - ▶ Act does not only target relationships between husband or wife, rather definitions are broad to cover a broad range of relationships
 - ▶ Defendant is not necessarily a man, it could be the mother of the victim, the sister, mother in la or sister in law, or etc.
 - ▶ CII is only an Advisory body, not a law making body - the principle law making body in Punjab is the Punjab Assembly - demanding law be repealed is akin to bullying
 - ▶ Undermines government authority and jeopardizes the safety of the citizens