

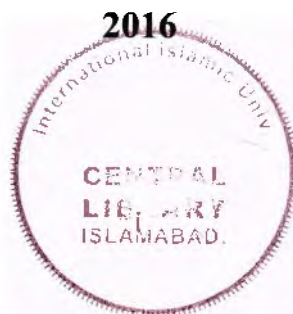
**Pro Women Legislations and its Effect on Legal Empowerment  
of Women in Pakistan**



**Researcher:**  
**Aysha Jawaid**  
**128-FSS/MSSOC/S13**

**Supervisor:**  
**Dr.Rabia Gul**

**DEPARTMENT OF SOCIOLOGY**  
**FACULTY OF SOCIAL SCIENCES**  
**INTERNATIONAL ISLAMIC UNIVERSITY**  
**ISLAMABAD**



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**Pro Women Legislations and its Effect on Legal Empowerment  
of Women in Pakistan**



**Aysha Jawaid**

**Reg. no. 128-FSS/MSSOC/S13**

Submitted in the partial fulfilment of the requirements for the degree of  
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**DEPARTMENT OF SOCIOLOGY  
FACULTY OF SOCIAL SCIENCES  
INTERNATIONAL ISLAMIC UNIVERSITY  
ISLAMABAD**

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In the Name of Allah The Most Gracious  
The Most Merciful

**INTERNATIONAL ISLAMIC UNIVERSITY ISLAMABAD, PAKISTAN**

**FACULTY OF SOCIAL SCIENCES**

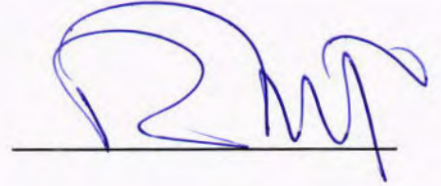
**DEPARTMENT OF SOCIOLOGY**

It is certified that thesis submitted by Ms. Aysha Jawaid, Reg. No. 128-FSS/MSSOC/S13 titled "**Pro Women Legislations and Its Effect on the Legal Empowerment of Women in Pakistan**" has been evaluated by the following viva voce committee and found that the thesis has sufficient material and meets prescribed standard for the award of degree MS in the discipline of Sociology.

**Viva Voce Committee**

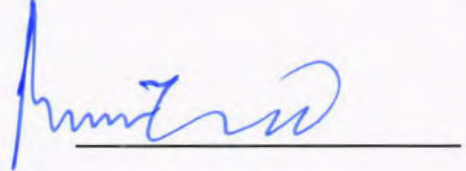
**Supervisor**

Dr. Rabia Gul



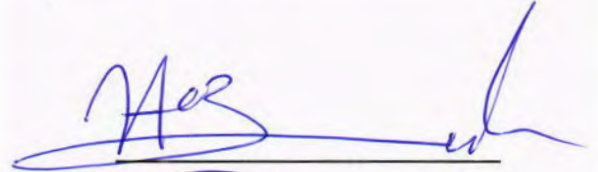
**External Examiner**

Dr. Niaz Muhammad



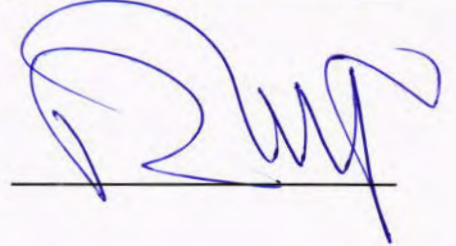
**Internal Examiner**

Dr. Hazir Ullah



**Head Department of Sociology**

Dr. Rabia Gul



**Dean Faculty of Social Sciences**

Prof. Dr. N. B. Jumani



DEAN  
Faculty of Social Sciences  
Int. Islamic University, Islamabad

## **DEDICATION**

*This humble effort is dedicated to*

*My three daughters*

*Wishing them a brighter and safer future*

**AyshaJawaid.**

## **ABSTRACT**

The major aim of this research was to examine the effect of pro women legislation on the notion of women's legal empowerment in Pakistan. The study exclusively focused on three recent legislations approved in year 2010 and 2011 in Pakistan. Qualitative research methodology has been used to meet the objectives of study. In-depth interviews were conducted to explore women victim's standpoint regarding their legal empowerment pertinent to these pro women legislations. This was carried out by conducting in-depth interviews of four women victims of different gender based violence while focusing on the efficacy of these legal reforms. These IDIs have generated discourse based on victims stand point which is analysed by using Foucauldian Discourse Analysis as a method to expose the power play at social, cultural and religious level strictly preventing women of Pakistan to stand for their legal rights. The data shows that state of Pakistan has tried to meet the legal standards of international community for securing women's legal rights but implementation of these laws is almost invisible due to the power exerted by cultural and societal factors. At present in- spite of the existence of strong laws the cases filed under these provisions is almost invisible. The appearance of women victims in the legal institutions for justice is very rare. Those women who somehow manage to develop courage to fight for their legal rights face a strong friction at all the levels of society and at each and every step of legal assistance.

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**Aysha Jawaid**

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# CHAPTER ONE

## INTRODUCTION

Laws of a society are one of major indicators and determinants of its evolution and progress. In a civilized society all the inhabitants have equal access to justice without any discrimination on the basis of sex, race, religion and class. The most imperative function of any society that helps it in the progress of its civilisation is the fact that it is working to protect its citizens from criminal victimisation (Payne & Wermeling, 2009).

A secure and diligent legal justice system is a fruitage of a just and conscientious social system. Equality of all before rule of law and justice is the prime motive behind its operations. However, discrimination is judicial worldwide because the law hierarchizes the sexes, which produces a chain of discrimination and disparity across all social spaces, resulting in the violence as a measure of maintaining this fundamental inequality. Violence in any of its shape including institutional, physical, economic, symbolic, psychological or sexual tries to maintain status quo. Women have to subordinate to the authority of men in the family and marriage, even when formal equality is protected in law with respect to public life (Ghorbani, 2015).

In spite of great strides made by international community to improve the legal status of women and to secure their basic human rights majority of the crimes against women in the world go unreported. Australian bureau of statistics has reported that more than 60% of causes related to violence against women are worldwide go unreported. The 2010 National Intimate Partner and sexual violence Survey in The United States has announced that one out of five women have been raped in America. The 2000 national violence against women survey found that just one by fifth of all rapes in the

world, one quarter of physical assault and one half of stalking were only reported. In India a statistical survey says that the under reporting of criminal cases against women is acute (David &Hugland, 2010).

Gender based violence against women is highly political in nature as it is an outcome of structural patterns of dominations and privileges between men and women in society. Both public and private domain are effective at all levels at home, at workplace and public places which perpetuates and maintain this discriminatory and political structure in society (David &Hugland, 2010).

The legal protection to women against all types of crime in the world has to go a long way to be acceptable in a meaningful way. In world, laws and the associated affectivity against gender based violence vary from society to society. In some parts of the world like, developed nations which have strong laws and provide full legal guarantees while in some other parts of the world laws are in effective. However some parts of the world sanction violence against women. All states can improve their legal framework regarding violence against women and there are no geographic limitations in this regard. Law is most effective when it is applied and implemented (David &Hugland, 2010).

Gender equality and women's empowerment is now given a major priority in developing nations as it has a direct impact on the economic, educational and human rights development of a nation. For the developing nations this is a great tool to measure the pace of development according to standards of international development. The realization of women's equality and the need for women empowerment in all spheres of life is a modern phenomenon (Ali, Krantz&Mogren, 2012).

Legal rights of women can only be meaningful if they can be asserted. The international bodies are trying to address the issues like checking whether the state laws are providing effective protection of the rights of women, adequacy of legal structure and institution, timely legal remedies. It also focuses promotes public education and awareness programmes.

Under current international human rights obligations, states are mandatory to protect and assist victims and to take measures to impeach the culprits and to prevent violence. In order to eradicate the trauma they have experienced and to rebuild their lives, women survivors of violence need contact to safe accommodation, defence, healthcare facilities, legal and psychological advising, social support and fiscal aid. The establishment of specialised services, as set out in European and international legal instruments is essential. These facilities provide a gender-sensitive approach planned to meet the needs of survivors, many of whom suffer from constant violence. The facilities aim to empower women and to safeguard their complete recovery. Backing needs differ and be determined by the type of violence experienced and particular groups of women, such as migrant women, young women and women with incapacities, have particular needs. Dedicated facilities need to be retrieved on an instant basis in order to provide safety and care, and they need to be available for the long term. These services need to be accessible across the country and available to all survivors. Expert staff and adequate capital and resources are basics of a high-quality service (European Institute of Gender Equality, 2012).

Awareness of the gender based issues and the urge to provide women with social, economic and political equality has been an issue of past three decades. Instead of all this awareness it is alarming that no country has managed to eliminate gender gap fully.

Those countries which have been successful in eliminating gender discrimination and narrowing the gender gap are the Nordic countries with Sweden on the top. These countries are followed by New Zealand on number 6, Canada on number 7, United Kingdom on number 8, Germany on number 9 and Australia on number 10, countries that have been successful in raising the phenomenon of women's empowerment in their respective societies are, France on number 13 which is ahead of the United States on number 17 among the 58 nations. Seven East European nations are among the top 25, with Latvia on number 11, Lithuania on number 12 and Estonia on number 15 with the highest ranking in that group. Switzerland is on number 34, Italy is on number 45 and Greece on number 50 performing poorly. Having Brazil on number 51, Mexico on number 52, India on number 53, Korea on number 54, Jordan on number 55), our country Pakistan on number 56, Turkey is on 57 and Egypt is on 58, occupying the lowest positions (Lopez-Claros & Zahidi, 2005).

Violence against women is considered as one of the major obstacles in the development of nations as well as peace all around the world. Achieving gender equality is not an easy task since it challenges the human's strongest attitudes and beliefs. It includes not only changes in law but also state policies to modify patterns at home, over all community and the decision making atmosphere. As for example, the crime of rape in most of the countries goes unpunished and also used as tool of war. Even in the most advanced parts of the world violence against women is a daily routine. Women's sexual slavery and forced prostitution are the cruel facts of world. Ultrasounds for genetic testing of the foetus are common in the underdeveloped nations to abort the female child. While in other parts of the world female infants are buried alive. In Asian countries forced marriages and bride burning is still a common practice. In 180 African nations pregnant women are likely to die during pregnancy.

Rural women in Africa represent two third of the illiterate adults. Ninety percent of the aids cases in America are the young girls of age under 20. Women only hold 15.6% of seats in the parliament worldwide (ibid). Women Health Organization estimates that worldwide one out of five women is the victim of rape and attempted rape. However in the case of developed nations like Canada, America, England and New Zealand the related figure one in six women (Hennessy, 1993).

In the developing nations, According to United Nations Development Office (UNDP) issues like delay in justice and the failure to provide timely and gender sensitive remedies has caused disability in the justice system. People in these countries are also facing lack of adequate legal representation, legal education and formal legal process. The biased judicial system will prevent equal access to justice.

The affectivity of law depends on serious action on the part of states which needs a lot of resources and commitment. To eliminate the social and cultural biases against women we need national and international as well as change in the mind-set of people all around the world. Crimes against women are presenting an increasing trend day to day. So at this critical stage, women should be made legally strong to balance her physical weakness and should be made independent against social and economic exploitation. This will be probable by organizing the ideologies of international treaties and conventions to the national legislation, and providing better stage of fair trial to these victims (Kumar, 2010).

In Pakistan, the issue of women legal empowerment has seen its highs and lows. Pakistani legislation has played a vital role in granting and protecting women rights in contemporary society but women rights are still being violated by anti-women practice (Abbas & Riaz, 2010). Actually the gap between the availability of



certain remedies in law and their implementation in practice is still very wide (Inter American Commission on Human Rights, 2011).

Pakistan is a developing Nation state and is struggling against a large number of social afflictions. Convenient access to justice for men and women both is a difficult and a painful endeavour in the present social setup. In a societal set-up, where there are no social grounds for justice and fair treatment, the providence of legal security and protection to its majority population which is women in particular, cannot be achieved (Mehdi, 2010). Women constitute more than half of the population of Pakistan (Pakistan Council of Science and Technology, 2010). From the time Pakistan has come into existence till present times, women have played a vital role, from the formation to the development of its country. During present times, their participation in the strengthening of the overall social settlement cannot be overlooked. A country where half of the total population, which is based on women, are given their fair share and value in all the important institutions of the society, the whole social fragment will be strengthened. Even though women have been playing their role in the total development of the state, including the economic sector, their contributions are not rendered satisfactory (Kumar, 2000).

Women in Pakistan are first considered as inferior gender and then they are economically dependent that makes them more vulnerable. As these are the sole care takers of their families they are not permitted for their own personal development and identity formation. This vicious cycle of dependency due to lack of education, equality and employment plagues every aspect of their social interaction. Such vulnerable groups are further affected by discrimination within the legal system (Hayat & Ahmed, 2008).

Gender equality and women's empowerment is now given a major priority in developing nations as it has a direct impact on the economic, educational and human rights development in a nation. For the developing nations this is a great tool to measure the pace of development according to standards of international development. The realization of women's equality and the need for women empowerment in all spheres of life is a modern phenomenon (Kantachote, Mallick, Polster&Roets, 2013).

The intention behind the conception of Pakistan was also to formulate a just social system where all individuals can enjoy parity and civil rights within its jurisdiction. Constitution of Pakistan (1973) in its article 25 ensures the equality of all the citizens before law. In its article 27 it prohibits discrimination on the basis of sex whereas its article 28 certifies unrestricted participation of women in every sector of national life (Babur, 2007). In 1996, Pakistan ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Accordingly, it is the utmost duty of state to take strict measures against any abuse that can create hindrances in availing women rights for equality, justice and freedom (Jabeen, 2012). It is compulsory for the state to reform and amend prevailing legislations as well as formulate new laws for suitable protection of human rights of women.

The legal institute in Pakistan can become important factor in the term of social change and development. This is the rule of law orthodox that has a top-down state centred approach that says that development agencies align themselves with the state institutions and projects for quick social change in society. This focuses on law institutions and the legal policies that can create positive change in the lives of women in Pakistan and overall in the life of all poor sectors of society. The rule of law

orthodox or the top-down down state centred approach lack in realizing the importance of the cultural context and the notion of subjectivity in the case of society like Pakistan. Within the legal institution the concept of equality and non-discrimination cannot be achieved unless social biases and gender inequalities are reduced. A developmental model with in the legal domain needs to guarantee different rights, a free of corruption rule of law which encourages legal reforms (Hayat & Ahmed, 2008).

There have been different periods in Pakistan where women legal status was tried to raise to encourage them and to support their rights as equal humans as men in a strongly patriarchal structure. In this research study major emphasis is on the recent pro women legislation in Pakistan. Three recent legislations in Pakistan to uphold women social status and to secure their basic human rights are under the spotlight of my research,

- Acid Amendment Act 2010
- Harassment At Workplace Act 2010
- Anti-women Practice Act 2011

The Acid Control and Acid Crime Prevention (Amendment) Bill was passed in the Senate on December 2011, and for the first time gives guidance on how the State should punish offenders and support victims of this violent gender-based crime.

In order to ensure the free and comfortable participation of women in male centred public domain two major laws were passed in 2010 under the criminal law act 2010 against harassment. The first was the Criminal Law (Amendment) Act, 2010 with amendments in Section 509 of the Pakistan Penal Code relating to sexual

harassment at the workplace. The offence is punishable with imprisonment up to three years or a maximum fine of Rs500 or both. Backed by the then information minister of Pakistan Sherry Rehman and supported by AASHA (Alliance Against Sexual Harassment at the Workplace) that campaigns for workplace rights, the second law, the Protection against Harassment of Women at the Workplace Act, 2010, has legal safety nets protecting working women and making it mandatory to appoint ombudspersons at all levels.

On December 23, 2011, the Senate passed the Prevention of Anti-Women Practices (Criminal Law Amendment) Bill, three years after it was tabled in the Assembly by PML-Q parliamentarian Donya Aziz. It lists four particular offences against women making it unlawful to forceful marriage against a women's wish, deprive a woman of her rightful inheritance through "deceitful or illegal means"; force a woman into marriage to settle a civil or criminal dispute; and "compel or arrange or facilitate" a woman's 'marriage' to the Quran punishable by imprisonment for three to seven years and Rs. 500,000 fine.

In the present study the legal empowerment of Pakistani women resulting from these pro women legislation is evaluated. Legal empowerment programs have proliferated in recent years. The legal empowerment approach seeks to build the capacity of citizens and communities to enforce their rights through legal and administrative procedures. These programs generally combine activities including the dissemination of information on legal rights and procedures, community based trainings, legal counseling and paralegal services, community organizing, advocacy, and even efforts aimed at reforming laws and legal institutions (Ladner, 2009).

According to Golub (2003), legal empowerment is utilizing the legal practices and development to increase the control of the marginalized people on their lives. Legal empowerment should be integrated in the mainstream developmental programmes. Studies done by academics and other developmental organizations have expressed the importance of the civil society in providing legal empowerment to the marginalized segment of the society.

In my research women's legal empowerment includes, Legal empowerment is conceptualized as Easy process of filing case, duration of case, and Compensation and restitution strength of law, Satisfaction of the victim, timely rescuing, satisfactory penalty, and cooperative legal support.

A great deal of qualitative and quantitative researches has proven that legal empowerment has resulted in the overall development of the society. The phenomenon of legal empowerment needs awareness of disadvantaged groups of the society which in turn increases the rule of law. This sense of their legal rights and the awareness of law due developmental programmes and legal empowerment can pressurize the rulers and the politicians at the national level to implement the laws. Due to the notion of legal empowerment the marginalized section of the society has a greater control on their lives so in other sense they gain power and such power plays crucial role in local and national level law reforms (Golub, 2003). Judicial system is the basic institution in Pakistan that that can best uphold the equality of all before law. The legal institute in Pakistan can become important factor in the term of social change and development (Hayat & Ahmed, 2008).

In Pakistan more number of disputes is resolved through the informal legal setup or the *Girga* system or *Panchayat* or *biradari*. This type of practice is more

common in the interior of Sindh, KPK, Baluchistan and Punjab. The lack of accessibility to court places the women on a disadvantaged edge. As these informal legal systems do not admit violence against women as a crime and according to this setup based on social and customary norms these issues related to women should be resolved inside the four walls of their homes. The women are not allowed to attend, to raise voice for them or even participate as spectator in these informal justice system. This is seriously damaging for the women's rights agenda and both the informal as well as the formal systems are dependent on power relations as far as women's representation is concerned.

Major factors that are affecting the availability and awareness of the legal rights are unaccountability on the part of government departments, absence of democratic values, vested agenda of influential people and inefficient bureaucracy. And last but not the least lack of education and awareness about the legal rights of women (Hayat & Ahmed, 2008).

Moreover in Pakistan the institutional corruption such as in police and the bars and courts is also a great setback for the development of legal empowerment. Another hindrance in the way of justice is lack of legal literacy and affordable legal services. Majority of public including women are unaware of their legal privileges the working of legal systems and to approach this system. The availability of legal aid is also limited to influential people or people having links and personal connections to bar council (Hayat & Ahmed, 2008).

The efficacy of the tool of legal empowerment used to bring about social change within the society needs to be analysed from the emic perspective and the

importance of subjectivity cannot be ignored. It is not enough to criticise an idea in isolation as its success is dependent on contextual power relations.

We cannot expect the legal system alone to initiate or expedite social reforms in isolation. We cannot separate legal institution from the everyday life of people and from its cultural context. As the laws are considered as the reflection of the social values of a society. Laws develop with the societal development.

I have employed qualitative methodology of research, IDIs is selected as a method for the sake of analysing the influence of these legal rights on women legal empowerment at the level of its practice. The research resource will produce rigorous and valid data regarding these pro-women legislation in relation with its implementation and significance as far as the legal empowerment of women is concerned. Basically it is exploring the influence of pro-women legislation on the practical level, to reduce gap between theory and practice. The research is specifically designed to get the actual picture of impact of pro-women legislation on legal empowerment of Pakistani women.

The women victims are those particular women who have filed cases under the provision of these three laws. Over here the word victim is basically the demand of the study although it is not considered positive and appropriate in the contemporary feminist discourse. Women victims are those who are the victims of gender based violence and have tried or trying to seek justice against discriminatory treatment with them. Their cases are over as well as still in court for decisions against harassment at public and workplace, acid attack crimes, forced marriage, *badla e sullah* marriage(sawara and wani marriage), denial of inheritance right and marriage with Quran.

I have tried to explore the stand point of women victims on the ground of their direct interaction and dependence on the legal structure and the legal frameworks. The in-depth interviews are organized to identify their concept about legal empowerment which is associated with the introduction of new laws and acts in Pakistan. The details of their standpoints have been admitted as discursively positioned, which is analysed by using the Foucauldian analysis to disclose the power relationship phenomenon deeply embedded in social, cultural, religious and contextual roots.

Feminist standpoint epistemology recognises women's position as that of victim, and then honours that status by claiming that it gives them access to be considerate about oppression which others cannot do. It grounds this privilege in conflict that pain and subordination provide the oppressed with motivation for finding out what is wrong, for disapproving established interpretations of reality and for evolving new and less distorted way of understanding the world (Bartlett, 1990).

Perceptions of women victims refers to the understanding and meanings which these effective women have generated after and during the legal procedures.

By using qualitative tool it has explored the perception of women victims regarding these pro women legislation. Perception refer to their experience based learning and understanding while they were involved in seeking justice under these legislations. Perception will be explored regarding proper implementation, affectivity and deterrence against gender based violence.

