

**A CRITICAL ANALYSIS OF THE ROLE OF THE JUDICIARY IN RESOLVING THE
ISSUE OF GENDER-BASED VIOLENCE IN PAKISTAN**

A Thesis Submitted in Partial Fulfillment of the Requirements for the Degree of PhD in Law

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

DEDICATED TO MY BELOVED PARENTS AND RESPECTED SUPERVISOR

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CERTIFICATE OF COMPLETION OF THESIS

A thesis titled “A Critical Analysis of the Role of Judiciary in Resolving the Issue of Gender-Based Violence in Pakistan” submitted by Miss Saima Waheed , Registration no. 113-FSL/PHDLAW/S19, in partial fulfilment of the requirement for the degree of “Doctorate in Law (PhD Law)” has been completed under my guidance and supervision. I am satisfied with the quality of the student’s research work and allow her to submit this thesis for further process as per the rules of International Islamic University Islamabad.

Date: _____

Signature of Supervisor

Name and designation

APPROVAL SHEET

It is certified that the authorized examination committee has assessed the PhD thesis titled as “A Critical Analysis of the Role of Judiciary in Resolving the Issue of Gender-Based Violence in Pakistan” **submitted by Saima Waheed , Registration No. 113-FSL/PHDLAW/S19, in Partial** fulfilment for the award of PhD degree in Law. This thesis is good and fulfils the requirements for the award of PhD degree.

Examination Committee

Supervisor: Dr. Naseem Razi (Associate Professor in Faculty of Shariah and Law, IIUI)

Internal Examiner

External Examiner

DECLARATION

I, Saima Waheed Sheikh, hereby declare that this research work is innovative and has never been done in any institution. All data and content presented in this dissertation are based on available primary and secondary sources and have been duly acknowledged. It is pertinent to mention here that in spite of comments and recommendations of the respectable supervisor mentioned above, I am solely responsible for errors, omissions, or imperfections of this work”.

Saima Waheed

Signature: _____

Dated: _____

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Saima Waheed

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ACRONYMS

AF: Aurat Foundation

AIDS: Acquired Immunodeficiency Syndrome

AJK: Azad Jammu & Kashmir

CCPO: Capital City Police Officer

CEDAW: Convention on the Elimination of All Forms of Discrimination against Women

CNIC: Computerized National Identity Card

CRC: Convention on the Rights of the Child

Cr.P.C: Criminal Procedure Code

CJ: Chief Justice

DPO: District Police Office

DSC: District and Sessions Court

FIR: First Information Report

FMT: Female to Male (Trans Man)

FDI: Forum for Dignity Initiatives

FGD: Focus Group Discussion

GEP: Gender Equity Program

GBV: Gender-Based Violence

HIV: Human Immunodeficiency Virus

HSW: Hijra Sex Worker

HRCP: Human Rights Commission of Pakistan

ICT: Islamabad Capital Territory

IACHR: Inter-American Commission on Human Rights

ICCPR: International Covenant on Civil and Political Rights

ICESCR: International Covenant on Economic, Social and Cultural Rights

ICT: Information and Communication Technology

KPK: Khyber-Pakhtunkhwa

KII: Key Informant Interviews

LGBTI: Lesbian, Gay, Bisexual, Transgender & Intersex

LHC: Lahore High Court

MSM: Males who have Sex with Males/Men who have Sex with Men
NADRA: National Database and Registration Authority
NMHA: Naz Male Health Alliance
MTF: Male to Female (Trans Woman)
NGO: Non-Government Organization
ODI: Overseas Development Institute
PCSW: Punjab Commission on the Status of Women
PECA: Prevention of Electronic Crimes Act, 2016
PPC: Pakistan Penal Code 1860
PTSD: Post-Traumatic Stress Disorder
QSO: Qanun e-Shahadat Order
SC: Supreme Court
TG: Transgender
TAF: The Asia Foundation
USAID: United State Agency of International Development
UDHR: Universal Declaration of Human Rights
UN: United Nations
UNDP: United Nations Development Program
UNESCO: United Nations Educational, Scientific and Cultural Organization
UNICEF: United Nations Children’s Fund
US: United States
VAW: Violence against Women
VCLT: Vienna Convention on the Law of Treaties
WHO: World Health Organization