The focus of this study is on the legal empowerment of women which is associated with these legislations in Pakistani context. The emphasis will be on notion that either these legislations are just pieces of paper to support popular approach or they have genuine agenda of implementation and upholding women legal rights. The



implementation of these laws will be inquired through IDIs done with women victims who are experiencing justice seeking process under these laws. Data gathered through research tool will be analysed by using Foucauldian analysis to understand the deeply rooted hidden strategy behind all legal processes at various stages during the legal procedures.

The women victims who are respondents of this study exposed their standpoint related to their experience of justice seeking and women's legal empowerment in Pakistan. Their standpoint was the outcome of their whole experience during the practical involvement with the legal institution. Their Standpoint and perspective was the outcome of their knowledge about their legal experience. The experts of the profession the lawyers and judges were also inquired about their Sandpoint regarding the phenomenon of women's legal empowerment in Pakistan.

The whole data which was the combination of the standpoints from women victims and the perspective of the lawyers and judges was then analysed by using the Foucauldian analysis. Which was utilized to understand the power play embedded in the discourse generated by the respondent.

It is form of discourse analysis focusing on power relations in society as expressed through language and practices. Making practices material and discursive at the same time. How the social world which is expressed through language is affected by various sources of power. Discourse is culturally constructed repartition of reality.

Foucauldian Discourse analysis is used to explore the power relations and the effect of power within discourses, disciplines and in popular cultures. Power forms the bases for the analysis of discourses. Power represents the network of interacting forces, which creates tension within groups among the individuals. The whole social

life can be assumed as a large web of shifting powers. Power and resistance in reaction come together. Power and resistance are defined by reference to each other. Law is one of the hegemonic discourse with its particular institutional manifestations (Powers, 2001).

However a discourse is a verbal or textual communication. In my research the in-depth interviews in the textual format is a discourse based on the stand point of the women victims regarding their personal experience related to the pro-women laws. Foucauldian Discourse Analysis is done on the practical implementation of laws and the hegemonic aspects of the institutions, culture and the societal taboos resisting social change.

## **1.1 Objectives of the Study**

1. To investigate whether pro women legislation leads towards legal empowerment of women in Pakistan.
2. To explore the perception of women victims regarding the pro women legislation.
3. To examine the implementation of pro-women legislation and to point out lacunas in the laws.

## **1.2 Research Questions**

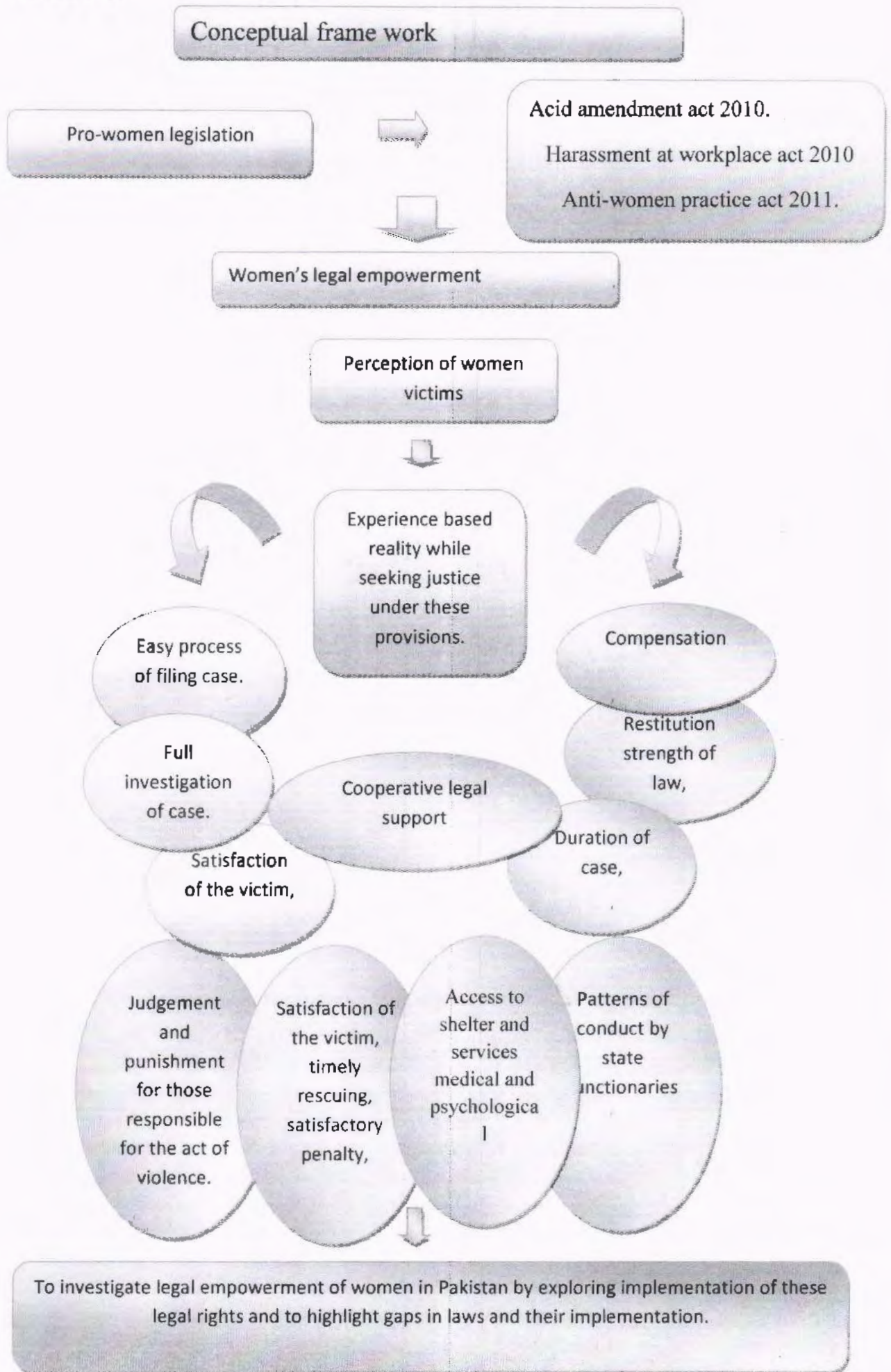
1. What is the relationship between the pro-women legislation and women's legal empowerment in Pakistan?
2. What are the perceptions of women victims regarding these pro women laws?
3. Are the laws being implemented on the ground?

## **CHAPTER TWO**

### **LITERATURE REVIEW**

This chapter is based on two parts, the first part of the chapter (2.1) explains the conceptual and theoretical framework which is guiding and supporting the study. The second part of the chapter (2.2) includes literature review consisting the already existing literature that has been reviewed for the study to target gaps. While the central idea of the conceptual layout and the theoretical framework is mentioned in the figures 1 and 2.

**FIGURE. 1**



## 2.1 Theoretical Framework

The theoretical framework is the structure that can hold or support a theory of a research study. The theoretical framework connects the research to existing body of knowledge. It clarifies that the study is guided by a relevant theory. The present research is guided by feminist legal theory, according to this theory law has been playing role to historically subordinate women. Feminist legal theory operates into two folds, feminist jurisprudence and feminist concerns to restructuring law by using feminist legal methods. This feminist legal theory is supported by feminist jurisprudence which is a philosophy of law. More recently, according to Professor Robin West Existing jurisprudence is masculine, because it is about the connection between patriarchal laws and human beings, who are recognized by those laws to be male (Cain, 1988).

Feminists also criticize mainstream jurisprudence as patriarchal. Feminist jurisprudence cannot exist until patriarchy is abolished. As men constitute most of the legislative body, and driven by a biased attitude towards the laws in question, the overall atmosphere in the jurisprudence is male favouring (Cain, 1988).

According to them legal doctrines are male dominated that protect them. As men control all the social, political and economic power so they use it to control women in both public and private. At this note, it can be added that to achieve women empowerment, self-definition for them is very important. They need to have a common platform where they can discuss their issues. As Patricia Collins (1988) implies in her black epistemology that safe spaces should be created where women speak freely. They can be among women, especially within their family and social circle. In this way when there is a woman victim in need of legal assistance, their

families show support, which at times is hard to achieve or sometimes become the sole reason of hindrance in the justice seeking process as the women lack motivation out of the hesitation shown by their families. So these safe spaces in turn provide socially aware women members to become a part of the legislative setup. Furthermore, if a group is not defining itself then it is being defined by and for the use of others, in this case usually it's the male majority (Cain, 1988). The language, logic and the structure of the law in our country are male created which reinforces male values. All these concepts and values are presented as and are widely perceived to be both neutral and objective.

All these concepts in feminist jurisprudence has in turn established feminist legal theory that focuses on restructuring the law from women's perspective. Recent feminist legal scholarship emphasizes the importance of feminist method (Cain, 1988).

Feminist method begins with the primacy of women's experience. Listening to women and believing their stories is central to feminist method. If we are careful to listen to women when they describe the harms they experience as women, we are likely to get the legal theory right, perceive the problem correctly and propose the right solutions (Cain, 1988).

Theories about women, however, are not always grounded on feminist method. Theories about women, even if developed by a woman, are not necessarily based on women's experience. For example, women law professors are confined to an academic environment that is particularly male. Catharine MacKinnon may be the feminist legal scholar who has most consistently focused on the importance of feminist method. Feminist method, for MacKinnon, means women listening to other

women. Women, as they listen to each other, tend to discover a commonality of experience. Uncovering the fact of women's common experiences creates new knowledge (Cain, 1988). We argue that examination of theory and practice in both arenas reveals a spiral relationship in which feminist practice has generated feminist legal theory, theory has then reshaped practice, and practice has in turn reshaped theory. Thus, whether the issue is feminist law reform or the gendered structure of the legal profession, feminist legal theory cannot be understood apart from practice. At the same time, the formulation of legal theory has played an integral role in the development of social change in all of these areas. In short, feminist legal theory has highlighted the issue of gender in law, and the range of feminist legal theories that have developed continue to deepen our understanding of the complex interrelationship between gender and law. But it is important to appreciate the critical way in which feminist legal theory emerged from practice (Bowman & Schneider, 1998) and emphasised on feminist legal methods.

This research is applying Standpoint feminism which argues that feminist social science should be practiced from the standpoint of women or particular groups of women (which in this research is victim of gender based crime) as some scholars (e.g., Dorothy Smith and Patricia Hill Collins) claim that they are better equipped to understand certain aspects of the world. A feminist or women's standpoint epistemology proposes to make women's experiences, instead of men's, the point of departure. Hence, a feminist standpoint is essential to examining the systemic oppressions. Standpoint feminism makes the case that because women's lives and roles in almost all societies are significantly different from men's; women hold a different type of knowledge. Their location as a subordinated group allows women to see and understand the world in ways that are different and challenging to



the existing male-biased conventional wisdom. Standpoint of women victims will be obtained by using standpoint feminism of Dorothy Smith and then by using the theory of positionality it is tried to expand the existing perspectives of law in Pakistani context. By using positionality the question of women in law is raised within the domain and particular position of Pakistani context. As the theory of positionality claims that the notion of reality changes with position. This theory also claims that no truth can be claimed total or final and the only way in which we can increase our knowledge is via extending our limited perspective by understanding others perspective.

In the present research, I am using both theories side by side, as standpoint by Smith will help to get the perspective of victims while positionality by Katherine I used, to utilize their perspective in order to extend it to legal discourses in Pakistan. The women who have gotten legal assistance or are in the process of getting it, can contribute to the devising of jurisprudence, as they can pin point the loopholes and the hurdles that they had to face. In the light of their provided information, changes can be made to improve the current conditions of legal doctrine and its implementation.

Bartlett (1990) has argued that it is important to consider how certain elements of existing legal doctrine disadvantage women and other minorities, place a higher value on rule flexibility and the ability to find and illuminate missing points of view. In law, argues Bartlett, the “woman question” will require us to make enquiries as to whether women have been left out of consideration and if found to be so; how might the omission be corrected and what difference might it make to the outcome, if it were to be corrected?

In law, posits Bartlett, “asking the woman question means examining how the law fails to take into account the experiences and values that seem more typical of

women than of men and how existing legal standards and concepts might disadvantage women.” (Bartlett, 1998).

Positionality is a stance from which a number of apparently inconsistent feminist “truths” make sense. In line with standpoint epistemology, “positionality retains a concept of knowledge based upon experience.” What is special about positionality however, is that it rejects “perfectibility, externality, or objectivity of truth and instead conceives of truth as situated and partial. The premise is that the truth is partial and no individual can understand except from some limited perspective. To put it plainly; no one’s truth can be deemed total or final and the only way in which we can increase our knowledge is via extending our limited perspective.

The goal of feminism (and feminist legal theory), argues Bartlett, is to be involved with others in a critical and transformative process, whereby we seek further knowledge through considering the perspectives of others, in turn, gradually expanding our own limited perspective. In so doing, we may affect change in the law that is beneficial for all (Barlett, 1998).

However being a Muslim feminist and keeping in mind the major ideas and themes of Western feminism, I have exclusively focused on the societal, cultural and religious aspects and factors that shape the beliefs and practices of women’s legal empowerment in Pakistan. The religious, cultural and social regimes of truth that define the notion of right and wrong, justice and injustice, legal and illegal, appropriate and inappropriate for women fighting against any kind of discrimination. Being a Muslim Feminist I have enquired the legal atmosphere, beliefs, practices and patterns in Pakistan which are directly related with and are strongly influencing the practices related to legal empowerment of women in Pakistan. The study has tried to

expose the reality associated with legal empowerment of women in Pakistan and the power play related with it. The phenomenon of legal empowerment of women has thousands of dimensions and biased explanations.

Figure. 2

THEORETICAL FRAMEWORK

FEMINIST LEGAL THEORY

FMINIST JURISPRUDENCE AS A PHILOSOPHY OF LAW

Text is patriarchal, language and laws are male dominated  
And patriarchal

FEMINIST LEGAL THEORY CONCERNED WITH  
RESTRUCTURING THE LAW BY USING FEMINIST LEGAL  
METHODS

Stand point epistemology

Dorothy Smith

Standpoint or perspective of women victims

Effect change in law that is beneficial to all.

theory of positionality

Katherine Bartlett

extending our limited perspective

To explore the implementation of law

To reduce gap between theory and practice

Recommendations to remove loopholes and lacunas in laws

## 2.2 Literature Review

The second part of chapter 2 is based on the review of literature that comprises the details of the already explored dimensions of the study.

After independence the women of Pakistan played an active role in nation building activities as well for their own social uplift (Noreen & Musarrat, 2013). In Pakistani society, many fundamental rights of women are violated at gross level. Women in Pakistan live in a world, which is structured by strict religious, family and tribal customs. They are subjected to discrimination and violence on a daily basis (Babur, 2007). Women in Pakistan are facing various forms of violence, discrimination and inequality in almost every aspect of life. Violence against women in many fields is often not conceived as a violation of human rights but rather as a normal aspect of lives of Pakistani people. The law of nature never categorized the right of man and women, differently. Both endowed with same sense of reason, responsibility and rights. Unfortunately the social and traditional practice of gender discrimination is the most humiliating situation a woman is subjected to.

Pakistan adopted many of the international commitments to protect basic human rights and gender equality which are effective in providing a platform and are useful in courts for advocacy and setting a standard against which to measure national laws. These include: The Universal Declaration of Human Rights (1948); Convention on the Rights of the Child, (CRC) ratified by Pakistan in 1990; Beijing Platform for Action (BFA), Fourth World Conference on Women, Beijing, 1995; and Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1996 (Annan, 2004).

According to these norms, states have several obligations to respond to violence against women, including the following: full investigation of cases; judgment and punishment for those responsible for acts of violence; creation of procedural norms; reparation for damage to victims; access to shelters and other services such as medical and psychological services; modification of discriminatory socio-cultural patterns of conduct by state functionaries; modification of legal practices that tolerate the persistence of violence against women; strengthening of the state capacity and training for state agents that address violence which includes a gender perspective; and documenting and compiling data on victims and aggressors (Walsh, 2009).

Being a signatory of CEDAW and UN declaration Pakistan and many other signatory states of the world are obligated to provide effective judicial protection to the women victims without any bias on the bases of their sex. The four major sequential duties of the state to protect women from gender based violence are deterrence, enquiry, punishment and reparation of any human rights violation in order to stop impunity (IACHR, 2011).

There is always a link between discrimination and violence. So the states has to modify the social as well as cultural patterns controlling the conducts of men and women to terminate prejudices, inferiority and superiority complexes on the bases of sex including taboo and stereotypes related to men and women (IACHR, 2011). Discrimination against women is a universal phenomenon and the violence on women is a product of society which promotes domination of men by justifying it by using concept of women's biological inferiority. This attitude from the society can be traced to family and then it spreads to all the institutes of the society effecting state and the

judicial institutions by making them incapable of women's empowerment. The socialization process which starts in the family compounds violence and discrimination against women. Family is the basic institution that breeds discrimination and violence against women which later on manifests in all other institutions of the society by those individuals who formulate collectively that institution. The Constitution of Pakistan does not define term discrimination but it prohibits discrimination in all forms on the basis of gender. However, discrimination exists in male dominated society and women are forced to obey many tribal and traditional customs by their male family members (Abbas & Riaz, 2010). Violence against women in the form of physical, sexual, or psychological violence and abuse is more commonly seen in countries where the level of gender equality is comparatively low, traditional gender roles are practiced, and communities have high unemployment rates and low social cohesion (Ali., Krantz & Mogren, 2012).

All humans in their rights and dignity are free and equal. These were the words of Universal Declaration of Human rights, but unfortunately most of the women all around the world are still struggling for their basic rights as humans. We all want a peace full world for women where they are not degraded due to their sex, where the birth of a baby girl is cherished and enjoyed, where women are benefited and respected equally like men at work place, where women are not treated as "others" in the public domain, where right to education, health and freedom are entitled to them. It is about respecting everyone, every day and everywhere in the world.

It is the state's responsibility to ensure all this through policies, laws and practices. Our own awareness and support of the women's human rights is one of the

way of enforcing them. However the government are responsible and accountable for the practical implementation of women's legal rights (Ltha, 2000).

Normally the judicial institutions reflect and mirror the socio-cultural patterns. Most of the legal agents like police officers, lawyers, judges and prosecutors are strongly influenced by these cultural and social practices, stereotypes and assumptions which detract them. This can be seen usually in the form of re-victimizing the women victim by blaming her sexuality and character as the cause of crime against her (IACHR, 2011).

Qualitative studies internationally present an in-depth understanding of violence towards women the consequences vary depending on the notion of gender equality, masculine norms, and other cultural norms, as well as socioeconomic progress. Violence against women may stay misunderstood because women either interpret the violence imposed on them as a part of normal daily life or they do not know where to seek help. Women may also hide reporting to violence due to social stigma. Worldwide violence against women also prevents her from taking equal part in economic and social life, and as a result, rather few women hold decision-making positions in society (Ali, Krantz&Mogren, 2012).

Pakistani women are responsible to rear children, do domestic work, behave submissively and submit to husband and his family, and it is normal for husbands and his family in Pakistan to restrict women's reproductive autonomy and limit her rights and decision-making power. Somehow better educated women are in a stronger position, given that it is more probable that they have a professional career, but such privileged women are just a small minority of all women living in Pakistan (Ali, Krantz&Mogren, 2012).

Female victims of exploitation are trapped in a society where violence from a partner or other family members is regarded as acceptable, where divorce is not a choice for the



majority, and where social support for women is restricted and limited (Ali, Krantz&Mogren, 2012).

Gender based violence against women is worldwide concern, that is badly influencing the fragment of the society. Women are being violated in all parts of the world most of the times by their male counterparts in the disguise of fathers, brothers, husbands and sons. Women usually bear a lot of violence and stay quite just because of the fear of being stigmatized by the society and to protect their family's honour. The violence against women folk is a human rights violation and must be eradicated. Countries all around the world have made laws, policies and treaties to combat this situation against women (Nnadi, 2012).

This cause of violence is basically rooted in unequal power relationships between men and women justified by the patriarchal set up of society. This gender based violence is common in almost all parts of the world. This violence includes physical, economic, social, psychological and sexual abuse. On 25<sup>th</sup> December 1999, the United Nations general assembly has declared 25<sup>th</sup> November every year as the world wide international day of elimination of violence against women. It is the basic human right to live free of violence but still millions of girls and women suffer from violence. Women are raped, murdered, beaten, and burned all around the world with impunity. Violence against women is not an isolated phenomenon, indeed it is a multidimensional problem. It is the by-product of a social setup in which the violence against women is tolerated, as generations of them are the victims of discrimination and inferior treatment due to their sex. That is why the state has immunity for this problem. The role played by different societal institutions is influenced by the social

and cultural patterns pervasive throughout the society. The entire environment of the society is conducive to belittle and discriminate women (IACHR, 2011).

Many institutions like family, language, literature, education, mass media advertising and many other uses discourse and effects ideologies of people which shape up the behaviours of man and women resulting into cultural patterns that indorse inequality. These social and cultural practices reinforce gender roles and stereotypes which are oppressive toward s women. Honour is the core cause related to sexual violence (IACHR, 2011).

It is the duty of the investigative team to resolve the case in such a way that the society should reject the discriminatory attitude and violence against women. The state is responsible to provide confidence to women victims by strongly securing her rights. Victim should be given confidence regarding the judicial system. Re-Victimization of victim should stopped. The remedies and the privileges are ineffective until and unless they are properly implemented. It is the legal right of women victims that degrading practices during the justice quest has to be stopped for the improvement of women's legal empowerment. This general attitude by the state and the legal institutions promote the conducive environment for gender based violence as the willingness by the state to support legal rights of women is invisible. This is the duty of a state to set an impartial and independent tribunal for proper compensation of the victim. The judicial remedies also include ensuring clarification of the truth of what actually has happened to the women victim. The investigation of the case must be according to the set international standards and should be thorough, quick, neutral and serious. Otherwise that state is answerable to the international community when it fails to comply with its duties and international human rights.

Same is true about allowing any individual of state to violate the rights of other women, the state is responsible to take vigilant actions and needed measures to discourage these types of practices in the society (IACHR, 2011). The police station is the most known and accessible place women can easily approach for crimes against them. Usually in some states of America the legal agent in police stations and the public prosecutors are specializes and well trained to deal with the crime against women (IACHR, 2011).

Now the question arises that what is the government of Pakistan doing in order to improve the conditions of women in Pakistan. It does criticise the traditional practises and customs that dehumanise women. Because of the increasing awareness among the world community regarding women rights abuses in Pakistan, the government is taking some serious steps to improve the conditions of women rights (Babur, 2007).

Similarly the enlightened groups of both men and women who believe in equality of all humans are trying to raise their voice against the deeply rooted discriminatory social system. As a result of their hard work and endless struggle we are successful in providing certain laws to women, which can provide them security and can protect them from the gender based violence. Particularly three major recent legal reforms are selected by the researcher.

Women in political parties and in successive governments always undertook bold initiatives. They faced enormous challenges and tough resistance from various quarters whenever they tried to make some legislative contribution in legislatures. Women's rights activists have been waging a glorious struggle for realization of women's equal status and rights in society since long through agitation on streets,

research and advocacy and through extensive lobbying with decision-makers and legislators (Aurat Foundation, 2011).

As a result of their hard work and endless struggle we are successful in providing certain laws to women, which can provide them security and can offer them restitution from the gender based violence. Particularly three major legal reforms are selected. The research exclusively focuses on these three major legislations regarding women rights passed in few last years in Pakistan. These legislations include the following acts

- Criminal law act 2010 against harassment.
- Acid criminal amendment act 2011.
- Anti-women practice act 2011.

The majority formulator as well as providers of law and justice are male and are the part of the same patriarchal social system. From politicians to judges women are viewed as inferiors (Babur, 2007). Therefore intensity of law is diluted as its text is androcentric resulting in its improper implementation and threatening women who demand these legal rights. The whole legal machinery is declined towards the male dominant agenda. The social system is designed in a way that it discourages women to be treated as equal and to practice her life as equal citizen like men. This increasing violence against women is a clear symbol of failure to protect them from malpractices and crimes. The law and order institutions are ineffective to protect women and the whole process of legislations and implementation requires serious analysis. So that gender crimes should not be silently accepted and should be curbed effectively.

The government of Pakistan makes policies to protect women rights but the problem is that law enforcement agencies such as judiciary and police do not follow these policies wholeheartedly (Babur, 2007).

Women in Pakistan have faced formidable challenges in their efforts to achieve gender equality and address gender-based violence in their country, with particular problems posed by elements among customary norms and practices. Yet throughout the past few years, breakthroughs in pro-women legislation have shown that both the efforts of Pakistan's government, and the advocacy of groups working toward women's empowerment in the country, are taking effect (UN Women, 2012).

A year earlier the Prevention of Anti Women Practices Bill became part of national law, explicitly recognizing practices from acid violence and forced marriage to so-called 'honour killings' as criminal acts, and affording protection and legal action for victims.

The Acid Control and Acid Crime Prevention (Amendment) Bill was passed in the Senate on December 2011, and for the first time gives guidance on how the State should punish offenders and support victims of this violent gender-based crime. Women are also now better protected from sexual harassment in the workplace and from domestic violence, since Acts on these issues were passed in 2010 and 2011 respectively.

These breakthroughs in law, and the advocacy surrounding them, have shown that there is commitment to securing women's empowerment in Pakistan at every level. With further monitoring, support and the empowering of women's networks, these triumphs will hopefully translate into real and concrete change for women in Pakistan. But in practice Women and girls continue to be denied of their rights and deprived of a life of dignity. All rights remain fragile, vulnerable and incomplete unless every person enjoys them equally without discrimination (UN Women, 2012)

The women victims of sexual violence encounter in endeavouring to get access to adequate and effective justice. They also represent a failure on the part of the States to honour their obligation to act with the due diligence required to prevent, investigate, prosecute, punish and redress acts of violence committed against women. The obligation to respect, protect and comply with the CEDAW also means ensuring that women victims of violence have recourse to affordable, accessible and timely remedies (IACHR, 2012).

The IACHR recognizes that the road that a woman must travel to file a complaint of sexual violence is fraught with difficulty and will re-victimize her repeatedly. The IACHR recognizes that the road that a woman must travel to file a complaint of sexual violence is fraught with difficulty and will re-victimize her repeatedly.

In many countries, rates of violence against women are rising faster than the rates of violent crime in general. The crime rate against women in Pakistan is still increasing as Pakistan has been declared as the third most dangerous country for a woman to live having Afghanistan on the top. Pakistan is a country where historically women face gender crimes such as acid attacks, honour killings, child marriages, rape and domestic violence instead of efforts by governments to grant more rights by amending certain laws. Governments and politicians have been proven lethargic and have failed in this regard. Brutal tribal customs — burying young women alive or murdering them is acceptable punishment for disobedience and free will (Thomas Router's Report, 2012).

Discriminatory socio-cultural patterns persist that perpetuate violence against women and have a direct negative impact on the officers of the court and law enforcement personnel, thereby impairing the right that women victims of violence have to avail themselves of the remedies of justice. Then, too, structural obstacles in

the administration of justice prevent women victims from getting adequate, just and timely responses to the acts of sexual violence they experience. In this kind of scenario where from politicians to judges women are viewed as inferior, it can be easily analysed how the women would be living their lives. Fear, lack of security and justice, oppressive policies are all structures established by this patriarchal society which keep the position of women as subordinate to their men. As senior leader of the ruling political party, Mushahid Hussain rightly expressed while discussing violence against women, "These are a feature of Pakistan feudal society, they are not part of any government policy or a consequence of any law it is a long standing problem in a feudal society that unfortunately happens to be male-dominated and also in certain part male chauvinist" (Amnesty International, 1999, p.38). Struggling for women's rights is also a struggle against these structures, which means a resistance against the existing societal setup too. All these factors are interconnected. One change in one factor will determine the change in the entire setup ultimately and the male dominated society is currently not willing to face these challenge hindrances, women in Pakistan are making their progress. At least, this word "women's rights" exists in national print or electronic media (Babur, 2007). Legal empowerment programs have proliferated in recent years. The legal empowerment approach seeks to build the capacity of citizens and communities to enforce their rights through legal and administrative procedures. These programs generally combine activities including the dissemination of information on legal rights and procedures, community based trainings, legal counseling and paralegal services, community organizing, advocacy, and even efforts aimed at reforming laws and legal institutions (Ladner, 2009).

According to World Bank in a broad sense empowerment is the expansion of the freedom of choice and action (Golub, 2003). In my research women's legal

empowerment includes, Legal empowerment of women in Pakistan is both a process and a goal. Its aim is to reduce and eliminate gender based violence. Legal counselling, enhancing awareness in people about women's rights, rehabilitation of women victims, ease in filing case, gender sensitization in legal agents.

Legal empowerment works best in the presence of an effective and active civil society. The concept of legal empowerment is a recent phenomenon that has gained popularity with the formulation of the "Commission on Legal Empowerment of Poor". Initially it was established to provide economic security to the poor and other oppressed sectors of the society under the supervision of UNDP and UN. To provide positive results it requires workable and implementable strategies to improve the status of poor as well as discrimination against women. For legal empowerment it is important to have a clear picture of social, legal, political and economic conditions of a particular area (Hayat & Ahmed, 2008).

Some of the organizations serve as donors for NGOs that try to provide legal assistance to the poor. The actual experience of the poor consists of a lot of other issues that as a matter of law or strategy are usually handled outside the court. Even a flawed judicial system offer chances for the marginalized sector to settle some of the disputes by courts (Golub, 2003).

The victim's standpoint is very important to evaluate the compensations and reparations representing the efforts of state and society to remedy the harm she has suffered. The women victim's stand point is crucially important as their subjective understanding represents the value and significance which they attach to the state's reparation. It is the state's duty to respect and appreciate the women victim's standpoint based on their subjective understanding to ensure proper and effective



reparation and compensation. It is why that victim's participation important to ensure her enrolment so that the state can learn what are the needs of victims what she is expecting from the society and the state (IACHR, 2011).

This research will explore the perception of women victims who are experiencing or have experienced the justice seeking process. It will critically analyse the proper implementation of these legal rights and will also peep into the loopholes in the laws from the standpoint of women who are passing through the process or have passed through it. It has explored the personal experiences of the victims regarding the related crimes and what knowledge they have provided as far as the implementation of these laws was concerned. On the basis of their personal experiences what actions can be taken to improve legislations as well as their implementation? However in Pakistan there is conservative socio-legal environment for human rights in general and for women rights in particular (Mehdi, 2010).

To introduce legal reforms in law feminists have given a number of proposals and critiques of law. Feminists have their own definition and technical definitions of doing law. These technicalities are specialized methods that lead towards shaping legal practices and reforms. Feminists are trying to expose the power structure with in law so they cannot ignore the method which defines what counts with in legal structure. Feminists are mostly misunderstood but they try to defend themselves by explaining the methods. To be concerned about methods in law is empowering. All of these methods of law label women as outsiders, who have tried to challenge the dominant legal conventions and to replace them by alternative conventions that are more concerned with women experiences and needs. First of all women are asked questions about their experiences to identify and challenge the existing legal point of views and practices that undermine the disadvantaged and marginalized sector of the

society. The women's standpoint is then used as source of information and data to understand the present scenario of legal empowerment in women of Pakistan. (Bartlett, 1990).

Feminist use the technique of asking women questions in many areas of law. They are asked about their perspective in rape cases. They are asked about their perspective why women are not entitled as prison guards, why the conflict between family and work responsibilities is supposed to be purely a family matter to be resolved within the family rather than a public issue to be resolved by reformation of the workplace. Asking women questions about their perspectives exposes the ways in which the political and institutional arrangements subordinate women. It reveals how the organization of society decides about the position of women in society rather than their inherent characteristics. In exposing the effects of laws and the judicial environment which does not directly discriminates women on the bases of sex rather in indirectly plays its role through the social, cultural and religious disguises that strongly influence the law and judiciary as an institution (Bartlett, 1990).

Feminists when ask questions to women about their experiences regarding law means to look beneath the surface of law to point out the gender implications of laws and the assumptions underlying them and then insist to reform and apply the laws to enhance legal empowerment of women (Bartlett, 1990).

The founder of the feminist standpoint theory Dorothy Smith centralized her attention on the experiential nature of the feminist standpoint but Alcoff (2014) referred to feminist identity as discursively positioned. Alcoff associated it with Foucauldian materialism in which he subjective understanding is the result of habits, practices and language. Women are considered as outsiders in the legal domain, the

legal institution must use those methods in legal setups which are more concerned with women's need and personal experiences (Bartlett, 1990).

The existing rules and regulations over represent and support existing power structure value rule flexibility and do not identify the point of views. According to the feminists the laws are not neutral and rational but usually these are irrational, biased and discriminatory. Asking the women question does not mean to decide in the favour of women rather what it actually means is that it requires the legal agent to find the gender bias and to be defensible in the light of that bias. It requires to be concerned about the facts and figures that are ignored in the history to settle legal disputes regarding women. It emphasises the importance of legal neutrality (Bartlett, 1990).

Women's method of approaching the reasoning process is different from that of men. As a matter of fact women are more sensitive to their surrounds and contexts. They simply do not sync in universal generalizations and principles. The acceptance of this fact by the feminist stream of knowledge has given it the significance of a normative pattern in legal area which is superior in importance to bright line rules. Reasoning from this context of the perspective of powerless is of greater importance (Bartlett, 1990).

The stand point of women victims highlights, how they have conceptualized the phenomenon of legal empowerment through their justice seeking experience. Generally standpoint refers to a way of thinking and perspective which is shaped by structure of power and the social circumstances and interns shape it as well. Women can conceptualize reality which they have faced being a woman leads to a feminist understanding of the world. Women victims have a different experience of the entire process of justice struggle and it is also shaped by contextual variables like their

education, class, origin and economic condition. According to Sandra Harding women stand point and experiences are shaped in a particular social context. The nature of truth and reality embedded in their standpoint is dependent on their contextual reality. Similarly the women victims have their own reality and experiential truth which has strongly impacted their standpoint. Facts based on individual perceptions are of great importance in justice quest. I have explored this women victim's perspective through in-depth interviews. The notion of context relevant to the women of Pakistan and the perspective of powerless has been highlighted in my research. It considers what must be done, how and why it should be done is answered regarding women's legal empowerment in the light of factual context of Pakistan It has not only focused on the resolution of problems but also highlights what is counted as a problem (Rosemary, 2014).

Women's standpoint is a theory of knowledge that identifies the status of women as victims, as a result they are privileged to have an understanding about exploitation and oppression which others lack. This epistemology is linked with the motivation of finding the reasons behind wrong, for criticising the prevailing definitions of reality and developing an unbiased and less distorted and manipulative way of looking at the world. Women's experiences as domestic and marketplace producers, as sexual bodies and as victim of male violence are the sources of their standpoint and feminist epistemology. This standpoint epistemology has a great impact on women's understanding related to the women's position in the society. Catharine Mackinnon has exposed the male hegemony and she has used the women's point of view and the women voices. Being a victim exposes women to special experiences to access truth. They have special knowledge which is extremely useful for the people who want to end the oppression against women. positional is similar

to standpoint epistemology as it also considers that knowledge is based upon experiences. People through their experiences become knowers who have knowledge which others do not have and again no truth is considered as total and final. Because knowledge comes from different contexts and in diverse forms and to enhance your knowledge depends upon in the effort to extend their limited perspective (Bartlett, 1990).

As Dorothy Smith says that it was wonderful to gather women's experiences about their daily lives which later transformed into mainstream exposing them to men. She has developed an alternative sociology which takes up women's standpoint in a way that is modelled on these early occurrences of the women's experiences. Women's standpoint says that society must always be from a position in it and that women are advantaged epistemologically by being members of an oppressed group. Standpoint is integral to the design of what she called "a sociology for women," which has essentially been altered into "A sociology for people."

Similarly the knowledge and the standpoint which the women victims in Pakistan possessed was the explanation of the connection between their lives and the knowledge which was the result of their life time experience. The in-depth interview with the women victims has resulted in exposing the standpoint of these women victims which are the major respondents of the study. Starting from the women's lives can expose the ways in which the women are oppressed and exploited, how they resist it or sometime oppose it, how they exploit other women to protect menfolk (Hennessy, 2014).

The notion of feminist oppression is situated in many aspects of women experiences. Women's participation in production both marketplace and domestic, women's position in sexual hierarchy, in their body and in response to the fear which

they associate with pain and fear by men. Standpoint epistemology has associated respect with the knowledge which women have about the knowledge of society to which they belong (West, 2000).

Women's subjective understanding about their life is different from men. Women's definition of suffering and happiness is different from that of men. The quantity and the intensity of pain and pleasure is different for both genders, women suffer more than men. This difference is due to the fact that both have different perspective and understanding regarding same incidents (West, 2000).

The gender specific suffering which women face is continuously ignored and trivialized in the dominant male legal culture. As women work and product is not appreciated and recognized in the market culture similarly women's injuries and pains are not admitted and compensated in the legal culture. They are out of the scope of legal remedies. They are usually ignored as the dominant legal culture do not care and compensate their suffering because they are disempowered. Hierarchical power imbalance between men and women degrades women to the level of less than humans and the men as ruthless rulers (West, 2000).

Dorothy Smith highlights not only that the standpoint of men is constantly privileged and that of women devalued, her notion is that not all standpoints are equally valued and accessed in society. This clearly reflects Smith's critical/Marxist roots. Smith clearly links her feminism with Marxism. She describes how "objective social, economic and political relations have shaped and determined women's oppression".

Feminist jurisprudence is the concept that explores the influence of law on women's life. Law is considered as a theoretical enterprise effecting women's life.

The feminist lawyers, scholars and activists ask different questions about the meanings and influence of law on women's life. It focuses on how law has been structured and giving no importance to the experiences and needs of women. According to this doctrine patriarchy permeates and effects the legal systems as well its normative orientation has strong effect on the worth of women and treatment with women (feminist jurisprudence concept). It is concerned that whether women's experience is included in the field of law or not (Patricia, 2013). Professor Robin West (2000) has claimed that the present laws are influenced by patriarchy and are laws made by males so the idea of feminist jurisprudence can only work when patriarchy is abolished. We cannot produce a complete theory of law as long as patriarchal dominance continues. But we have feminist critique of existing masculine jurisprudence. We have the tool of feminist deconstruction to expose the male bias in the existing legal system along with feminist litigation to reform the existing legal system. For this counting on women's experience will generate knowledge that can influence the legal theory. According to Gilligan listening to women's experience is important aspect in formulating theories about women. But women are not all the time following the feminist methods based on women experiences for instance women law professors have to rely on the academic legal environment that is normally male centred (Patricia, 2013).

For MacKinnon feminist method means women listening to women. She listened to women's common experience of sexual harassment and built a legal theory out of that experience. Women talked about the job requirements of being physically attractive and sexually available, the survey gave the statistic of 70% women faced sexual harassment at workplace. MacKinnon used this argument to develop a legal theory against harassment at workplace (Patricia, 2013). Following the lead of Carol

Giligan, some of the feminist legal theorists concentrated on the notion of ignoring women voices in the legal domain. All of them pointed out that law is masculine as it reflects the male values instead of women's experiences so the law should value the women's concern as well. Men are different from women and the major difference is that women are subordinate and men are dominating. Mac Kinnon called for a shift in paradigm that should focus not only on the difference in biology, experiences, essences and matters but it should be on differences in POWER. There is an imbalance in power between men and women. The knowledge of reality is constructed from a male's perspective, so women have questioned due to their different life experiences which are totally different from that of men. The women's standpoints are totally opposite to men's standpoint (Patricia, 2013).

In my research I have used the asking question method from women victims through in-depth interviews to collect the feminist standpoint from women victims. The feminist standpoint theory conceptualizes from the vantage point of lives of women. This standpoint is termed as a specialized knowledge (Rosemary, 2014). Standpoint is formulated in association of one's position in society. It is affected by and interns affect the structures of power, work and wealth. It concentrates on the complex material forces that shape up the relationship between social position and the related ways of knowing. According to Sandra Harding, the standpoint is the outcome of women's experiences related to their particular position in a society. Because women's experiences are framed by cultural common sense. It is socially constructed way of making sense of the outside world. Feminist standpoint generates a discourse based on women's knowledge produced by their experiences and effected by the cultural, social and religious factors working outside in the society. Their routine experiences in the society like exploitation for being a woman, sexual violence faced



by them and political silence produces this standpoint. This entire phenomenon homogenizes universally all the women of the world. According to Sandra Harding These standpoint theories look at the world from women's perspective and what is their observation and the consequent theory about the nature and social relations. Rosemary says that the feminist standpoint theory has conceptual resources to define and explain the connections between lives and knowledge. Women experiences and the daily life patterns can expose the ways in which they are oppressed and exploited and how they react or submit to it. Feminist standpoint is kind of systematic analysis which means a perspective that addresses social systems as well as structures of power like patriarchy, capitalism and colonialism and suggests connections between and among them (Patricia, 2013). According to Dorothy Smith the feminist standpoint theory is a conceptualized mode of knowing based upon empirical analysis. Smith has related women's experiences with Foucault's conception of discourse accordingly women direct experience is the source of feminist knowledge. Alcoff (1990) discussed women's identity in terms of positionality, discourse and location. He (1990) sees women's lives a point of departure related to feminist knowledge which sees as discursively positioned rather than an experiential subject (Patricia, 2013). He (1990) has supported the concept of Foucauldian materialism in which subjectivity is influenced by habits, practices and language. According to him, being a women means to take up a position with in a changing historical context and to have the ability to choose what to make out of this situation and how to alter the context. The abilities of women to depend again on the context and their historical position with relevance to the context and social positionality.

I have tried to explore the stand point of women victims on the ground of their direct interaction and dependence on the legal structure and the legal frameworks. The

in-depth interviews are organized to identify their concept about legal empowerment which is associated with the introduction of new laws and acts in Pakistan. The details of their standpoints have been admitted as discursively positioned, which is analysed by using the Foucauldian analysis to disclose the power relationship phenomenon deeply embedded in social, cultural, religious and contextual roots.

Asking women question about the law is very common practice in legal institutions. The legal barriers which women face due to being women were already a part of debate, so it was obvious that they are ignored by the legal setup but question is whether this biased practice is justified in the name of women's different role and characteristics (Bartlett,1990).

Within the American judicial system Myra Bradwell (1991) was the first one to ask women's question regarding women legal rights. Now the days the feminist ask the women question in many areas of legal rights for women. Asking the women question which is a practice to disclose the patterns in which the political choices and structural institutional arrangements directly participate in women's oppression and exploitation (Bartlett, 1990). It reveals how the organization of the wider societal setup put them on a vulnerable edge. This is not due to the inherent characteristics of women rather due to the social and political from work of the society, and the intensity of its dimensions varies from society to society. The present research is an attempt to explore all these dimensions in the legal institutions of Pakistani society. Asking women of the Pakistani society the questions to disclose the bias in the Pakistani societal setup. It's a common understanding that the legal precedence is associated with maintaining the status quo instead of recognizing the new rights of the marginalized.