INTRODUCTION AND SCOPE OF RESEARCH

Thesis Statement

Gender-based violence, especially against women and transgender is one of the most emerging challenges being faced by the contemporary world where Pakistan stands with no exception. Thus, this research will analyse critically, the role of the judiciary in resolving the issues of Gender-Based Violence in Pakistan by highlighting the loopholes in the existing system of adjudication to reform the policy of interpretation and adjudication to eliminate Gender-Based Violence against women and transgender persons. Gender-based violence (GBV), particularly against women and transgender individuals, remains a critical and escalating challenge in the contemporary world, and Pakistan is no exception. Despite the presence of legal protections, the judicial system in Pakistan has struggled to provide effective redress, largely due to institutional loopholes, procedural delays, lack of gender sensitivity, and inconsistent interpretations of the law. This research aims to critically evaluate the role of the judiciary in addressing GBV in Pakistan by identifying the systemic shortcomings in adjudication and legal interpretation. In doing so, it seeks to answer key questions: To what extent has the judiciary been effective in delivering justice to GBV survivors? What legal and procedural gaps persist in the current judicial framework? And how can these gaps be bridged through judicial reforms, policy recommendations, and gender-sensitive legal interpretation? By addressing these questions, the study aims to propose actionable solutions for a more responsive and equitable justice system to combat gender-based violence against women and transgender persons in Pakistan.

Introduction

The term “Gender-Based Violence” was first officially defined by the United Nations as, “Any act that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life” (United Nations, 1993)

The issue of Gender-Based Violence has been well-defined and well-addressed only in the last few decades as social activists and advocates of gender equality fight to reduce discrimination and harmful practices against women. One major achievement in this regard was the “1993 United Nations Declaration on the Elimination of Violence against Women”, which offered the first official definition of gender-based violence: “Any act of gender-based violence that results in physical, Sexual or psychological harmful suffering to women, including threats of such acts, coercion.”(UN Women 2022)

Human Development Index 2021 ranks the Islamic Republic of Pakistan 154th out of 189 countries and it lies in the category of countries that have a Medium human development index.¹ Gender Empowerment Measure ranks the country in the 82nd position out of 177 countries. World Economic Forum ranked Pakistan at 153 out of 156 countries on the global gender gap index in its 2020 report. HRCP recorded 412 cases of honour killing in 2020, involving 148 male and 363 female victims. At least 200% of transgender violence cases increased by the year 2020 and were documented across the country. ²

Despite a lot of legislation and the establishment of gender-based violence courts, the

¹United Nations Development Programme, *Pakistan National Human Development Report 2021* (New York: UNDP, 2022),55. https://hdr.undp.org/system/files/documents/global-report-document/hdr2021-22pdf_1.pdf. Last accessed on 23-09-23.

² World Economic Forum, *Global Gender-Gap Report* (New York: Weforum, 2020). https://www3.weforum.org/docs/WEF_GGGR_2020.pdf. Last accessed on 21-09-23.

issue of Gender-Based Violence could not be reduced because of the lethargic procedure of justice, slow process of trial, approach system, and bribery. This research will critically, analyse the role of the Pakistani judiciary in reducing gender-based violence by identifying gaps and lacunas in the delivery of speedy justice.

Hypothesis of Research

- i. Gender-Based Violence is an ancient issue practiced by each nation including Pakistan.
- ii. Gender-Based Violence courts are playing an effective role in the elimination of Gender-Based Violence, especially in cases of women and transgender.
- iii. Gender-Based Violence courts are not playing an effective role in the elimination of Gender-Based Violence especially in cases of women and transgender.
- iv. Lethargic procedural laws, slow process of trial, and bribery are great hurdles in resolving the issues of Gender-Based Violence and restrict the role of the judiciary.
- v. The judiciary can play an effective role by speedy trial against Gender-Based Violence.

Research Questions

The following are the main research questions:

1. How effective are the legal and judicial mechanisms in addressing Gender-Based Violence (GBV) in Pakistan, and what reforms are needed to enhance access to justice for victims?
2. Are the international and national laws dealing with the issue of Gender-Based Violence quite enough to eliminate Gender-Based Violence in Pakistan?
3. For what purpose, Gender-Based Violence courts have been established in Pakistan, and how working?
4. Whether or not the Gender-Based Violence courts are playing an effective role in resolving

the issue and what are the major hurdles in the way of speedy trial and access to justice for Gender-Based Violence victims?

5. How and under what mechanism should the existing legal and judicial system be reformed to overcome the issue of Gender-Based Violence in Pakistan?