Usually the law is not gender neutral. Women face oppression in legal institutions which is made invisible due to power structure and being a woman alone. These experiences are different from gender discriminations in its kind and degree and only those can recognize it who has experienced it (Bartlett, 1990).

Discourses are collective form of knowledge due to its association with social areas and fields it starts from individual reality and then transforms in to social realities. This discourse has its micro, meso and macro dimensions of knowledge. His methodological considerations have given birth to another area of empirical research (Graham, 2005).

Foucauldian discourse analysis stages, Carla willing 'according to Foucault discourse can define objectivity through an array of subjectivity. It gives importance to experiences and subjectivity is also concerned with the role of discourse in wider social processes of legitimization and power. They are strongly involved in exercise of power. Dominant discourses privileged those versions of social reality which uphold existing power relations and social structures. Foucauldian discourse analysis can be carried out on any symbolic system. Consider all tissues of meanings as text. It is not the method of data analysis in simple sense rather it helps us to link how individual and social realities are constructed (Graham, 2005).

Gramsci has also given the concept of hegemony to conceptualize the intricate relationship between knowledge and power. In the concept of hegemony ruling group comes to dominate by creating a cultural common sense that does not question the set values and beliefs in a society. This power of cultural common sense is diffused through discursive articulation. The concept of articulation is an important feature of hegemony. These cultural common sense agenda is the prevailing regimes of truth in

a society. The idea of hegemony and the systematic social theory can easily explain the relationship between women's life and perspective and between knowledge and contexts. Perspectives regarding the women's life are located in both within and anti-hegemonic knowledge. The perspective associated with feminism claims to be based on truth and a possible vision of possibility which is against the socio-cultural hegemony. This anti-hegemonic stance declares that patriarchal regimes of power do give dominance and importance to men over women (Graham, 2005).

Whenever the culturally hegemonic discourses exist, there is always room for counter discourses. The concept of articulation (vocalization) can best explain contradictory discourses. Micheal Pecheux theory of discourse elaborates the technicalities in hegemonic culture. Pecheux has designed the concept of inter-discourse to describe the inter-textually of discourse. Inter discourse is based on two features the pre-constructed and the concept of articulation. The pre-constructed discourse is always and already there conveying the cultural common sense but articulation represents the discourses produced by subjective understanding. The inter-discourse serves as homogenizing force between these two features. The pre-constructed serve as strong frictional force against articulating existing hegemonic discourses. The always already there which is the pre-constructed always tries to maintain and support the hierarchical social and cultural set up. In this way the hegemony dominates the cultural and social formations of discourses. Heterosexual and patriarchal organizations have strongly shaped sexuality in capitalist society. Imperialism, heterosexuality and patriarchy continue to influence the life of people in a systematic and oppressive way (Graham, 2005).

Smith gave the concept of bifurcation of consciousness in which she has separated the feminist and gender theories (dominant view) from the actual life experiences of women. She talks about sociology of women which is rooted in the practical experiences of day to day life. Her sociological discourse is based on truth and faithfulness to herself to women's experiences and to all the people including men and women.

Of course, bifurcation of consciousness reflects Smith's own experience of living in "two worlds": the dominant, masculine-oriented, "abstract" world of the sociologist, and the "concrete" world of wife and mother. Smith emphasizes that in modern, Western societies, social domination operates through *texts* including as medical histories, census details, psychiatric evaluations, employment records that facilitate social control. Thus, Smith describes relations of rulingas including not only forms such as "bureaucracy, management, administration, professional association and media," but also "the complex of discourses, scientific, technical, and cultural, that intersect, interpenetrate, and manage" them. Smith maintains that behind and within the "outwardly neutral and impersonal rationality of the ruling apparatus" is masked a "male subtext." Women are "excluded from the practices of power within textually arbitrated relations of ruling". Thus, for instance, official psychiatric assessments replace the individual's actual lived experience with a means for understanding it; the individual becomes a case history, a type, a disease, a syndrome, and a treatment possibility.

Smith suggests that because sociology too trusts on these same kinds of texts, it too is part and parcel of the relations of ruling. The subject matter and topics of sociology are those of the ruling powers. Sociological knowledge obtains its shape less from actualities and the lived experiences of real individuals than from the

welfares in control and regulation, by the state, specialised associations, and bureaucratization.

Most important, Smith does not just disapprove contemporary, “masculinist” sociology; she gave an alternative to it. Inspired by Marx’s historical realism but also drawing on ethno-methodology considers that practical actions, practical situations, and practical sociological reasoning must not be taken for granted but rather be topics of empirical learning. Smith advocates a “sociology for women” that begins “where women are situated”: in the “exactitudes of an actual, everyday world”. Smith’s sociology for women purposes not to “convert persons into objects” but to “reserve their presence as subjects”. She argues that the “only way to a realistic telling that does not honour the perspectives arising in the sites of her sociological project and her contribution in a sociological discourse is to obligate herself to an investigation that is ontologically true, faithful to the presence and activity of her subjects and faithful to the facts of the world that arises for her, for them, for all of us, in the continuing co-ordering of our actual practices (Appelrouth&Edles, 2010).

Smith calls her particular approach institutional ethnography. Institutional ethnography is a method of clarifying and examining the relationship between everyday activities and experiences and larger institutional necessities. The term “institutional ethnography” obviously couples an importance on structures of power (“institutions”) with the micro level practices that make up everyday life (“ethnography”). Smith tries to say that it is in micro level, every day practices it is the individual level that shapes collective, hierarchical patterns of social structure (Appelrouth&Edles, 2010).

The term “institutional ethnography” openly reflects Smith’s double emphasis on collective structures of ruling/the institutionalization of power and their actual mechanisms at the level of the individual in day to day life.

So, too, the term “standpoint” reflects Smith’s dual rational and non-rational approach to action and individual and collective approach to order, in that “standpoint” denotes both our objective (rational) position and our subjective (non-rational) position in the (collective) societal hierarchy, and to our exclusive real (individual) situation. (Appelrouth&Edles, 2010).

There was no developed discourse in which the practises that were spoken initially as everyday experience could be translated into a public language and become political in the ways distinctive to the women’s movement. We began to identify the phenomenon of “oppression,” “rape,” “harassment,” “sexism,” “violence,” and others. These were terms that did more than name. They gave common experiences a political existence (Appelrouth&Edles, 2010).

Patricia Hill Collins has also tried to explain the relationship among empowerment, self-definition and knowledge. She has risen above her own feminist experiences and has challenged the concepts of oppression and identity to expedite the notion of continuous positive change for women in society. She is known by her black feminist epistemology. According to Collins, epistemology is the study of knowledge but the concept of knowledge is very straight forward, knowledge is basically what we know. Human knowledge is a disturbing phenomenon because we do not exactly know what knowledge is, from where this knowledge comes from and how we can validate this knowledge. Knowing and knowledge are not as simple and straightforward as they seem. Knowledge is an outcome of one’s experiences and assessment of knowledge I the direct assessment of one’s ethics, character and value.

The oppressed and marginalized group needs some special space where they can freely express themselves apart from hegemonic and dominant ideologies. Collin (2000) has untangled the relationship among knowledge, power and empowerment (Allan, 2013).

This research thoroughly examines the women victims' adequate access to justice in the case of gender based violence in a strongly patriarchal society. The investigation of women's legal empowerment in Pakistan is done by focusing on the standpoint of women victims due to their practical knowledge about the justice seeking process. This knowledge has a discursive reality which is analysed by using Foucauldian analysis. Women in Pakistan have been granted many legal privileges from the state but the actual measuring road for assessing the level of women's legal empowerment which is done here by using the knowledge of women victims based on their perspective and standpoint formulated as the result of their experiences during the justice quest. The gap between theory and practice is determined by using the notion of standpoint and positionality. All the changeless faced by women victims in Pakistan's courts are exposed to by using the standpoint of women victims by asking them question and conducting in-depth interviews. They have pointed out the obstacles and challenges they faced which represents the failure on the part of Pakistani state and the legal agencies to honour their duty to take strong actions to guaranty full enjoyment of legal rights. As the pro-women laws are providing judicial and legal remedies to protect the women of Pakistan from gender based violence.

The stand point theory has two parts one represents standpoint as epistemology and the other denotes stand point as social analysis. Stand point theory emphasises on the nature of knowledge whereas standpoint as social analysis says that



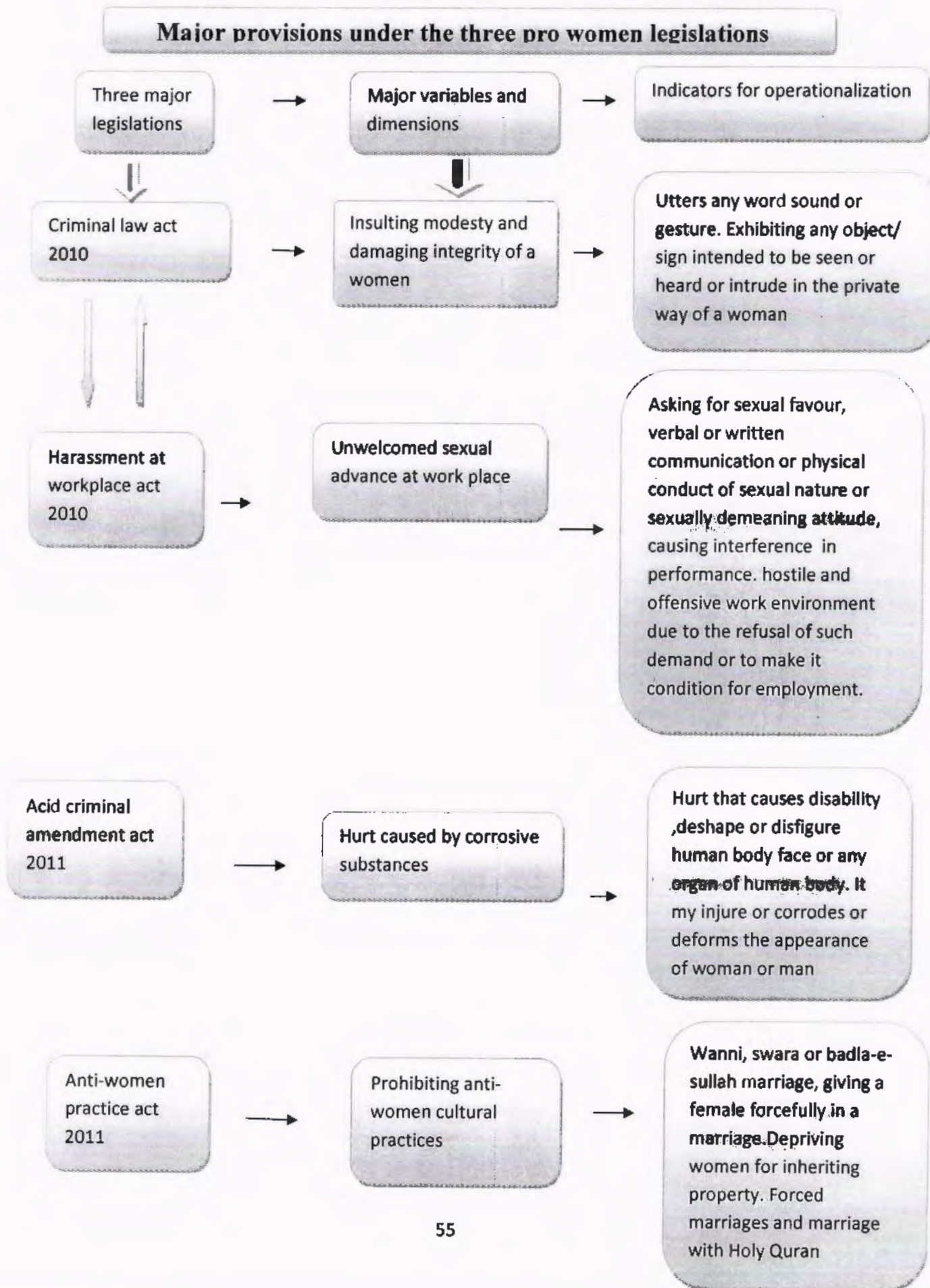
some of the knowers have privilege access to knowledge basically tries to focus on the truth of epistemology.

A lot of Women are entering into the law schools, their perspective is changing the curriculum of law schools. Yet we need more women to participate in the legal domain. As the laws all around the world are blamed to be oppressive it can play a strong and positive role in the liberation of women and other marginalized groups. Only 10% Women in country like America constitute the out of all law students. The change in the curriculum of the law school has a key impact on law schools. An increasing number of schools now offer the course of "women and the law". The New York university law school was the first one to introduce this course in 1969. Law students are given training with attorneys and legislators who are expert in handling sex discrimination problems. The courses on women and law serve as uniting and organizing women lawyers (Epstein, 1993).

In West women have made progress in developing legal rights against the gender based oppression. In Europe women are given more legal rights than in West but less see to have changed the laws are made but are put aside (Evason, 1985).

Women's perspective is usually different from men as their reasoning process differs from that of men. According to them women are sensitive than men to situations and contexts. Normally women resist universal generalizations and principles, basically their understanding about the practicalities of life which should not be ignored for the purpose of abstract justice. Facts based on individual perceptions are of great importance in justice quest.

Figure.3



and the reaction of patriarchal social structure with respect to women's legal empowerment

### **3.2: Research Design**

This present research has tried to gather the primary data related to the experiential reality of women victims in terms of the legal privileges provided to them and then the customary and cultural barriers that create friction in the way of social change. It has clearly explained the entire justice orientated actions of women and the in-depth details which are involved during the whole process in a society which is strongly male chauvinist. The data that has been collected from the women victims involved in the legal procedures of justice seeking quest has been analysed to recommend improvements on the basis of women's standpoint who have faced the entire process and are aware of the hidden and unexposed intricate details involved in the way of women's legal empowerment. Their perspective has been recorded which is formulated as a result of the practical advances made by women victims to fight for the crime done against them. This perspective or their standpoint was shaped from the first stage of deciding to file the case, the process of filing the case, duration of the case, the help and support provided by the legal agents till the last stage of decision and the implementation of this decision.

Their stand point which was the outcome of the societal practices was written down in detail to formulate a discourse and then this discourse was analysed by using the Foucauldian discourse analysis to understand the power play embedded in the entire justice seeking practices in our Pakistani society.

Within the domain of social sciences the research can use positivist and anti-positivist style which is synonymously used as quantitative or qualitative research

methodology. The debate of positivism which believe that social sciences are same as natural sciences and anti-positivism is a commonly associated with the contextual reality of a phenomenon. The two research methodologies perform quite different. This debate in social sciences started in 1970s (King, Keohane & Verba, 1994) and it has divided the social sciences into,

1: Quantitative systematic generalizing branch.

2: Qualitative humanistic discursive branch.

However neither qualitative nor quantitative is considered superior to one another (King, Keohane & Verba, 1994)

Now a days the both approaches are considered important for the authenticity of a research and the richness of data can be enhanced by using the combination of both methodologies most commonly called the mixed method of research or triangulation (A levels book).

The quantitative research is associated with positivism. According to Gall, Borg and Gall (1996) physical and social reality is independent of those who observe it. It focuses on the objective reality which is out there to be discovered (Krathwohl, 1998). The quantitative research is independent of which is being researched (Creswell, 1994).

The quantitative research makes use of numbers and its emphasis is on statistical analysis. Its goal is to numerically measure specific aspects of a phenomenon which is under study. It tries to have a general description (Gall, *et al.*, 1996).

In the case of the qualitative research it is more concerned with post-positivism. According to which the social reality is constructed and it is constructed differently by different people (Gall, *et al.*, 1996). The qualitative researchers assumes that the reality is constructed by the participants and in the local settings. Qualitative research is concerned how the respondent perceive the world around them. The qualitative research is a systematic activity to record the things in their natural settings. It tries to explain and interpret different phenomenon in terms of the meaning which people understands and allocate to them. (King, Keohane&Verba, 1994)

Qualitative research is defined as an interpretive research by Ericson (1986). The aim of this research is dependent on the conceptual frame work of the research and develops understanding (Maxwell, 1996; Bogdan&Biklen, 1998), depiction (Kratwohl, 1998) generation of awareness (Gall, *et al.*, 1996) and giving voice and empowerment to the disregarded in society (Cherryholmes, 1993). The developing theory which is the product of the qualitative research depends upon the expressions and replies from the respondents.

A qualitative research is an explanatory and emic perspective (Shulman, 1986). It tried to get meanings constructed by the participants as they make sense of the situations they both come across and create. According to Deniz and Lincoln (2003) the qualitative research is more associated with accepting the meanings which people attach to their principles, morals, choices and actions according to their social context. All the approaches regarding the qualitative research require no numerical measurements and the main focus is on one or small number of cases (Gall, *et al.*, 1996). Even though they have small number of cases they generate a large amount of information. Qualitative research may acquire the needed information and enriched data by employing in-depth interviews, focused group discussion, historical material,

discursive method or comprehensive details of a unit or event (Ritchie, Lewis, Nicholls & Ormston, 2013).

Sometimes the qualitative research is done to have in-depth information and knowledge about an area or a case study associated with particular occasions, judgements, institutions, location, topics and portions of legislations. Qualitative research embraces a number of characteristics as firmness, levelheadedness, consistency and trustworthiness (Morrow, 2005)

The nature of the present research topic required an in-depth investigation from those women who were the victims of different gender based crimes and their experiences with their own understanding of the entire justice struggle. These women are chosen to have a clearer picture of the women's legal empowerment associated with these pro-women laws in Pakistan. The purpose of the present research was fulfilled by using the qualitative research design in social sciences.

The qualitative methodology has been found useful to meet the objectives of the study which is a scientific way of approaching the subjective understanding and revealing the life experiences of women victims and the meanings which they associate with them. This research design has been chosen to enhance the diligence and thoroughness of study. Initially I decided to record data from the women victims under each section of the three acts but during the collection of data I found it almost very hard to find these kinds of women in our society who have gone for legal assistance and have formally initiated a case against the crime done to them.

### **3.3: Research Tool**

In-depth interviews are used as a method of qualitative research design to meet exactitude and precision. It is a technique in qualitative research that is based on conducting intensive personal interviews with a small number of people to discover their perspective regarding a particular incident, event, impression, situation and phenomenon. These interviews are useful if want to have data about the personal perspectives of people based on their thoughts and behaviour to discover new issues in depth (Boyce & Neale, 2006).

According to Patton (1990), qualitative research employs interviews, written document and observation method. These in-depth interviews are used to inquire the experiences and the viewpoints of women victims in the justice quest. By using the qualitative design and in-depth interviews the phenomenon of women's legal empowerment will be recorded and measured. It will try to obtain the vision and will expose the richness and complexity inherent in the legal phenomenon (Boyce & Neale, 2006).

The personal experiences, observations and understandings of women's victims related to their actual process of the women's legal empowerment in Pakistan is recorded and then analysed to measure the level of this legal empowerment associated with the pro-women laws in Pakistan. It explores the laws and their effect on social change with respect to women's legal flight in Pakistani context.

### **3.4: Sampling Technique**

Sampling is a method of data collection. A sample is a sub group of population. According to Berinstein sample is a representative “taste” of a group. Lohr Says that representativeness is a quality of a sample as it should have the characteristics of known number of units in population (Latham, 2007).

The phenomenon of women’s legal empowerment in Pakistan is measured through the practical implementation of these laws. All the women victims falling under these three acts were the population of the study and the women victims who have experienced the whole legal process are used as the sample unit of study (Latham, 2007).

The sampling technique is the combination of purposive and snowball sampling. Both techniques belong to non-probability sampling method, in which we aim to construct a sample that can generate the most useful insight related to a study’s particular focus. However, generalizability is not possible because it relates to a particular segment in society and is relevant to only those segments. In purposive sampling respondents were selected on the notion to meet the purpose of research. The research has also gathered data from the associated personals like judges and lawyers to have clearer picture of the phenomenon. These lawyers and judges are selected through purposive sampling to gain first-hand knowledge about the implementation of the selected pro-women laws. Snow ball sampling is used to build a sample on the bases of contacts suggested by other participants (Lynch, 2008).

Women victims are selected through the snow-ball sampling technique to get the data regarding the actual process and the real scenario of women’s legal empowerment after these pro-women laws. Like in the present research the lawyers



and the judges are asked about the implementation of these pro-women laws and the women victims are enquired about the justice seeking process leading towards women's legal empowerment in Pakistan. Each respondent is a women victim who has filed the case under a particular section of the selected acts.

### **3.5: Introduction of Respondents**

The data was collected from my four respondents to have their standpoint related to their experience of justice seeking and women's legal empowerment in Pakistan. Their standpoint was the outcome of their whole experience during the practical involvement with the legal institution. Exploring their perspective and having the detailed standpoint of women victims introduced me with their experiential reality. Their Standpoint and perspective was the outcome of their experience. The experts of the profession the lawyers and judges were also inquired about their Sandpoint regarding the phenomenon of women's legal empowerment in Pakistan.

The whole data which was the combination of the standpoints from women victims and the perspective of the lawyers and judges was then analysed by using the Foucauldian analysis which was utilized to understand the power play embedded in the discourse generated by the respondent. It is form of discourse analysis focusing on power relations in society as expressed through language and practices. Making practices material and discursive at the same time. How the social world which is expressed through language is affected by various sources of power. Discourse is culturally constructed repartition of reality.