Objectives of Research

The following are the objectives of this research:

- i. To investigate the issue of Gender Based violence against women and transgender at a global level;
- ii. To evaluate the issue of Gender Based Violence against women and transgender in Pakistan.
- iii. This study also aims to investigate the existing legal framework internationally and nationally to point out its significance;
- iv. To highlight the scope, jurisdiction and procedure of Gender-Based Violence courts as established in Pakistan.
- v. To identify, hurdles, haphazard, and lacunas in the judicial system regarding Gender-Based Violence cases.
- vi. To conclude some conclusions and to suggest some suggestions to reform the existing legal and judicial mechanism to reduce Gender-Based Violence cases with respect to women and transgender in Pakistan.

Research Methodology

The researcher adopts a doctrinal and textual legal analysis approach to address the research questions. This method is particularly suitable for legal research as it allows for an in-depth examination of legal principles, statutory provisions, judicial decisions, and scholarly commentaries. By relying on legal texts, primary legislation, case law, and secondary sources

such as academic journals and reports, the study aims to construct a coherent and well-supported argument regarding Gender-Based Violence in Pakistan. The doctrinal approach enables the researcher to interpret, analyse, and critically evaluate existing legal frameworks and judicial responses to gender-based violence, thereby providing a comprehensive understanding of the legal issues and gaps within the current system. This analysis is complemented by descriptive, analytical, and critical research methods, ensuring that the study not only describes the legal landscape but also engages with the strengths and weaknesses of the legal responses to gender-based violence.

Furthermore, the research is situated within the feminist legal theory framework, which provides a critical lens to analyse how the law perpetuates gender inequalities and often fails to protect women from violence. Feminist theory is particularly appropriate for this study because it interrogates the patriarchal underpinnings of legal systems and highlights the structural barriers that prevent women from accessing justice. By adopting this theoretical perspective, the research seeks to uncover the gender biases embedded within Pakistani laws and judicial practices. It would have been beneficial if the candidate had explicitly articulated a substantive rationale for choosing feminist theory as the guiding theoretical framework. This could have included an explanation of how feminist legal theory aligns with the research objectives, particularly in examining the intersection of law, power, and gender. Such a rationale would have clarified why feminist theory is best suited to expose the systemic disadvantages women face and how it aids in proposing transformative legal reforms to combat Gender-Based Violence effectively.

The researcher uses doctrinal and textual legal analysis to answer the research questions. The study predominantly benefits from descriptive, analytical, and critical methods of research. To achieve its goals, the researcher has consulted all types of relevant data such as books,

encyclopaedias, statutes, case laws, articles, Reports, etc. This research does not apply empirical research design to argue the issue. However, empirical data from secondary research will appear throughout the research to highlight the issue of Gender-Based Violence.

Literature Review

The researcher studied a number of articles, books, and reports on the topic and found the following material relevant to the topic.

Rubeena Kidwai in her dissertation ‘Domestic violence in Pakistan: The Role of patriarchy, gender roles, the Culture of Honor and Objectification/commodification of Women³’ utilized Galtung's (1990) theory of cultural violence to address cultural factors that may be related to domestic violence and wife abuse in Pakistan. It discusses the role of patriarchy, gender role ideologies, culture of honour, and sexual objectification and commodification in domestic violence, as proposed by Western theory and research. These concepts are then expanded and applied to the Pakistani culture in order to understand domestic violence and wife abuse in Pakistan.

"Woman Changing Woman: Feminine Psychology Re-Conceived Through Myth and Experience Paperback, July 1, 1993, By Virginia Beane Rutter⁴ "Offering a compelling vision of psychotherapy as a sacred space for women's rites of passage, Jungian analyst Virginia Beane Rutter brilliantly illuminates the emotional lives of women. “Woman-to-woman therapy," writes Beane Rutter, "is the ritual container for the lost feminine in our culture."

Modelling an intrinsically female pattern of change, woman-to-woman therapy is a process involving stages of containment, transformation, and emergence. It is a place for a

³ Rubeena Kidwai, *Domestic Violence In Pakistan: The Role Of Patriarchy, Gender Roles, The Culture Of Honor And Objectification/Commodification Of Women* (Los Angeles: Alliant International University, 2001), 151.

⁴ Virginia Beane Rutter, *Woman Changing Woman: Feminine Psychology Re-Conceived Through Myth and Experience* (USA: HarperSanFrancisco, 1993), 47.

woman to uncover and be conscious of the motivating stories and myths in her individual psyche. Here, a woman has the opportunity to listen to her own voice perhaps for the first time. Feminist theory believes in equal rights for women in every walk of life. It talks about women's empowerment, education, and right of expression. This theory advocates against male dominance and talks about the safety of women all over the world.