### **Respondent No 1.**

Rabia Hayat is the first respondent who has filed the case against harassment at workplace. I was referred to her by a female lawyer (Ayesha Gaan) who initially worked as her lawyer to fight her case in court. The lawyer gave her contact and I asked her to give me some time for the purpose of research. I met her in her home twice for her interviews and we had telephonic discussions also. She discussed in detail about all the legal process and the difficulties and obstacles faced by her. She also talked in detail about the motivation behind this entire legal struggle.

### **Respondent No 2.**

The second respondent Shahnaz Khan was a victim of harassment at a public place. I met Shahnaz in a lawyer's office Mariam (who was one of my friends) Shahnaz was an educated woman and was aware of the law. She filed the case in Police station against the culprit who physically abused her on a public place just because she had refused his proposal. But unfortunately she could not make for justice and took back the case in the pressure of her family.

### **Respondent No 3.**

The third respondent Shagufta Waseem was an acid attack victim and has filed the case under acid criminal amendment 2011. Her case was taken to court by a female lawyer Mrs. Sarfraz Abbass. I interviewed Mrs. Abbass in her office and she referred me to an acid attack victim Waseem. The lawyer Mrs. Abbass helped her to take a stand and she along with her team stood by her client. Her strong argument and technical legal skills convinced the judge to decide in the favour of Waseem and gave the verdict that the acid attack is a crime that will be heard in anti-terrorist court.

## **Respondent No 4.**

My fourth respondent Anella was a young woman who belonged to a poor family. I approached her through one of my family friend. Shaghufta was working as maid in her home. I asked her that I want to have her interview. The interview was done at my friends home I met her three times to complete the interview. After the death of Shaghufta's husband she was forced to leave her husband's home and her son was also snatched by the in-laws. She filed two cases at a time with the help of a male lawyer and took the custody of her son and stay order for the property of her husband.

### **3.6: Ethical Concerns**

Ethics are concerned with conducting balanced and meaningful research (Walter, 2010). Ethical concerns are related with research sophistication. The Ethical Standards of American Educational Research Association (AERA) states ethics in research involve being conscious of the respect, dignity, privacy and the sensitivities of the respondents. No matter the researcher is a psychologist, anthropologist or sociologist, it is the primary responsibility of the researcher to obtain their consent, protect them from harm and ensure privacy (Walter, 2010). It needs a lot of care to handle the women victims who have been the target of gender based violence. The researcher is basically an outsider in the life of these women victims and he/she should respect their verdict to share their experience with him/her. The basic ethical principle of research is that researcher must protect the rights, wellbeing and dignity of the participants. A researcher must fully be equipped himself/herself with ethical guidelines and principles before starting research (Stroebe&Schut, 2003).

Consent in research involves the method in which the respondent may or may not choose to participate in research for providing data (Walter, 2010).

The data was collected from the respondents on their consent and approval to participate in my research. I informed the women victims about the objectives of my research and promised to use the information just for the purpose of my research and their personal identity will be kept confidential. For the ethical concerns of research the respondents were first told about the purpose of research and their actual names have been changed into pseudo names for the purpose of maintaining their confidentiality. Formal appointments have been used to get quality time from the respondents to get vivid and detailed insight into the phenomenon of women's legal empowerment in Pakistan.

The nature of the data we gather and the analytical practise in which we are involved are grounded in subjectivity. We can bind, resist and manage subjectivity by embracing it as data (Cahn, 2015).

A reflective analysis is much widely recognised in qualitative researches Keeping and using reflective journals in the qualitative research process (Ortlipp, 2008). The self-reflection of a researcher is a kind of owning your perspective being aware of one's cultural, political and social consciousness. It is associated with self-understanding and self-questioning.

Researchers are advised to talk about themselves, their assumptions, choices practises and activities during the research process .The aim is to deliberately recognise the researches values. Overall it creates transparency in the research process (Ortlipp, 2008).

### **3.6: Personal reflections**

During the entire process of data collection, my personal reflections are based on my understanding and my perspective that were shaped by the whole process of research. Initially, I planned to approach different NGOs which are involved in legal assistance and rehabilitation of women victims facing these kinds of crimes which were the part of my study. I approached different NGOs but the response from these NGOs was discouraging. In the beginning they promised me to help and asked me to follow the official procedure in which I had to write about the topic of my research and the kind of women victims with whom I wanted to contact. But even though I followed the whole procedure in which I wasted one entire month to wait for their reply and meanwhile approached other NGOs. But I did not succeed to even get a single respondent. The reason which I understood behind all this was that most of the NGOs have an agenda and major motive behind is to gather foreign aid. As one of my respondent Rabia Hayat said during her interview that most of the organizations are corrupt from inside and the notion of promoting women's empowerment and struggling to provide them their rights is just a propaganda and most of them have patriarchal structures and machineries. But some of them are genuinely working for the betterment of society for example in rehabilitation of acid attack victims (as in the case of my third respondent ZohraParveen).

I also enquired a number of judges and lawyers to get detailed and authentic information from those people who have direct link with these kind of women victims and if they can help me to have contact with them. These were the people who were working on the ground and had practical and empirical knowledge about the actual scenario. Some of these lawyers doing private practice refused to share information

concerning their clients due to the ethical concerns and the matter of confidentiality. As they told me that most of the women are filing cases for their inheritance right but cases regarding forced marriage, budla-e-sullah marriage, acid attacks, harassment at work place and public place are almost 0%. These women who have filed cases belong to so influential families that they do not want to be exposed. As most of the women are hiding themselves after filing cases for their inheritance because they do not want the society to criticize them and to feel awkward in the social setup as they went against the societal norms and culture. This practice by most of the women in our society is discouraging for many other women who will get motivated if these kinds of cases are exposed.

However the lawyers who were in the government sector were ready to help. I asked all of them about the practice of these laws by women and their effect on legal empowerment of Pakistan women. According to them these kinds of cases are common in interior Sindh and Punjab. The government lawyers helped me a lot for locating respondents who have filed cases under these acts. According to most of the male as well as female judges those women who approach the court for justice will definitely get justice.

When I went to *kcheri* or the bar in city of Rawalpindi and Islamabad I observed a strong male dominant structure of these institutions. Over there the number of women were very less, majority of the people around there were men. Socially women are discouraged to enter the premises of court and *khichri* as it is purely considered to be a humiliating act for the men of the family. During my data collection I met few women who wanted to file cases for their rights but they were afraid of the atmosphere and the patriarchal culture of the court and *kchehri*. These women were also afraid of the reaction from the family. One of the most important

factors which I have observed is that women who came to court for justice were either economically stable or educated or they had the family support of their male family members or both. Another important thing which lawyers and judges told me was that women judges were not supportive toward women clients and women lawyers. This was because of their socialization patterns and the cultural context of which these women judges are the part of. They were not so much supportive towards the women clients and the women lawyers as they also look down upon them for being rebellious against so called religion (which is actually against the actual spirit of Islam) and the social and cultural customs. Their behaviour is more encouraging towards the men (who are usually the husbands of these women victims) as these women judges are also the by-product of the same patriarchal structure.

Women from highly prestigious and religious families are culturally more pressurized to give up and settle the disputes in families rather than approaching the court and legal help. In this way they are at the losing edge and the society does not allow her to raise her voice in her benefit, personal satisfaction and freedom, rather society demands her to sacrifice economically, psychologically and religiously to save the prestige of her family in society and to be declared as pious woman religiously. Two institutes are playing hegemonic role in this exploitation of woman the religion and the culture. These two institutions are working in a reciprocal way because they strengthen and justify each other in background.

Normally women are not aware of all these legal rights. All four of my respondents were themselves very strong women and had some personal qualities of courage, bravery and self-esteem. Highly qualified women are also unaware of most of the legal rights of women in Pakistan. In a kind of society like Pakistan even these laws cannot guarantee women's legal empowerment as it requires so many other factors

as well. Laws are formulated due to developmental agendas including the desire of political and international attention. But the genuine social and legal change needs a number of parallel factors for improving the overall status of women in Pakistan.

The stand point of my four women victims was that text of laws is strong enough to provide them security. First of all the introduction of these kinds of laws in male dominated society is positive step. But the actual problem lies in the entire procedure of justice seeking during which the case be strengthen or weakened. The initial phase of making decision to go for legal assistance is the most crucial one in which the women has to break the social and cultural boundaries. Then after filing the case the response from family and the interaction with the legal agencies in a strongly patriarchal set is again a challenge for them. The duration can also burn their energy to gain justice. However in some of the cases the decisions made by the legal agency are supportive and encouraging for other women.

All the classes in the society resist against the legal empowerment of women but the middle class is more strongly against this phenomenon. Women belonging to the lower class of the society are least bothered about the societal pressure and the issue of family prestige and are more determined to follow their personal freedom. The women in Upper class are also economically independent and taking these kinds of decisions is not a matter of family ego. The real problem is in the middle class who are strongly influenced by the social and cultural norms. For them the family's pride and honour is a matter of death and life. They are very conscious about the respect of the male family members like in the case of my respondent Sahnaz who belonged to the middle class and was badly pressurized by her family and the male dominance and ultimately gave up her case.



I have observed that the society is now accepting the legal rights of women along with the realization of their respectable existence. But it will take time as well as courage to take stand against the societal barriers to reduce the gap in the text and the practices of these laws. Women must be educated about their legal rights and they should be encouraged to stand up for their personal identity and due share in a respectable existence as human beings. Cultural, patriarchal, societal and fundamental aspects of society are creating a huge friction in the way of this social change but the change has begun with the formulation of these laws no matter what was the agenda behind their formulation (Ritchie, Lewis, Nicholls &Ormston, 2013).

## CHAPTER FOUR

### DATA ANALYSIS

#### 4.1. Voices of Women Victims

This section of the chapter describes the major themes of present study. All these themes emerged from in-depth interviews conducted with women victims of gender based violence in Pakistan. The in-depth interviews were conducted with four different women victims who had filed cases in the legal institutions under four different sections of three major pro-women laws which are the focus of study. These themes are going to clarify how laws are related with women's legal empowerment. The analysis highlights sociologically rooted phenomenon which is involved during the entire justice seeking process in our society to check the connection between laws purely aiming to improve the condition of women's legal status in Pakistan. All these interviews with my respondents have provided a crystal clear picture by using which we can understand the complexities involved in the practical procedures leading towards a better legal status of women in Pakistan.

All these complexities emerging from the sociological aspects of our society are discussed in detail. This chapter elaborate the societal, cultural and customary fragments that are basically responsible for the gap between theory and practice of these pro-women laws. This study further highlights this huge gap between the theory and its practice and my study has also explored the contextual and the social aspect of this gap in an emic perspective (Pakistani society). This study has explored the phenomenon of women's legal empowerment in Pakistan through a sociological perspective and has attempted to reveal the hidden roots responsible for the friction between set patterns of our society and the attempt to bring change in them through

pro-women laws. The study aims to reduce the ambiguities so that we can generate a higher level of women's legal empowerment in Pakistan through further improving the text and utility of already existing and formulation of new pro-women laws in Pakistan.

## **1: MOTIVATION:**

The motivation to file a case against a crime done to a woman has a lot of causes and sources. These sources or stimulants that motivate a woman to take an initiative towards justice have diverse faces depending upon their contextual reality and the nature of crime done to them. Women of Pakistan belonging to different demographic backgrounds, status, education, age and fields have experienced diverse thresholds where they become determined to take actions against gender based violence and to bring change in the existing practices and patterns deeply rooted in patriarchy. But there are few things that have been the same instead of being the victims of different gender based crimes. According to my primary data Women victims who attempt for justice and dare to file a case against the culprit in a strongly patriarchal legal atmosphere, have first of all a strong belief in Allah Almighty who is the only witness of their innocence. Secondly they have information and awareness about their rights and the legal privileges which belong to them as a woman. Thirdly they have a strong support from family and especially from the male members of their family. Fourth they have knowledge about their rights and then they have the courage to ask about their rights by going against the social and cultural norms which basically re-victimizes the women victim again and again. One of another important factor that emerges energy in women to stand up against all the patriarchal barriers are their

children and they also seek for justice in a formal way just to provide security and welfare to their children.

Some other factors that have become prominent during the research are purely context specific, for example if a woman is financially stable and along with that she is educated then she will have the will power to stand the hardships of the legal processes in court. The strength to enter the court in a conservative societal setup depends upon the intensity of crime and the level of necessity by women to regain her self-esteem and honour.

The findings from this study demonstrate that the respondents had different reasons for filing the cases and motivation for taking stand. My first client who is a working lady with strong career and professional sense is captain Rabia Hayat, who is a flight pilot in PIA (Pakistan international airlines). She took a strong action against the harassment at workplace which she faced during the course of her promotion. She clarified it very aggressively that she is not going to bare this cruel act and will disclose those people who were involved in this crime. Although she was more confident and professionally more sound and expert than them but they tried to frighten her just because she was a woman and they exploited her to stay away from achieving a higher post and her justified share in professional growth and development. Instead of all these hardships she believed in herself and God. She said, "I knew that I am right and I have to fight for my right so that I can help create a safe environment for other working women as well." (Rabia Hayat: 20,5,2015).

During the course of her professional tenure she also found that women who are financially dependent on their jobs face a lot of harassment at work place but stay silent due to their financial dependence. One of the reasons of their silence is also the

fear of losing their honour and self-respect as our social norms blame the women victim if something happens wrong to her. They cannot gather their courage to take legal actions against the culprits and stay quiet for all the exploitation at work place because of the fear of getting stigmatized by the cruel norms of society. To protect women from all these issues there are quite strong laws to provide them security at work place. But to utilize these pro-women legislation needs a lot of will power to go against the patriarchal set patterns of society in which the court and *khcheri* is a public domain with the hold of men and women are the strangers there.

The motivations they gather to go against these societal norms have different causes.

In the case of my first respondent Rabia, her motivation came from her belief in God as witness of the crime done against her and to improve the conditions of work place. Her motivation also came from the realization of the problems of women victims who were continuously harassed by the male dominant professional atmosphere. She raised her voice against harassment at work place so that other women who are less courageous and have financial constraints should enjoy a healthy and respectable workplace. This is clear that Rabia is an empowered woman who is also ready to take initiative for the empowerment of other working ladies.

According to Mrs Rabia

*“In my case my profession is my passion. I am financially and economically sound and belong to a strong family but most of the women are being victimized and exploited because they have to support their families, and doing a job is compulsory for them and for welfare of their family. I raised my voice especially*

*for these women who are not so empowered to take stand for their rights. I stood for them, so that they can work with piece of mind and with pride." (Rabia Hayat:20,5,2015).*

Her statement shows that education, awareness and economic dependence a key role in raising confidence of women and key role in speaking for ones right. It also exhibits that family role is very important for taking initiative.

The motivation of Rabia to get justice against this harassment was also due to her confidence in herself and strong family support. She was bold lady with high self-esteem. Her personality was very strong due the level of education and expertise and skills. Rabia was a strong lady who had dream to eliminate work place discrimination against women in Pakistan.

She said that,

*"Even though the crime is done by a man but the society declares the women guilty. If you are right and truthful you should not be afraid of anything because you cannot solve your problems by keeping quiet. I have taken this step just to remove discrimination against women which I had been through. To provide strength to the women of Pakistan." (Rabia Hayat:20,5,2015).*

The social and cultural definitions of women portray them as an inferior being and the androcentric approach deeply rooted at all institutional levels blame and victimize women victims.

She said that when she went through the exploitation and harassment, she realized the agony of other working women who were not as stronger as she was. So

she had a motive behind her legal endeavour. She also motivate other women about their rights at work place. As she said,

*"I believe that a respectable work environment is possible if they raise their voice against harassment at work place. It is their right to have a respectable surrounding while working and they should also enjoy and feel comfortable as a man can do."*

*(Rabia Hayat: 20, 5, 2015).*

My second respondent was an educated girl who was studying in a university. She was the victim of public place harassment.

Her motivation to file a case against the verbal and physical humiliation (which she faced just due the rejection of a proposal) was the awareness about her rights. She wanted to punish the criminal for attacking on her modesty and honour as a woman. First of all she had awareness about her rights and secondly she had the courage to ask for justice. As she said,

*"Actually I trust that what has happened to me is the violation of my rights as a human being and he has to pay for it."*

*(Shanaz, 15, 6, 2015)*

This shows that awareness and knowledge leads towards behavioural and attitudinal transformation and evolution which will promote a justice and social change.

It was her desire that the criminal should pay for his cruel acts, he must be given strong penalty as she wanted that the state should not spare him just because he is a man and can justify his act in the name of his male so called honour. As she was educated and believed in the true spirit of Islam which declares the equality of both

men and women. She had a strong conviction in her mind and soul which motivated her to file a case against the culprit. She had a strong belief in her rights which were based on Islam and she also believed in equality of men and women in all relationships.

*"I have a great status as woman in my religion Islam and what I am doing is right. The criminal should pay for his sin. I believed that my Allah will help me if I will speak up against the unjust attitude of the whole society including my family. As a women I am not made so weak that I should withdraw from my stance. I am not a worthless being to be treated in such an unjust way" (Shanaz,15-6-2015).*

Instead of all her motivation and strong step of filing case she was extremely discouraged by her family so she had to withdraw the case before presented to court for decision. Her family stood against her and in spite of awareness and courage she had to give up because of strong cultural and societal patterns.

My third respondent was an acid victim named Shagufta. She had filed a case of *khulla* in court and was not willing to live with him. Her second husband attacked on her with acid when she was coming outside of the court. This is the greatest dilemma of our society that men try to ruin the entire life of a woman when she rebels against the set discriminatory patterns of our culture. They become the God Father of women and try to teach them lessons and threaten them as result of their bold steps towards justice. In the case of Shagufta the support came from different segments of society which gave her courage to go against society's norms. After the acid attack as a response of her demand of *khulla*, Shagufta lost all the confidence In herself but with



the help and counselling of her lawyer and doctors involved in her rehabilitation she gained motivation to again file a case against the acid violence. As Shagufta said,

*"Mrs SarddarAbbass, and her team and Dr.Jawad (who did my plastic surgeries during the rehabilitation programme) encouraged me a lot and they motivated me that I can win my case and my face can be cured to a great extent.(Shagufta,30, 6.2015)."*

My forth respondent was a widow with a son. Who filed a case after the death of her husband for her and her son's inheritance. Her motivation to file the case in court was just based on wellbeing of her son and his prosperous future. My forth respondent belonged to poor class and the inheritance was based on a house. The rent of that house could provide them the basic necessity of their lives as well as educational expenditures for her son.

It has been recorded that one of the motivating factor in women to take stand for their rights and gather the courage to ask for their legal rights is their urge to secure the future of their children. Instead of a strongly male dominated environment of the court and *kchehri* they somehow muster up courage to enter there just because of strong emotional bond which they have with their children.

Overall the data has declared that major elements which develop motivation in women victims included their Belief in Allah, awareness about their rights, support from legal agencies and family, rehabilitation institutes and the welfare and wellbeing of their children can motivate them go to court.

## **2: Obstacles**

The present research has disclosed the major obstacles and social factors that are involved in creating difficulties for women victims to avail justice by using these pro-women laws. The study has highlighted the patriarchal patterns and set rules for women that serve as clutches and as a result they avoid utilizing their legal rights, or they create a lot of pit holes in the road towards justice.

Women victims face a number of issues from filing the case till the end, when the decision is made in court. In my study four of these women victims faced numerous problems at different stages in their quest for justice. At each and every stage all these problems are rooted in cultural misconceptions and commonly existing customary patterns. During this journey of legal empowerment women victims have faced diverse experiences during the whole process. The highs and lows of justice destination are mentioned in detail as below.

During my interview with my first respondent, who was a pilot and was working in traditional airline, I came to know that raising voice against injustice is not so easy. She has been fighting her case in court for the last ten years. She said that she has been through a lot of financial, psychological and legal issues. The criminal was declared guilty of the crime but he is not given punishment from the organization. Although Rabia has not given up and is still fighting to enhance the social status of working women. The pain which she is facing from the last ten years is not in vain as the law of harassment at work place is all due to her initiative. Our society needs such strong women who have the ability to change and question the biased societal practices and are determined to bring a positive revolution for them and other women

like them. She was a bold and daring lady with a lot of guts to challenge discriminatory practices of work place.

Due to this delay in justice at a lot of moments she faced a lot of pressure from society and her work place. But she stood by her stance. As she said,

*"I have been through a lot of psychological, financial and legal issues. My case was first decided by high court in my favour and the court ordered my organization (PIA) to take strong actions against the guilty but no action was taken. I again went through a long tiring process of Supreme Court during my contempt petition. But still it is unresolved. I am still waiting that the accused will be punished. It's been eight years and sometimes I really feel exhausted and drained. This delay sometimes bothers me a lot. (RabiaHayat:20,5,2015)"*.

This shows that societal norms and practices give a tough time to those people who go against them and a strong resistance and reaction comes from society if someone take stand against the socially supported practices. The cruel and ruthless social and cultural practices are so strong that can easily drain the individuals psychologically, socially and economically if they dare to oppose them.

My second respondent Shanaz was a victims of harassment at public place. She became the victim of serious physical and verbal torture by a man, whose proposal was rejected by Shanaz. As she was an educated girl she realized the intensity of humiliation and abuse from which she went through. She wanted relief from this pain of disgrace. But when went to a nearby police station she faced an uncomfortable atmosphere and also different kinds of disturbing questions. The body

language and gestures of the policeman were again upsetting for her, as he was also by product of patriarchal structure so he took her reaction strange. She felt uncomfortable because of her physical condition with torn cloths and wounds on her face, body and neck. When she dared to file a case against the crime the expressions and responses of the police officer again degraded and embarrassed her. As the excerpt from the data tells,

*“I felt very uncomfortable when I went to record my complaint in front of the police man. Although he heard me calmly but the atmosphere as well as his different kinds of questions were very disturbing for me. For example, have you met this man before? Before sending the proposal had you people any contact with one another? (Shanaz,15-6-2015)”*.