The International Centre for Research on Women 2004 published a report titled, “Violence Against Women in India, A Review of Trends, patterns and Responses”⁵ which quoted South Asia as the most gender-sensitive region in the world where 44 percent of the world illiterate females reside and are being sold for sex bondage by their families. The report presented a bleak picture of domestic and general violence against women in India stating that 21 present women face violence at the age of 15 and 9 out of 10 have been beaten by husbands.

Sarah Butt, Andrew Morrison, and Mary Ellsberg in their paper, “Preventing And Responding to Gender-Based Violence In Middle And Low-Income Countries: A Multi Sectorial Literature Review And Analysis World Bank Policy Research Working Paper 3618, June 2005”⁶ outlined reasons, outcomes, and factors as well as consequences of Gender-based violence but the work misses specific details with reference to Pakistan and India. However, the authors mentioned ‘Justice’ as the first recommendation and governmental pressure to pursue the case.

Preventing and Responding to Gender-Based Violence in Middle and Low-Income Countries: A Multi Sectorial Literature Review and Analysis World Bank Policy Research

⁵ The International Centre for Research on Women, *Violence Against Women in India, A Review of trends, patterns and Responses* (India: UNPF,2004), 21.

⁶ Sarah Bott, Andrew Morrison, Mary Ellsberg, *Preventing and Responding To Gender-Based Violence In Middle And Low-Income Countries* (Washington :World Bank, 2005),47.

Working Paper 3618, JUNE 2005. Worldwide, patterns of violence against women differ markedly from violence against men. For example, women are more likely than men to be sexually assaulted or killed by someone they know. The United Nations has defined violence against women as "gender-based" violence, to acknowledge that such violence is rooted in gender inequality and is often tolerated and condoned by laws, institutions, and community norms. Violence against women is not only a profound violation of human rights.

Mona Mehta and Chitra Gopal Akrishnan in the article "We Can': transforming power in relationships in South Asia",⁷ published by Oxfam GB in 2007 wrote about the victimizing women in Indian society. It is said that one in every two women in South Asia faces violence in her home. One out of five married women experience domestic violence in India and in Pakistan. Mona Mehta and Chitra Gopalakrishnan, in their 2007 article "*We Can': Transforming Power in Relationships in South Asia*", published by Oxfam GB, highlight the pervasive victimization of women in South Asian societies. They report that one in every two women in South Asia faces violence within the home, while one in five married women experience domestic violence in countries like India and Pakistan. However, the underlying causes and implications of these findings are not discussed in depth.

Perspectives on domestic violence: a case study from Karachi, Pakistan, WHO Report, EMHJ - Eastern Mediterranean Health Journal, 2008⁸ mentions that there is no adequate profile of domestic violence in Pakistan although this issue is frequently highlighted by the media. This case study used qualitative and quantitative methods to explore the nature and forms of domestic violence, circumstances, impact, and coping mechanisms amongst selected

⁷ Mona Mehta, Chitra Gopal Akrishnan "We Can' Transforming Power In Relationships In South Asia" *Gender-Based Violence* 15 (2007):54.

⁸ F Rabbani, F Qureshi and N Rizvi, "Perspectives On Domestic Violence: A Case Study Of Karachi, Pakistan," *Eastern Mediterranean Health Journal* 2 (2008): 77.

women victims in Karachi.

James Brandon and Salam Hafez in “Crimes of the Community”⁹ described honor, killing in the name of honor, forced marriage and abuses after it, female genital mutilation in different societies of the world, and factors that led to failure in changing the existing customary laws. This book has not given any details about violence happening outside.

Jennifer R. Wies and Hillary J. Haldane in their book “Anthropology at the Front Lines of Gender-Based Violence”¹⁰ Published by Vanderbilt University Press in the Year 2011” comprehensively wrote about the gender-based violence is a broad and accessible volume, with a truly global approach to understanding the lives of front-line workers in women's shelters, anti-violence organizations, and outreach groups. James Brandon and Salam Hafez, in their report *Crimes of the Community*, explore various forms of gender-based violence such as honor killings, forced marriages, post-marriage abuse, and female genital mutilation across different societies. They also examine the cultural and legal factors contributing to the persistence of these practices, including the failure to reform deeply entrenched customary laws. However, the report primarily focuses on intra-community violence and traditional practices, offering limited discussion of other forms of gender-based violence that occur outside these cultural contexts—such as workplace harassment, institutional abuse, or state-perpetrated violence—thereby narrowing the scope of its analysis.