The notion of gender sensitization in legal institutions is lacking due to which women victims feel reluctant and do not report crime against them and majority of the gender based violence in our society go unreported.

Whenever a woman dares to go for legal remedy the first reaction from the society comes at the initial stage of filing the case. The police man who entered her FIR also belonged to the same society of which Shanaz was apart. He could not easily absorb the reaction of Shanaz as a woman. She was supposed to stay quite after this treble incident with her, as a common women in Pakistani society would do. It was shocking for policeman that Shanaz has rebelled against the societal norms. As these kind of practices are not common in Pakistan, it was a rare case in which a girl stood against the normative pattern of our society. But went through enormous amount of obstacles after that. As Shanaz mentioned during her interview,

*“What I feel about the police man is that he was not convinced and was shocked to see such kind of initiative from a woman and was sympathetic towards the man instead of me being a victim.” (Shanaz,15-6-2015)”*.

Lack of gender sensitivity in the legal agents is one major obstacle. The legal agents must be gender sensitive. They feel re-victimized in the police station due to the insensitive method police investigation and the procedure of filing FIR. There should be a training of gender sensitization in police agencies and colleges, that how they should deal with a women victim.

While filing the Firs the section entered must be according to the crime done against women. Because in Shanaz’s case the police officer entered wrong section which reduced the intensity of crime and the resultant penalty associated with it. The section entered in the case of harassment at public place in the situation of Shanaz’s case with physical wounds was 345-A which was a non-bail able offense, but the police man entered irrelevant section which was section 354 and was bail able offense. These kind of prejudiced practices are one of many strong hurdles in the way of implementation of these pro-women laws. Shanaz’s lawyer Marina told me that,

*“What I mean is that, in majority of the cases the FIR is not according to that actual incident or the policemen are not so much trained or gender sensitive to register proper section and the entire details in an expert way. They somehow miss so many important and crucial details in the case which make it weak for seeking justice for the women victims.” (Marina,15-6-2015)”*.

In our society at each and every stage there are hurdles and obstacles in the way of women's legal empowerment. If the section is entered according to the crime then the culprits try to change the medical reports of women victims by negotiating with the legal agents that can again serve as a major obstruction in the course of legal advances by women in Pakistan.

Second toughest impediment which Shanaz faced during the process of legal advancement was from her family. This was the time when she got entangled in the patriarchal emotional agenda. In which people create complications for women towards legal empowerment in the name of customary and family norms. As she was young and completely dependent on her family they threatened to disown her if she will not take the FIR back. As Shanaz mentioned,

*"Yes initially I was determined to fight but our societal and family's norms are so harsh and cruel that they have made all these laws and privileges given to women as useless."*  
*(Shanaz, 15-6-2015)".*

These interruptions from strong patriarchal cultural practices have converted these strong laws into just pieces of paper. These patriarchal practices in the name of honour, religion and customs are creating strong friction against change and legal empowerment of women in Pakistan.

The society has also declared the court and *kchehrias* a place which is not for women and purely belongs to men. When women enter there as victims of crime to get justice, they are treated as outsiders and strangers. They are also treated in a way to ensure the domination of men and this is also related indirectly with the honour and prestige of a women. A woman who crosses the gate of this legal institute is

considered as a rebellious person who puts on risk her honour along with the honour of her family. A common Pakistani woman will take a lot of pain until and unless she knocks the door of justice. Shanaz also clarified the same notion as she said in her interview that,

*“Socially it's a myth that court is a bad place and going to court by a women is considered as a taboo and families take it as their insult that” females of the family will now go court and khachri”, as it considered against sense of honour by the male family members, that is why they discourage the women going to court. They try to solve the problem out of court, where there is no law but just social norms and instant gains and benefits. On contrary to it laws will provide long term protection to all the victims and benefits to the whole society. As a result there will be rule of law which will benefit the entire mankind (Shanaz, 15-6-2015)”.*

My third victim was an acid attack victim, she also went through a number of problems during the legal process. There are so many complexities and complications that women undergo when they actually practice their legal rights. We can only get the true picture from the women victims who have been through the whole legal procedure. Shagufta faced serious issues during the procedure in the court as she was threatened by her second husband and was not in a situation to behave boldly because she suffered a lot during her burns treatment and due to pain of losing her identity. She was re- harassed during the hearings of her case against her husband. Her husband also attacked on her character to win the case. In our society another obstacle is a vulnerable character of women which is attacked at the first place when she

demand justice. Some women victims just simply stay silent after heinous criminal activities against them just to secure their modesty and to avoid their character being attacked in front of the society during the complex legal procedures.

Almost in all police stations there is a domination of men who are trained and raised in the same patriarchal society. Their belief system and expectations from women of the society are already established according to the culture. When they see a woman taking a stand against a crime and showing rebellious response towards the set norms and patterns, they straight away doubt the woman and her character. As these women victims are already stigmatized by the society, this is why they get the response that they are not at all welcome in these legal institutes. Sometimes the sympathies of the police officers are with male culprit and they do not enter the right section just to make the case weak for woman. This practice can also be common in police stations just due to the lack of knowledge and gender sensitization on the part of legal agents.

During the interview Shagufta told me that,

*"He refused in court that he has done this acid attack, rather he attacked on my character and said that I was having affair with someone and this was him who attacked me. Although he was arrested red handed just after he threw acid on my face. He tried to run away but some of the passer byes caught him and he got arrested by the police (Shagufta, 30, 6.2015)."*



My fourth respondent Anela belonged to poor class. The unaffordability of the cost of justice is another pit hole in the way towards a better condition of legal enablement in women. She told me,

*"I was not financially stable and the fee of my lawyer was unaffordable. I was unable to follow the case till the end (ownership of my house)." Anela:215,8,2015*

One major obstacle that women of our society face during their legal empowerment is long duration of cases in courts. As a result their initiative to gain justice for the crime done against them becomes economically, psychologically and socially very painful and tiring for them.

*"The duration of the property cases is very long and could not cope up with it. I followed the case till the stay order and after that an advertisement was also given by court that this property belongs to the widow and her son till he is eighteen. One major problem was that my family was not supportive towards my son and me they did not help me. Because of this lack of support from my family I could not fight the case for so long." Anela:215,8,2015*

Women also avoid involving themselves in legal procedures due to their financial and economic dependence. They try to sort out the disputes outside the court and in this way these strong laws which are specifically made for them are kept away from the entire settlement between women victims and the culprits. This for sure puts woman on a losing edge and ultimately due to huge number of obstacles in the justice seeking

procedure Pakistani women let go of their legal rights in the name of sacrifices to further strengthen the societal laws instead of legal text and its implementation.

The responses from women victims have concluded that the major obstacles in the way of justice include Delay in justice and Uncomfortable atmosphere of legal institutions.

One major obstacle that women of our society face during their legal empowerment is long duration of cases in courts. As a result their initiative to gain justice for the crime done against them becomes economically, psychologically and socially very painful and tiring for them. First obstacle that women face during the justice seeking process is the uncomfortable atmosphere of the police stations. Almost in all police stations there is a domination of men who are trained and raised in the same patriarchal society. Their belief system and expectations from women of the society are already established according to the culture. When they see a woman taking a stand against a crime and showing rebellious response towards the set norms and patterns, they straight away doubt the woman and her character. As these women victims are already stigmatized by the society, this is why they get the response that they are not at all welcome in these legal institutes. Sometimes the sympathies of the police officers are with male culprit and they do not enter the right section just to make the case weak for woman. This practice can also be common in police stations just due to the lack of knowledge and gender sensitization on the part of legal agents.

Some other prominent obstacles and hurdles are pressure from family, peer and society, improper FIR, myths about court and *kachehri*, threats from criminal and his family, male chauvinist structure. Unawareness about their rights, unaffordability, long duration of case and pressure to settle down disputes outside the court.

### **3: Support from legal agencies**

Instead of all the obstacles women faced during the entire legal procedure, the research has also recorded strong and intense support from the legal agents. Women victims during the legal aid have different experiences regarding the cooperation from the legal agencies. Some of them have supported women victims by going out of the way but some have discouraged them due to their own personal contexts. The responses are relative depending upon their context and backgrounds. So many other intruding factors are responsible for this diversity in support given to women victims the most important factor that I have recorded is the education level and the awareness in people that usually have supported the women victims. In the same way the lack of support had its roots in conservative minds due to lack of education and ignoring the women rights due to the societal and cultural socialization involved.

Although along with education the level of enlightenment in a person has also changed their mind set toward the legal empowerment of women. However educated minds were also indulged in the patriarchal spider web that resulted in negativity toward the women's legal empowerment in Pakistan.

During my data collection I have met very positive minded people who supported the notion of women's legal rights. But I also came through some people who had wide experience and legal knowledge but their conventional thoughts were there as it is and were not affected by their education. Their degrees and education was just to earn a posh livelihood but the operations and working of their mind was just according to their patriarchal socialization and the level of learning was nil.

My first respondent Rabia Hayat was fully supported by lawyers and judges and the decision of her case was also announced in her favour, the court ordered the organization to take strong actions against the criminal of harassment at work place. But instead of all this the order of court is still not implemented the reason behind this is the chauvinist structure in different organizations and its biasness towards women employees. During my interview with Rabia I found that she was very upset with the reaction of her organization and said that most of the organizations have a traditional set up in which women are visualized in the same cultural context in which there is no support for them as they are the intruders in the public domain which does not belong to them. She told me that,

*"Specifically talking about my case the judges and lawyers were supporting but as far as the effectivity and implementation of the court's decision was concerned no one supported me. Because what I feel is that they are themselves a part of this society so they favour men practically speaking." RabiaHayat: 20,5,2015*

Some of the legal agents do not cooperate the women victims when they enter in the police station for filing a case. These men out of their ignorance or just due to lack of technical legal knowledge somehow enter a wrong section which is not according to intensity of crime and it has great setback for women victim during the legal procedures. As she told me during the interview,

*"FIR was not filed properly, as in my case I was physically as well as verbally abused. When I went to file my case I had bruises and nail scratches on my hand, arms and neck. He also tore my*

*clothes. But the police officer applied section 345 which was bail able offence. In my case the actual section applicable according to my apparent condition was 354-A, which was more serious offense and it is non-bail-able. (Shanaz, 15-6-2015)”.*

In the legal institutes there is strong hold of men. Women feel insecure in the whole justice seeking process. Both in the police stations and the courts.

Shagufta who is my third respondent and an acid victim is fully satisfied with the support of her female lawyer and her male doctor. As she told me that,

*“I am fully satisfied with their attitude, especially my lawyer and her legal team were highly cooperative and supporting towards me. (Shagufta, 30, 6.2015).”*

She was also given emotional strength by these two people. The judge who decided her case, gave a strong penalty to her second husband. Through all the support from these legal agents she was enabled to revive her life once again. The female lawyer and her team played a concerning role and gathered witnesses in her case through their personal efforts. This is true that if the legal agents play a concerning part in their fields they can play a very important role in the quest for legal empowerment. Their genuine will to provide justice to women victims can expedite the processes of legal empowerment in our country. The actual power of these pro-women laws lie in their proper implementation, practical application of these legal rights. It also requires a true conviction of these legal personals in the strength of the pro-women laws in Pakistan.

In the case of Anela's inheritance right and her formal action to secure the property which her husband left for her the role played by the lawyer is very positive. The only issue was the problem of unaffordability by her due to her poor status. She said that she agreed to pay him forty thousand rupees for the property right case and the custody of her child. She was also thankful to the lawyer that through his help she was able to take the stay of her house from her in-laws.

#### **4: Affectivity and implementation of law**

The society has to first admit the legal rights of women. Due to cultural and social barriers the laws with a genuine intention to improve the status of women in Pakistan are made ineffective. The society at the first step prevents women by the force of its norms and customs in the name of honour to take the foremost step towards legal empowerment. As women are blackmailed in the name of family prestige and their vulnerable position in our society. They do not try to ask for their rights instead of the formal existence of so many strong laws for women. Their presence is made use-less by the patriarchal society by using the social weapons of stigmatization, taboo and matters of prestige and *ghairat*. Only the implementation of these pro women laws in our country can lead towards the legal empowerment of women in Pakistan.

These laws can properly come into action only when their awareness and utilization will become a normal pattern. Their acceptance in the society can generate strong deterrence against the gender based violence.

There are so many social hurdles in the way of justice through the operation of these laws that even consciousness about the legal privileges only cannot change the fate of Pakistani a women. In such a robust patriarchy they have to have courage and the power of taking initiative and then the will power of consistency throughout the

entire legal procedure. In our society they can face huge obstructions in the technical legal procedures along with the number of threats from the cultural lateral as well. Those women who take the first step and then continue instead of a lot of pressures are the one who are the pioneers and the light of hope for so many other women victims. They are the only one who are able to survive the hard ships of the whole male dominated legal procedure along with the bitterness from the society and family. These women are among the first drops of rain that is going to develop a new pattern of change I like a fresh breeze of respectable survival for women in Pakistan.

From their experience they develop a standpoint regarding the whole reality of this legal empowerment. This experiential reality provides them a standpoint and vivid perspective which can be utilized for improvement in the text of laws and also to overcome impediments in the way of women's legal empowerment.

The process of legal rights in courts and police stations, support from society and family, duration of case, attitude of the legal agencies, the decision of the case and last but not the least the enforcement of decision by the state is extremely important factors involves in their experiences during their legal quest.

In the case of my first respondent who is a victim of harassment at work place. She experienced a supporting attitude from the legal agents along with her family but faced biased attitude from her organization. According to her the organizations and work places are unethical and corrupt towards women employees. She told me that even though the case has been decided in her favour but the decision lacks in implementation and enforcement. As she says,

*"The law has not helped me a lot because it needs a strong enforcement power behind it. In my case the culprits are still not*

*punished and my case has been decided again and again in my favour by the court but the legal authorities are unable to implement the decision of court." RabiaHayat:20,5,2015*

Her stance after this entire legal experience is, I think in our society the law has not created much difference.

In the case of Rabia, it is obvious that laws are textually very strong but they are lacking in assertiveness and implementation power which makes the law meaningless for women.

According to Rabia the difference can only be seen if these pro-women laws have a strong implementation force behind them. Her major concerns regarding women's legal empowerment in Pakistan is first awareness of her legal right and then a strong implementation power behind these laws. As Rabia says,

*"I have won my case four times but each time they formulate a new committee for its implementation although the crime/offense has been proved against that culprit but no action has been taken against him and he is even promoted by the organization (RabiaHayat:20,5,2015)".*

This demonstrates judicial and organizational patriarchy which suppresses women and promotes the interests of men as the dominant entity. Even though the case has been in Rabia's favour but the implementation of the ruling and decision is facing hurdles from number of patriarchal forces from the society.

Contrary to Rift's experience Shagufta is completely satisfied with the implementation of her decision. Because in her situation the criminal was caught red



handed and the lawyer and her team also supported Shagufta to a great extent, although her husband appealed in the court to exclude his case from the terrorist court but the decision was made again in the favour of Shagufta and it was rejected ,as Shagufta says,

*“Yes, I am completely satisfied with the decision of court. He has ruined my life and I want that he should die in jail behind the bars. Although he made an appeal that his case must be excluded from the anti-terrorist court it was rejected (Shagufta, 30, 6.2015).”*

In Shagufta’s case the role of judicial system is very responsible and secondly the hard work of lawyer counts a lot. However in Rabia’s case the organizational injustice is obvious and the role played by the legal institution is not assertive.

## **5: Family Support**

There is huge number of barriers during the legal procedures faced by women victims but they somehow manage to cross all these difficulties if the family support is with them. Especially in the entire data gathered I have observed that the support from the male family members is of crucial importance. A man in form of any relation with the woman can provide her strength in the male dominated legal institutions and also increases her acceptability over there. The entire legal agency behaves totally differently with those women who have no family support or simply no male member with them. As one my respondent told me,

*“Some of the women who approach the legal system for support have the support of their male family members, for*

*example sons, brothers, fathers and husbands (Shagufta, 30, 6.2015)."*

The courage and boldness of a woman is also very prominent factor in course of legal empowerment but another factor that is of almost same importance is the family support. If the family stands by woman victim in her attempt to practice her legal rights then the legal fight becomes easier and more acceptable by the society. As my respondent Rabia said,

*"They provided me strength to stand up and fight" (Rabia Hayat:20,5,2015)".*

Family which is the fundamental unit of the society plays an important role to provide courage and strength to the victims after any type of unfortunate incident. If the family gets under the pressure of culture and socially prevailing norms then the victim is victimized by the family and family serves as a tool to indorse and support gender based violence and male chauvinism.

The importance of family support becomes more obvious in the case of Shanaz who filed the case of harassment at public place without the permission of her family as they were not present at the stage of the incident and she had to rush to a nearby police station because of the severity of crime and her awareness about her legal rights. When her family came to know about this, they reacted in a very bad way. This was shocking for her as well because she thought that when her family will come to know about the whole incident they will surely support her. She believed that all their sympathies are going to be with her because she had not done something wrong and this is her basic right as human to choose the right one for lifetime partnership. But their response was surprising, astonishing and very painful for. They

even called her the black sheep of her family who is least bothered about the reputation and esteem of her family norms and customs. The reaction from the family was full of hatred and they forced her to withdraw the case. Shanaz was not all willing to withdraw the case and she was even ready to leave her family and asked her lawyer about the government shelters.

Her family became very much bothered about the in-laws of her younger sister and used force and emotional blackmailing to convince her for the withdrawal of the case. The family was very much afraid of their bad reputation and societal norms which could easily destroy standing of that family in the society.

The threat of the social rules and cultural customs was so bothersome for the family that they forgot the pain which Shanaz had faced. They advised her to stay quiet as it was better for her own future. They had lack of courage to question the societal stigmatization and were afraid of the people around them. Our society is ruled by manmade rules and regulation. We construct these rules for ourselves to stay in peace with other people. We basically are the ones who create and practice these social laws For our benefit as human beings, but what is the credibility of these societal laws if they are creating more problems for us instead of comforts. We have to break them and replace them with better more suitable practices according to the need of time.

There is no one but us as individuals who can bring change in society by taking the first step and initiative leading to make our society a better place for all of us.

This initiative requires a coast. Same happened to Shanaz but she got pressurized by her family and gave up. As she told me during her interview that,

*“When I told my family about the whole incident, they became angry and scolded me badly that why I took such a big step. What is going to happen when people in the family and society will come to know about this? (Shanaz, 15-6-2015)”.*

Shanaz’s family even threatened her that they will disown her if she will not withdraw the case. She said, my family re- harassed me.

The social and cultural stereotypes and taboos discourage women to its maximum and use different institutions to serve this purpose. One such tool is family which can easily promote social evolution and change in a positive way but the social and cultural factors strongly resist and oppose such reaction from the family by social stigmatization and propaganda. Due to this threat from the society the family submits and pressurizes the victim to let go due to fear of societal isolation and degradation. To maintain social standing the family can use any extremist agenda against women victims just to maintain respect in the eye of society and forget about the sufferings and hardships of women victims.

Shanaz said that her family is being insensitive towards her. The reason of this insensitivity was the insensitive social and cultural norms and traditions in our society that prevents women legal empowerment t because the basic model of the society is patriarchal that likes to see the woman inferior to man in every aspect of life.

## **6: Loopholes in law**

Practice of pro-women laws is the only way to improve its text. The society is against the use of these laws as it expects from women to keep silent and sacrifice for other relationships and ignore her own self-worth and self-esteem. This expectation is

deeply rooted in the misconception that she is in any way inferior gender than man and she has to put herself after men in any case. Her social worth is very less than a man. This misconception in our society is so strongly amalgamated with the cultural traditions and religious rituals that to raise a question against it will bear a coast. The society will always resist the practice of these laws as it will definitely show confrontation towards social change. The loopholes in laws can be improved if they are practiced again and again. This practicing demands a lot of pain and pressure to survive against the societal hostility. As my respondent Rabia Hayat says,

*"All these laws in the favour of women are improving women's status, but a woman must have the courage to take stand for her rights otherwise these laws are ineffective. Our social structure is so much deteriorated that it supports the man even though he is a criminal. All social structures are male dominant and there is no room for women. There is still a long way to go. We need empowered and enlightened minds, courageous souls and brave hearts for a better future" (Rabia Hayat:20,5,2015)".*

Actually a very low percentage of cases regarding these laws are registered so there is a very low level of practical implementation. If these laws are applied again and again then these laws can be improved in their text and implementation.

The use and the awareness in people regarding these pro-women laws is totally dependent on the enforcement and execution of these laws. If those women victims who have taken the first step towards legal empowerment are provided easy accessibility and comfortable procedure of justice along with strong penalties to the

criminals then they can motivate other victims to go for the same. But usually the victim's experiences so much hardships that other women try to stay away from all this hustle. And accept silence as a better option.

All these four women victims are those pioneers who have questioned the social norms and its biased patterns.

To develop an acceptance in society regarding these feminist legal rights we need daring ladies who are not afraid of the societal resentment. And they do not easily let go of their pride in the name of social demands.

Rabia who was my first respondent was one of those strong women that did not easily give up. Because of her exposure, knowledge and education she was bold and brave. She had no fear of social and work place bitterness and took a strong stand against the culprits. According to her,

*"If in my case this criminal is given penalty. This would be a land mark in women empowerment in our country (Rabia Hayat:20,5,2015)".*

In Rabia's case if the court was successful in implementing the decision than it would have served as deterrence against harassment at workplace and other victims and potential victims of this gender based violence would have gained confidence in law and judiciary.

In this way it will become a pattern and trend in our society that work place does not only belong to men and women also have a share and right in this sphere. Women will not fear to raise their voice against men as she will be assured of justice and this will create deterrence in our society regarding crimes against women.

The most powerful initiative is creating awareness in masses regarding these women rights. Then slowly and over the period of time the utilization of these laws will promote the level of acceptance in society regarding legal empowerment of women. Secondly the utility will lead towards improving them. Although the government and many other NGOs are working on this track but there is a long way to go. As Marina (Shanaz's Lawyer) said that

*“If women will develop a trend of filing cases for different kinds of crime against them then it will gradually lead to improvement in the implementation of these pro-women laws (Marina, 15-6-2015)”.*

Legal empowerment of women needs a change in the attitude of women. Women are the part of society and they themselves can become important triggers to stimulate social change. Women can change the norms by setting a trend of reporting violence against them. If they will not ignore gender based violence and develop an attitude of raising voice against injustice then it will change the fate of women in Pakistan. Initially it will face strong opposition from society and culture but with the passage of time this practice will itself become a norm.

The loophole in these laws would become more prominent and obvious after their practical implementation. However on the part of different political, legal and social organizations there is a genuine effort to enhance the level of implementation by introducing positive changes in the text of law and also removing procedural hindrances. It includes creating awareness in women, comfortability in filing case for victims, gender sensitization in legal agencies and enforcement of the court's

decision. With the passage of time the results of all these efforts are quite positive as one of an experienced lawyer Mrs Sarddar Abbas says,

*“The situation of women’s legal empowerment in Pakistan is much better than past.”*

As the society is developing the social and cultural norms are also evolving, although the pace is very slow. Now women’s situation is better than the past even though it is not as better as it should be but we can hope for the best in future. The loopholes in laws can be improved if they are practiced again and again. Actually a very low percentage of cases regarding these laws are registered so there is a very low level of practical implementation. If these laws are applied again and again then these laws can be improved in their text and implementation. Practice of pro-women laws is the only way to improve its text. The whole process of justice seeking should be made easier and more convenient for women. Accessibility to court for justice is essential for legal empowerment of women in Pakistan. Gender sensitization in legal institutions can play a crucial role in enhancing women’s legal empowerment in Pakistan.

## **7: Law and its relationship with women’s legal empowerment**

These pro-women laws are serving as strong tool of women’s legal empowerment in Pakistan. Although the process is slow with a huge number of obstacles and strong resistance from the society but still the journey has started. Women with will power and awareness have been on the road towards change. The concept of women’s legal rights is slowly and steadily penetrating in the male chauvinist society. This research has highlighted the contextual reality of entire process which starts after a crime is conducted against a women belonging to a perfect patriarchal social set up. It has



explored the process of self-consciousness in women how it motivates a women victim to stand up for justice in a men's society, how throughout the journey of justice different enlightened minds with their limitations fully support these women and try to provide them back their self-pride and confidence as human.

The formulation of these Pro-women laws during the tenures of different governments either having a political agenda behind them or simply due to the efforts of civil society in Pakistan are themselves very strong. But the biased social, religious and cultural forces are on a war against these laws and continuously trying to convert them into worthless pieces of paper. On the other hand it is not as easy as the social change is on its mark due to development in IT and the gradually increasing awareness in people regarding women's legal rights. We can find such kind of women like Rabia, Shanaz, Shagufta and Anela who belong to different classes, educational backgrounds, areas, fields and age groups of society and have the courage to question for their rights and justice. These women victims have proven that their legal rights and quest for justice is their basic right as human. All the women victims undergo from a lot the problems and difficulties as my respondents have mentioned but their initiative was not worthless it will create ease for the future generation of women. Their stand against the gender based violence has proved that the society should not take them for granted. If they suffer from a criminal activity it is their basic right to ask for justice and the state has to provide it. As this crime is not only done against the individual rather this act is against the state. The state has to make the justice seeking process easy for women being a marginalized section of our society.

In Pakistan the state is trying to provide protection to women but conservative mind set serves as a barriers. The law provides promising relief to women victims and tries to reduce the agony after crime, but the actualization of her legal rights lies in her

initiative. When a women victim reaches the court the legal system tries to support her but if she gives up in the way then it becomes hard for the legal institutions to protect and compensate her.

Penalty and punishment of the crime against women can enhance women's legal empowerment. Awareness regarding women legal rights is very important for improving legal empowerment of women in Pakistan. After having information they must have courage to take a stand against social and cultural norms. The situation of women's legal empowerment in Pakistan is much better than past. Women should not submit to the patriarchal emotional blackmailing agenda, in which a good woman is the one who sacrifices for different relations in her life. Even though these relations are victimising her just for being a women (an inferior gender).

#### **4.2. THEMATIC ANALYSIS OF INTERVIEWS WITH LAWYERS AND JUDGES**

In the present research I inquired not only women victims but a number of interviews were also conducted with lawyers and judges to get a more clear picture about the status of women's legal empowerment in Pakistan. These people are those professionals that are themselves the witness of women's legal struggle and the hindrance in this developmental phenomenon. Most of the lawyers I interviewed were of the opinion that these laws are not accepted culturally and the women with awareness about these laws are very rare in number. As these are not socially accepted that is why the cases registered are almost 0%. Those women victims who approach the court for justice are exceptional cases. There is a very few women victims who have reached the destination of justice under these pro-women laws.

## Major Themes From the interviews of lawyers and judges:

### Level of implementation

One important phenomenon which I personally discovered is that the family laws are improving with relatively a good pace but the feminist criminal laws like the recent pro-women legislation( which are the main focus of my study) are very few in number.

Female lawyer “Ayesha Jan” was a woman of middle age and with an experience of 18-20 years. She was a mature lady and had strong hold on her field. She was the one who referred me to my first respondent Rabia Hayat. When I asked her about the level of practice and implementation of these legislation her answer was very straight forward, “that the society is much stronger than the laws.”(Ayesha, 8, 6,2015).

She further said that although these laws are highly empowering for the women but it is unfortunate that they cannot use them for their betterment because of the social and cultural patterns and pressures. She mentioned that there exists a huge gap in there text and its implementation. She said women cannot even come out the house without a man even if he is 10-12 years younger than her. Her respectable survival in our society is related with men. The man overshadows her own unique identity as an individual. She is known as the wife of, mother of, sister of and daughter of a man. She is not even known by her name, so how can we expect her to go against that man without whom she is unidentifiable in the society. She said that she is talking about the majority of the women in Pakistan. The ground reality is entirely different from theory. Most of the women have no awareness about the provisions in the laws.

She told me that most of the legal cases of women are highly confidential. This is another important reality that women who have come to court for justice still hide this from people around them in the society just because of the fear of getting stigmatized. This practice by women victims is also slowing down the speed of women's legal empowerment. As in our society other women cannot learn from their experiences and they fear the boundaries of court and *kacheri*.

Marina is a family lawyer in high court. When I asked her about the implementation of these laws she said that percentage of reports under these provisions is 0%. She said that most women are unaware of these laws and those who have information are reluctant due to the fear of the whole process of justice seeking. She told me all these laws are very strong but women have no courage to ask about their rights as the whole environment of legal organizations is male dominated, from the police station to the court every step is controlled and belongs to the male dominated public domain in which the female is completely a "nobody". If due to any unfortunate reason she has no choice left other than getting help from these agencies she has to face a lot of problems and issues at each step. First of all going to police station and a filing a case is totally a very awkward experience of most the women victims as the police authorities also are socialized and part of that patriarchal structure which has a negative effect on women's legal empowerment. In this entire process women again need the help and support of any male family member as she feels uncomfortable without a man in the whole process. She cannot afford to take and standby her own decision and again needs the approval from a man in the society. At each and every step of the entire process she is at vulnerable edge where anyone can easily shake her confidence unless and until she is extremely very strong which happens very often.

Marina told me that at each and every stage of the justice seeking system women have to face a lot of challenges. First of all due to the lack of information the FIR is not according to the crime committed against the women. Secondly during the invitation the investigation team can easily mould the witnesses in the favour of criminal after getting monetary gains from the criminal's family. The case is always decided on the bases of all these supporting evidences and documents( like FIR and investigation report and medical reports) if at the first stage these are manipulated in the favour of criminal the women victim can easily loose the case. One interesting thing that Marina and some of her other colleagues told me was very shocking for me ,according to them in the cases of divorce and maintenance right of women and kids if the judges are women then all theirs sympathies are mostly with men and during the hearing they scold women because of not compromising with their husbands. Usually their decisions do not strengthen and empower women and their verdict is more concerning for men rather than women.

Sana-Ullah is a government prosecutor, when I asked him about the implementation of the laws which were the part of my study he said that no such case has been registered. According to him even these laws have not changed the fate of the most despondent section of society. The ground reality is totally different these laws themselves are very strong but they have actually no effect on women's legal empowerment as they are not being utilized or if utilized the way to justice is full of pit holes and hurdles. These laws are extremely powerful and can change the status of women instantly but for that the women in our society have to take initiative against the social pressures and customary taboos. According to Sana-Ullah when women take a stand and challenge all these unseen pressures they should be provided protection by the state and the accused should stay in the custody of police. He told

that the state has now tried to overcome a lot of issues regarding the filing of FIR by the women, the whole process is made easier for women by the state with the lawyer's help under section 22- AB the victim can file the case in the court.

A senior session judge Mazher Hussain Chaudery, and told in detail about the implementation of all these pro-women laws. He said that implementation of these laws exist in our courts. Whenever a women reaches for justice in the court the decision is usually done in her favour. So the legal empowerment entirely depends upon women's initiative.

It is determined by her responds to a particular crime done against her. If she courageously takes stand the court and the associate institutions help her in achieving justice .He explained about the inheritance right of women and discussed the cases he has decided for the property right of women. He said that whenever such cases are heard by me I have tried to support the women who has reached the court in search of justice. Then he shared one of his personal experience he said that I had a case in court in which the sister had given her inheritance share to her brother after getting a nominal amount of money. But later after few years she found that the actual amount of the property is much higher than that so she and her family filed the case of her due share in the property and said that she is now extremely in the need of money. Her share which is now in the custody of her brother is highly valuable. She fairly said that she has verbally given her share to her brother but now she in severe need of money and her brother is financially quite stable. She also said that when she verbally withdrew her right of inheritance she took some money in return which was very much less than the actual price, so she will return that back that to her brother after the

transfer of her share towards her. After deep contemplation I decided the case in her favour.

Secondly the judge again shared one on the case in his family. He said that his grandfather died in 1953. He said that after that the full control of all the property was in the hands of my uncles and I had two aunts. My these two aunts never asked about their share in the property but later in 2009-10 they both filed a case against my uncles including my father that they want their share in the land and the whole property. All of us acknowledge their rights and without further delay and without going to the court we gave them their share. When I asked him about the courts attitude as male dominated and male biased, he completely refused and said that we support the women folk a lot when they reach the court after so many issues as a last resort. But now a days especially during my experience in interior Punjab I have found that men normally misuse the legal rights of their women in the family.

I asked him, when your aunts asked about their rights then, what was the major factor in acknowledging their right after when they filed the case against your father and his brothers in the court. If your family had the information and commitment about their due share in the family then why your aunts went to court. He answered that actually they gave my aunts right and share in the family property due to social pressure and as a fear of bad name. Previously they denied it. But when they came to me that my aunts has gone to the court and they need my help, I convinced them that this is their right and they must not have gone to court.

This lawyer is one of my husband's friends. I inquired him about legal rights of women. According to him there is huge gap between theory and practice. He also said that in a strong patriarchal system these laws are not enough. Usually these laws

at present are again used by the male members of the family. The lady is taken to the court by the help of men in the family for their own vested agenda. He also clarified that these pro-women laws are also misused by the men against other men. Pro-women legislation is itself very strong but these laws are made ineffective in a society like ours, where these are negatively used again by men. Women have to face a lot of challenges to get actual legal empowerment.

The detailed discussion with many other female and male lawyers made it clear that women have to face a number of societal, cultural and religious barriers to gain justice. Women being an inferior gender are restrained by the patriarchal justifications in the name of family honour, *ghairat* and religiously defined limitations for women. Women are forced to settle down disputes out of the court and they are forced to bargain justice with nominal and short termed benefits. They are forced to sacrifice their legal rights just to avoid being stigmatized and to get a label of socially defined noble woman. Their character is targeted if they raise voice against injustice. Instead being the victim the society blames them and their personality as the cause of gender based violence. Even the most educated women of our society who are economically independent try to avoid the male dominated legal atmosphere and let go of their rights. This fear of society in them is strengthened by their family members , friends and extended society which hinders them from legal empowerment.



## **CHAPTER FIVE**

### **MAJOR FINDINGS AND DISCUSSION**

In this chapter I have discussed the major findings of the study in the light of theoretical frame work and literature review. The summary and conclusion are mentioned in the end of this chapter.

Women's social reality is an intricate one, arbitrated by multiple features outside the conventional, political and social context that includes tradition structures of self-Supremacy and dispute resolution that excludes and sometimes supersede the state's mechanisms, support structures based on kinship tribal and ethnic affiliations, and militant frequently armed political groups outside the democratic process. As the root of social exclusion or inclusion, advantages or disadvantage, class, ethnicity, rural or urban location and distance or nearness to centres of power are vital elements for women's lived realities. Hence, Pakistani women present a combination of surprising contrasts and contradictions. However young professionals in commerce, prominent bankers and chartered accountants, corporate women, doctors, pilots and engineers share little in common with the majority of rural women whose lives seem to be reassured by another century safe and sound by events and developments outside their immediate and circles tightly controlled by traditional male gatekeepers of the family and community. Exceptional women have always occupied positions of supremacy: ambassadors since the 1950s; twice Prime Minister; leaders of large all male trade unions individually rising to prominence across all sectors of the economy, in business and professional services. These women are tolerated as exceptions but they cannot change any of the structural block of society, so are unable to affect the life of other women in society. Gender struggle can be traced in relatively more

privileged and upper section of the society who are very small in number to effect the majority (Farida, 2008).

### **MOTIVATION:**

Motivation to file cases in the legal justice system has different stimulants in different women. It has been clear from the respondents that in the case of harassment at work place the ones strong belief in Allah and faith in one's self is essential factor. The issue of sexual harassment in the context of workplace received attention in 1989. A decision was made by the court in which a senior executive was found guilty of sexual harassment. Sexual harassment is related with unwanted conduct of sexual nature including assault, touching, rape, kissing. Verbal harassment can be unwelcome inferences, jokes, suggestions or passing comments or inappropriate enquiries about one's personal sex-life. Environmental harassment can be caused due to unwelcome gestures or exhibiting sexually overt pictures or objects and indecent exposures. However the examples of harassment is not exhaustive and in each case new definition may arise. Sometimes the sexual harassment can take the shape of sexual favouritism where only those get the rewards and benefits who respond positively to the sexual advances (Grant, 2005).

The knowledge that women have about their circumstances is totally different from men and their standpoint is very essential to understand the systematic oppression against them.

The offense of workplace harassment should not be taken light as it has serious repercussions on the part of woman victim. If the victim is not supported after workplace harassment, she may be forced to resign or some constructive dismissal is reached. According to my first respondent if the culprit was punished by the court then it would have a positive effect on the legal empowerment of women at work

place. There is a spiral relationship between law and its practices. The practices shape the law which regenerates the law and again the law shapes the practice. The dismissal of the perpetrators can be effective in preventing and stopping workplace harassment. It can secure the victims and the potential victims at the workplace. If women at workplace will not tolerate harassment then it will become a normative order at workplace (Grant, 2005).

Dismissal from the job is an appropriate sanction for harassment. In the situation of publically announcing and formally fighting the case the victim can be victimized in the whole process of justice seeking. In a job women are discriminated against in terms of promotion and seniority if they stand against workplace harassment.

On the basis of cultural and traditional values of a society a woman is believed to have been created for particular important and differentiated purposes like procreation and for child upbringing. It is, therefore, disregarded for a woman to abandon this vital role to pursue for paid employment. Paid employment was said to be special reserve of the males, who are the bread winner for the family therefore, for this reason, it is surprising to see some men exhibiting certain features of barbarism to their female colleagues at work by not being gender friendly. Even the most vocal women in the field of politics also faced these kinds of threats from male politicians as colleagues (Akande, 2011).

The appearance of women victims in the legal institutions for justice is very rare. Those women who somehow manage to develop courage to fight for their legal rights face a strong friction at all the levels of society and at each and every step of legal assistance. Women who resist the social and cultural systems and opt for legal empowerment are strongly stigmatized by the society. The appearance of

women victim in the court and *kacheri* is a societal taboo in Pakistan against the honour of the family.

The motivation to attempt for justice and dare to file a case against the culprit in a strongly patriarchal legal atmosphere, is due to a strong belief in Allah Almighty who is the only witness of their innocence. Those women victims who have information and awareness about their rights and the legal privileges try to gain legal assistance. The support from the male family members encourage women to face the male dominated legal institutions.

Women having strong personalities and courage fight for rights by going against the social and cultural norms which basically re-victimizes the women victim again and again. One of important factor that emerges energy in women to stand up against all the patriarchal barriers are their children which gives them courage to seek for justice in a formal way just to provide security and welfare to their children. The patriarchal patterns and set rules serve as clutches and as a result women avoid utilizing their legal rights, or a lot of pit holes are created in the way towards justice.

Along with education change in attitude and mind set toward the legal empowerment of women in Pakistan is needed. However educated people also show negativity toward the women's legal empowerment in Pakistan. Due to cultural and social barriers the laws with a genuine intention to improve the status of women in Pakistan are made ineffective.

The existence of these pro-women laws is made use-less by the patriarchal society by using the social weapons of stigmatization, taboo and matters of

prestige and *ghairat*. Only the implementation of these pro women laws in our country can lead towards the legal empowerment of women in Pakistan.

Women who are the victims of violence based on their gender can experience on-going severe psychological injuries. Most of the common psychological issues which women suffer from anxiety sleep disorders, nightmares, and loss of self-confidence, psychosis, self-loathing and sometimes suicides. It is also essential that the state should recognize the importance of hotline complaint centres, crises centres, shelters for women victims.

Women victims also undergo severe stressful, humiliating and distressing experiences while in court, which result in bad psychological influence on individuals. Another study found that women victims of gender based violence who appeared in court felt re-victimized and embarrassed, as though they were being on trial. Moreover, "confronting the perpetrator in the courtroom has been recognised as a major source of fear and distress (Human rights report Tanezia, 2010).

The hidden reality behind this attitude is the all of the legal methods label women as outsiders. Almost all the women in legal domain face oppression (Barllett, 1990).

In the case of Shagufta who suffered from acid attacked by her husband faced all the above mentioned traumas throughout the entire case. Literature shows that husband in a marriage become powerful as a class not as individual and women are oppressed as a class not as individual. The equality concept in marriage is just a myth and has no reality (Dair, 1971). The women's motivation to fight for justice is also hindered due to the re-victimization and the victim blaming process most common in Pakistan. In Pakistan the women who report for rape are charged with adultery.

Children and women can lead a more secure and healthy life in societies where there is gender equality.

Women are most of the times reluctant to ask about their property right as they are sure that in this way they will awake hatred and rejection from the society and family. However, Right to property is one of the basic elements of any economy. This right has served as an important role in many agricultural and commercial revolutions. Economic right has also very crucial role in women's status in society and their family. Right to property is based on earning capability of an individual. Since earning capability varies among the people so the economic conditions of people would be different resulting in the classification of society, rich and poor are two social evils and this is due to earning capability of people and inhumane economic systems. All human beings are one creation and the development of personality needs are same. Both Quran and Hadith support that Muslim women can own and control over the property without the interference of male, neither Quran or Hadith imposes restrictions on women with reference to property (Alandulus Property rights).

Due the male domination in the economic sphere women are reluctant to ask about their property but my respondent Adeela asked about her right and secured it for the benefit of her child. The overall benefit of one's family is serves as strong motivation to seek justice.

In different parts of the world violation of women's property rights exist due to the predominant attitude of male domination and women's subordination (Maya, 1995). The unwritten customary law is much stronger than the written state laws. Women dependence on their fathers, husbands and brothers is

usually exploited by violating their right to Overall this attitude is the reflection of the larger society.

The violation of women's property rights is a communal phenomenon in many cultures. Property rights are the right to own, obtain through buying, gift or inheritance, manage, control, relish and dispose of tangible and intangible property including money, banking, cattle, housing or pension. On the bases of the international human rights both men and women without any discrimination are entitled to inheritance right. However, in practice inheritance rights is regulated in many nations by customary laws - mostly unwritten but influential local norms that are based on gender distinctions. The violation of the property rights of female children in the paternalistic family and that of married women and widows in the marital family are most of the times denied in the favour of men in family (Maya, 1995). The Islamic law as well as the state's law says that girls should get half of what the boys get but they occasionally end up not getting anything.

In the case of the property rights of women they are at the losing hand. Although Pakistan is signatory to CEDAW, that supports the equality of all before law but it lacks implementation. Women continue to lack in decision making power and are deprived of their social, political and economic identity. Their ownership and possession right is also neglected in the name of cultural practices. Women usually forfeit their right of inheritance under strong social pressure in the favour of the male family members. This is again imposed on them in the name of religion and culture and the actual rules of *Shariah* and Islam are overlooked. Motivation behind this act is that family property should not be shared outside the family and the severe form of this trend in Pakistan is the marriage of a woman with the Holy Quran to avoid the sharing of family property (Hooria& khoola,2012).

The clear retreat between ideology and practice shows that there are other variable at play that adversely effects the application of these objectives with the outcome of failing to protect the marginalized sector of society while maintaining the status quo (Hooria&khoola, 2012).

The motivation to file case against the culprit is also stalled because of women's lack of awareness and the threats from the culprit or his supporters or family. Legal procedures can be threatening, especially for rural women who may be uneducated or poorly educated and who, because of gender roles and norms, may not be familiar to speaking for themselves or speaking openly at all. Language may also be a major barrier. Besides, signing lawyers can be expensive (Human rights report Tanezia, 2010). Without the disposal of special protections, victims and witnesses of gender based violence may experience threats or actual harm at the hand of the culprit. Fear of revenge may also prevent women victims from pursuing a case in court or giving proof as a witness.

Basically in Pakistan the gendered implication of law is missing and legal practices are not gender neutral rather these are biased, irrational and discriminatory. While dealing with women the legal machinery should be defensible in terms of all the gender biases. It requires taking into consideration all the facts and figures which were ignored in the past. The importance of gender neutrality must be emphasised with relevance to context (Bartllet,1990).

#### **OBSTACLES:**

The difficulties which the women victims face start right from the time of filing the legal complaint. Even today in such an advanced times the method of filing the cases against the crimes for woman is full of inadequacies. Their right to



privacy is still not guaranteed. The procedures and proceedings are full of flaws and delays. All these legal factors as well as high cost involved results in dropping the case by women. The lack of awareness and gender insensitive attitude causes a lot of problems for women. Usually women do not file cases due to threats from the side of criminal and the lack of support and protection from the state. All this scenario establishes a kind of mistrust in women victims for the legal system and its in-effectivity to get legal protection after filing case. As a result of this the victims and the next to kin largely refrain from filing and reporting these types of cases. A huge amount of women victims develop and face a sense of fear, frustration, powerlessness and in security. Due to the lack of awareness women victims undergo re-victimization during their struggle for justice. The criminal investigation is also very important during the case as material evidences and circumstantial evidences are all are both important for the investigative team to protect right of victim. Proper compilation of all the evidences, identification of witnesses, recording the cause, time and place of crimes, investigation of crime scene and guarantying he rights victims and her next to kin are all essential factors for women's legal empowerment (IACHR, 2011).

Many of the common people do not have access to the formal legal system because many cultural, economic, linguistics and logistic explanations (Golub, 2003). According to Hornby, 1997 gender based violence is the abuse that an individual face due to the gender of that person, it means the unlawful use of force or threat on other person. According to Chris and Elizbeth Abama, violence against women is the established ways to harm basic rights, health, freedom and welfare of women (Nnadi, 2012). Some prominent obstacles in the way of legal

empowerment of women in Pakistan are pressure from family, peer and society, improper FIR, myths about court and *kachehri*, threats from criminal and his family, male chauvinist structure. Unawareness of the legal rights, Unaffordability, long duration of case and pressure to settle down disputes outside the court.

Along with education change in attitude and mind set toward the legal empowerment of women in Pakistan is needed. However educated people also show negativity toward the women's legal empowerment in Pakistan. Due to cultural and social barriers the laws with a genuine intention to improve the status of women in Pakistan are made ineffective. The society at the first step prevents women by the force of its norms and customs in the name of honour to take the foremost step towards legal empowerment. Patriarchal blackmailing agenda in the name of family honour and prestige put women in a vulnerable situation when she attempts for legal empowerment. The existence of these pro-women laws is made use-less by the patriarchal society by using the social weapons of stigmatization, taboo and matters of prestige and *ghairat*.

Only the implementation of these pro women laws in our country can lead towards the legal empowerment of women in Pakistan. The actual strength and spirit of these laws can become evident in our society only when their awareness and utilization will become a routine pattern. Their acceptance in the society can generate strong deterrence against the gender based violence.

Denying women of justice means that violence against women is perpetuated and this signifies the social and cultural notion of women's inferiority. The reasons which women express as a cause of crime are considered as stories by the legal

officials and which results as women to not muster up courage to file case and most of the times drop the case. This lack of effective response at the part of the legal agencies is also one of the major cause of such low number of cases are filed by the women (IACHR, 2011). Women also think of themselves as outsiders as this legal feminist ideology is discursively positioned (Alcof,2014). Alcof has associated it with Foucauldian Materialism in which the subjective understanding of women is associated with their legal rights based upon cultural patterns, practices, language and practices. Many contextual variable are affective in the background (Rosemarry,2014).

Sometimes the scarcity and lack of resources do not let women to file case for justice and they are seriously afraid of the re-victimization of the victim over and over again. In the legal institution they usually face gender –based- discrimination. The law enforcement agents and officials all harbour gender base stereotypes and biases against women. They do not support the women victim and blame her for what has happened to her by questioning women’s honour and justify it in terms of sexist vocabulary. There are different cases in Mesoamerica in which the girls and their mothers are sexually harassed by the police and the deputy prosecutors when they report sexual violence against them. Normally the mind set in moat of the interior Mesoamerican states is to blame the women in the case of any attack on her and majority of the people believe that woman victim should use her personal strategies to avoid domestic violence by keeping quiet, giving importance to husband’s likes and dislikes, dressing well and doing domestic chores. This is why the women are blackmailed to provide sexual favours to the legal agents in support of supporting them and expediting their case. Due to all these discriminatory stereotypes the intensity of male sexual violence on women victim is diluted and the overall legal

setup and judicial atmosphere supports the male culprit as compared to the women (IACHR, 2011).

The first place where women has to go for help and support is the police station and these police stations usually lack gender sensitive attitude and so they get least support and help from them. Women are not informed about their legal rights and are not advised about what the available legal precautions. All this puts women on a vulnerable edge. As the women's knowledge is based upon their experiences. Women's experience as domestic and market place producers, sexual bodies and victims of male violence are the source of their epistemology. So the epistemological ground of Pakistani women is based upon the connection between their life and the knowledge about it (Henssey,2014).

#### **SUPPORT FROM LEGAL AGENCIES:**

There are certainly a lot of judicial agents and officials who are very honest across the globe. The problem is not in the judicial culture but actually it is dependent on the societal context from which this institution is born. Adopting new laws and new rules for the court may face friction as great step forward, but in reality in many developing societies they are rarely enforced. These changes can only influence few judges and legal authorities (Golub, 2003).

The bar association in some of the societies are self-serving guilds that strongly limit the access to justice that is working against the social and economic equality. Corruption is a norm of these courts and bars as the whole legal machinery is supporting each other in the entire process (Golub, 2003). This refers to institutional inertia.

As women work and product is not recognized in the market culture similarly her pain and miseries are not admitted in the legal culture (West,2000).

Most of the women victims of gender based violence do not report to the legal authorities because they fear being rejected by the society which usually blames the victims themselves responsible for the abuse they faced. Some of the courageous women who dare to report these cases are made fun of and ridiculed by embarrassing questions. Violence against women is supported by the society in the name of culture and religion (Nnadi, 2012). The economic, social, cultural and technical obstacles are major hurdles which prevent women to report these kinds of cases. These obstacles are due to the result of number of factors among them are that women are ashamed to report some acts of violence against them, they have no awareness about their rights, due to the lack of legal assistance and most of the times they do not have protection from the court, the public authorities are less concerned about sexual violence against women, lack of education to combat social and cultural stereotypes regarding sexual violence against women (IACHR, 2011).

One of the serious problem which women victims face is at the initial stage when women are reluctant to record or file cases against criminal is due to lack of privacy when they give their statement.

The first step to establish justice is to establish an efficient police force in the country. As the police force is responsible for a number of functions like, securing justice, detecting crime, collecting evidences, and litigating the suspects. The judiciary is another institution which women have to approach for justice and plays a prominent role in providing justice to women. In Afghanistan women are obstructed by the gender biases, cultural values and customary practices to avail legal rights.

Women's confidence to ask for their rights is weakened by these traditional and cultural norms. However the justice institutions also fail to serve the rights, interest and legal claims of women (Rawish, 2008).

At police stations, women recording sexual or other gender-based violence are "possibly to be interrogated to the point of harassment" and face "corruption in the police system. Strong measures should be taken on the national level to so that women can get legal aid without being re-victimized during the process. The police are itself gender bias and many other discriminatory practices are the part of this system (Tanezia, 2010).

All this is due to the fact that women are out of the scope of legal remedies, they are ignored as dominant legal culture disempowers them. Hierarchical power imbalance between men and women disregards women even to a reduced level than animals.(West,2000).

#### **EFFECTIVITY AND IMPLEMENTATION OF LAW:**

Compensation: monetary Help by acknowledging the damage and injuries caused. Compensation should be according Restitution: proving the victim her rights and ensuring her prior situation. Restitution sometimes is not possible when the crime has affected her emotional 'physical and sexual integrity to the severity of crime.

Rehabilitation Medical and psychological help provided to the women victims so that she can carry on with her life back. There are two important things in this regard.

**Guarantees of non-repetition:** Guarantee from the state and legal institutions that she will not suffer from the harm again.

**Satisfaction:** People's initiative to acknowledge the truth and making public apologies by the society.

Basically in Pakistan feminist jurisprudence is required which explores the effect of law on the lives of women. There is a hegemonic knowledge prevailing in the legal setup of Pakistan. Gramsci has also explained this relationship between power and knowledge. According to his concept the dominant group in any society usually dominates by creating a common sense that does not question the prevailing set of values and beliefs. This set of dominant discourse is diffused throughout the social structure as major regimes of truth. Everything associated with the present situation of women's legal power is based upon these regimes of truths. These legal discourses or the legal regimes of truth start from individual reality and then spreads and becomes a social reality. In this way the organization of the wider society puts women on vulnerable edge.

According to Michael Foucault the dominant legal and social discourses privilege those versions of social reality which uphold power relations and social structures. Usually law is not gender neutral. The oppression faced by women in the legal institutions is made invisible due to power play and power structures and only those women can recognize who has experienced it (Bartlett, 1990).

Women victim must be involved as party to the remedial process and sharing her pain and her personal experiences is very important for regaining her confidence, integrity and self-esteem. The patriarchal system and the male dominated social setup are involved during all the phases of justice seeking process and are reflected in law, opinion of the experts, reparation process and the decision making.

Throughout the legal procedure patriarchal myths and stereotypes blame women of being victim of gender based violence. Men and women of a society are equally influenced by these patriarchal norms and values. Most of the unjust and discriminatory practices are accepted and perceived as socially accepted and natural. Patriarchy conforms that it is how things ought to be (IACHR, 2011).

### **Family Support:**

The studies have revealed that women usually tolerate, accept, or fear to expose the effects of violence to protect the family honour (Ali, Krantz&Mogren, 2012).

Violence inside the home against girls and women has cultural excuses. Domestic violence is usually done by close male relatives in the family. In most of the patriarchal cultures if a women rejects a suitor or does not fit in the in-laws she becomes the victim of acid attack. This attack on woman is to torture her by disfiguring her. Even though sale of this acid is not banned in different countries (Nnadi, 2012).

The criminals or the perpetrators of this gender based violence are rarely held accountable for these crimes. Usually the women who are the victims of gender based violence are not provided with legal aid and assistance as the police and other legal agencies are themselves guilty of being discriminatory and bias (Nnadi, 2012).

Women who suffer from any kind of gender based violence are denied support from their family, friends, community and neighbourhood and it becomes really difficult for them to file case against the culprit. If the culprit is their husband they fear about the economic security and the custody of their children and it prevents them to take decision their husband. The women are also afraid to be re-victimized



again by telling the details of the abusive trauma again during filing the case and the insecurity they feel from legal agents who entertain themselves by lurid details and issues of the crime. Firstly they do not file case due to all these intricate issues and secondly if they file case they do not follow through. Women in this way suffer from lack of sensitivity on the part of the legal agents (IACHR, 2011).

Women are emotionally, economically and psychologically and physically abused by men be in the form as brother, father, husband or complete stranger. But women stay quiet just to avoid stigmatization and to protect the honour of their family. Women usually do not report the incidents of violence against them as they fear to be ostracized and shameful of the community and society as its quick in blaming the victim of being the reason to the act of violence (Nnadi, 2000).

The criminals of violence are rarely held accountable for the violence they commit. Crimes done against women are the violation of basic human rights that cannot be justified in the name of culture, tradition and religion. Only laws cannot bring change unless and until there is social will behind these provisions (Nnadi, 2000).

The sexist remarks on women and the anti-women humour has influenced the women initiative to participate in law as well in justice. To improve the status of the women with respect to law we have to make the gender sensitive material as part of regular law curriculum. The violence against women is increasing rapidly as compared to violence against men (Anne, 1973).

A absence of public confidence in state organisations, triviality on the part of administrators, and shortages within the judicial system to deal adequately with these cases, all add to the under-registration of violent crimes against women. In addition, it

is believed that police forces plot with organized crime, as has been observed and may thus be complicit in violence against women. The lack of reporting, investigation, and trial of these crimes has resulted in a situation where the culprits of these acts remain largely unknown and unpunished, which can be seen as aggravating the climate of fear and insecurity present in different states of the world (Godoy-Paiz, 2009).

The inconsistency between increased legal safety against violence and rising figures of violence against women declares that women's legal empowerment for the reduction and abolition of violence toward women is not enough to address this social problem, and may only be a part of larger social changes vital for its improvement (Rawish, 2008).

Laws gain their significance relevant to the context out of which they arise and where they are applied. The affectivity of law is based on a complex interplay among global rights, human rights and the respective local situation (Godoy-Paiz, 2009).

### **Loop Holes in Law:**

The gap between theory and practice of the legal rights is also due the relationship between law and power. Laws are formulated by the ruling class for their own vested agenda and interests. The feudal system does not allow the participation of groups which lack in political and economic power so their prospective including their interests/rights are surely not protected and represented. Women are totally excluded from this practice as they are culturally bound and handicapped (Hayat & Ahmed, 2012).

Basically in Pakistan the legal processes are based on male reasoning rather than female contextualized reasoning. Due to this When women enter for justice in

the legal domain they face isolation and stigmatization from the society. The women victims are asked questions about their experiences during the justice seeking process and how the women are left out in the process of legal empowerment and this omission is justified in the name of women's different roles and characteristics (Bartlett, 1990).

In Pakistan there are a number of laws as well as constitutional provisions for granting equality to women but they still suffer from different forms of violence. The actual problem is the patriarchal structure of Pakistan along with the two supporting folds of culture and religion that strengthens the notion of male superiority over women (Nnadi, 2012). The importance of violence against women is not taken seriously by society and it is further minimized by the social commentary in which victim is again blamed for sexual violence because of her sexual history and due this mind set In the society the crime go unpunished by the legal system (IACHR, 2011). Discrimination against women provide the conducive environment in which crime against them is flourished and cultivated. We need to change the social environment by strengthening women to stop this breeding of violence against women. One of most crucial step regarding this transition is an effective judicial system and acceptance in society related to just decisions related to crimes against women. Only the laws cannot have the desired effect without the social will to combat this evil (Nnadi, 2012).

It is the demand of social change that laws must be improved and new laws should be introduced. Laws all around the world are formulated to promise women's right to live, to private integrity and security, safety and equality in all fields of life (IACHR, 2011).

The unequal division of power between man and woman require a deep cultural transformation and this uneven distribution of power has a direct influence on the administration of justice as the prevailing norm in culture is in the favour of men's superiority over women. This trend in the society gives the man right to punish the woman and when they try to report the violence against them they are shunned by the society which normally blame and try to re-victimize women again when she complains. The society forces them to behave obediently and mistreats the woman when see retaliates (IACHR, 2011). Only the laws cannot have the desired effect without the social will to combat this evil.

It appears that the legal institution is struggling to promote the world of non-discrimination and equality. But the society is always resisting the notion of gender equality. Despite legal protection women are still trapped in the cycle of humiliation and oppression. The actual use and the affectivity in the legal rights and the legislation done for women's legal empowerment depends on potential of women to be assertive about their rights. The social as well as the economic stability of women serves as a basic element that effects the women's legal strength (Grant, 2005).

Women's empowerment is the realization of women rights as human rights. Normally states consider the act of violence against women is a cultural, private or individual issue not having any political importance which should be given state attention. However sex discrimination kills women daily. Many of the gender inequalities are codified in statutory laws and legislation. In most under developed nations of the world the customary laws are stronger than laws of the society (Boxer, 2002). Violence in the family with women is considered in most of nations as a

private matter rather than a political and social issue which needs urgent solution (Vlachová&Biason, 2005).

In Pakistan there is a very high incidence of physical, sexual, and psychological violence, with the resultant adverse health effects on women victims. Some of the studies also state on serious health concerns, such as anxiety, depression, hostile physical and sexual consequences, and death. Studies are also existing on violence during and after pregnancy. These report a high occurrence of physical, sexual, and psychological violence, not only from the partner but also from in-laws. The risk factors recognised comprise the level of the woman's education, economic stability, class and duration of marriage (Tneez, Gunilla& Morgan, 2008).

Women who undergo violence suffer severe violence suffer from physical and mental sickness including suicidal sickness and attempts. However these thoughts are more common in women of lower strata as compared to women belonging to upper class. If the mother suffers from these kinds of psychological issues may transfer it to the next generation. The serious violations of women's human rights, deep-seated in general family life and supported by cultural and religious beliefs are one of the prominent cause of women's degradation (ibid).

Rule of law serves as oxygen for successful polity without which the government can suffer and can ultimately collapse. The rule of law is ineffective in a polity due to the absence of social protection and gender sensitivity (Akande, 2011).

Law is mostly a dynamic theory which is used not only to safeguard and spread the civil and political rights of an individual in a free society, but also to create social, economic, educational and cultural conditions under which an individual's legitimate objectives and dignity may be recognized be it a man or a woman. The

notion of discrimination against women within the rule of law would mean rejecting unfairly a women completely or partially the fulfilment of her education regarding, political, economic, social, cultural and civil rights, just because she is a woman. As a result women are being deprived of their equal enjoyment and exercise of human rights and fundamental freedom which is in contradiction of the commands of the rule of law. It is on this pretext that gender discrimination has drawn much apprehension at the international, regional and domestic level in the past 20 years (ibid).

## **5.1. Summary:**

The present research, "Pro women legislation and its effect on women's legal empowerment in Pakistan", is the study which exclusively focused on three recent legislations approved in year 2010 and 2011 in Pakistan. Qualitative research methodology was used to explore this phenomena in context of Pakistan. Four women victims were selected and intensely interviewed to explore women victims' standpoint regarding their legal empowerment pertinent to these pro women legislations. They gave comprehensive information about their entire experience about the legal process which they experienced throughout the justice seeking journey. These experiences and the standpoints of these women victims was used as a discourse which was critically analysed to under stand the whole phenomenon of legal empowerment in Pakistan and the loopholes in the implementation and the legislation. Foucauldian Discourse Analysis was used as tool expose the power play at social, cultural and religious level strictly preventing women of Pakistan to stand for their legal rights. The data shows that state of Pakistan is conscious about women's legal rights but implementation of these laws is almost invisible due to the power exerted by cultural and societal factors. At present in- spite of the existence of strong laws the cases filed under these provisions is almost invisible. The appearance of women victims in the legal institutions for justice is very rare. Those women who somehow manage to develop courage to fight for their legal rights face a strong friction at all the levels of society and at each and every step of legal assistance. Even the most dear and close blood relations support the societal schemas instead of the victim. Those families which try to support the woman victim face a lot of problems throughout the process

from the beginning till the decision and sometimes after the decisions when it is not enforced and implemented. Lack of gender sensitivity at every stage in the legal institutions serve as a threat for victims and their family members. The process of legal justice quest is full of pit holes and Pakistani women who are already socially labelled as inferior are re-victimized again and again until and unless they give up.

The concept of legal empowerment is not actualized properly in Pakistan and the time required for it is unknown. Although the laws in their concrete form are there and with the due passage of development they will increase in numbers but the true essence of these laws is missing in the society because of numbers of factors and the destination of legal empowerment needs a lot of social change at all the levels of society and its institutions.

## **5.2. CONCLUSION:**

The data based on the standpoint of women victims has declared that the journey towards legal empowerment of women in Pakistan has been started but pace of social change is very slow due to the strong resistance from social, cultural and religious factors. The re-victimization of the women victims is a common pattern in our society. Women are discouraged and the legal rights are denied at community, institutional and societal levels. Women are stigmatized and victimized at each and every stage of legal justice system. Male dominated structure in the justice legal system serve as a strong threat to women. Normally women avoid to enter the boundaries of the court because of the family honour socially attached to them. In a male dominated legal structure women again need the support of a male family member to be accepted in the legal domain. Lack of gender sensitivity at each and every level of legal process is preventing women victims to ask for justice and they



settle down the disputes out of the court, resulting in reduction of deterrence at the social level. Submissive and passive attitude from women towards their legal rights strengthens male domination and patriarchal bases of society. Huge gap prevails between theory and practice. Pro-women legislation has not created the desired level of legal empowerment in women of Pakistan. The power of justice lies majorly in the hand of men who are socially programmed to oppress women. The numeral of enlightened minds is rare, who can actualize the phenomena of legal empowerment. The process of legal empowerment of women in Pakistan has been facing strong resistance from power exerted by number of agents and elements from social, religious and cultural foundations of our society.

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