Gender-based Explosions by Maleeha Aslam-2012,¹¹ this book will help in gathering authentic data about gender-based violence. A book named Gender-based Violence in

⁹ James Brandon and Salam Hafez, *Crimes of the Community* (UK: Centre for Social Cohesion, 2008), 65.

¹⁰ Jennifer R. Wies and Hillary J. Haldane, *Anthropology at the Front Lines of Gender-Based Violence* (Tennessee: Vanderbilt University Press, 2011),131

¹¹ Maliha Aslam, *Gender Based Explosions* (Tokyo: United Nations University, 2012), 300.

Pakistan¹² will shed light on the intensity of the crimes involving gender-based violence in the country. How women and transgender persons are coping with the issue is mentioned in this book.

Women, Healthcare and Violence in Pakistan¹³ by Sara Rizvi sheds light on the consequences caused by violence on the health of women in Pakistan. It focuses on the kind of gender-based violence that women face at workplace. Such conduct hinders the performance of female workforce.

Jennifer R. Wies and Hillary J. Haldane in their book “Anthropology at the Front Lines of Gender-Based Violence Published by Vanderbilt University Press in the Year 2011”²¹ comprehensively wrote about the gender-based violence is a broad and accessible volume, with a truly global approach to understanding the lives of front-line workers in women's shelters, anti- violence organizations, and outreach groups. Often written from a first-person perspective, these essays examine government workers, volunteers, and non-governmental organization employees to present a vital picture of practical approaches to combating gender-based violence and various institutions working against it in different parts of world but it offers limited knowledge about Pakistan and India in their code of criminal procedures about gender-based violence cases.

Gender-based explosions (the nexus between Muslim masculinities, jihadist Islamism and terrorism)” by Maleeha Aslam-2012 discussed the issue with reference to Muslim societies. First colonized and now living under political oppression, experiencing marginalization and feeling dejection and humiliation, many Muslim men in and outside

¹² Aurat Foundation, *Gender-based violence in Pakistan* (USA: Gender Equity Program, 2011), 33.

¹³ Sara Rizvi Jafree, *Women, Healthcare and Violence in Pakistan* (UK: Oxford University Press, 2017), 100.

Muslim countries have no opportunities to prove themselves as "honorable" or practice "masculinity" in culturally prescribed ways. Troubled and troublesome, many turn to militant jihadist networks to achieve self-actualization and heroism. Terrorist networks, acting as surrogates to national liberation and antiauthoritarian movements, further complicate these dynamics. Maleeha Aslam argues that gender is a fundamental battle ground on which al Qaeda, Gender-Based Explosions: The Nexus between Muslim Masculinities, Jihadist Islamism and Terrorism, published in 2012 by the United Nations University Press. the book also includes empirical data from a pilot study conducted on Pakistani Muslim masculinities John Simister in his book “Gender Based Violence: Causes and Remedies (Family Issues in the 21st Century: Social Issues, Justice and Status) Hardcover by Nova Science Publisher May 25, 2012”. Ligia Kiss and others in their paper, ‘Gender-Based Violence and Socioeconomic Inequalities: Does Living in More Deprived Neighbour hoods Increase Women’s Risk of Intimate Partner Violence? Department of Global Health and Development, London School of Hygien Brazil-2012, discussed the consequences of violence unleashed upon women living in low level areas narrowing down the wide scope of gender-based violence. This research is based upon the data collected from neighbourhoods of Brazil’s capital city, Sao Paulo and data mining was done by the researchers only from the women of one community i.e. women living in neighbourhoods.

Yanyi K.D Jambaand Sitawa R. Kimuna in their book “Gender-Based Violence Perspectives from Africa, the Middle East, and India 2015th Edition, Kindle Edition” wrote extensively about the case and plight of women in different parts of the world including Ethiopia, Cameroon, South Africa, Middle East and India. Authors narrated factors, risks, health factors as well as domestic and political violence. This book talks about spousal

violence and its generation to generation transmission in India as well but it did not state about the situation in Pakistan.

Faith-Based Violence and Deobandi Militancy in Pakistan” By Jawad Syed, Edwina Pio, Tahir Kamran, Abbas Zaidi – 2016²⁸. Faith-Based Violence and Deobandi Militancy in Pakistan (2016), edited by Jawad Syed, Edwina Pio, Tahir Kamran, and Abbas Zaidi, is a comprehensive volume that delves into the intricate relationship between Deobandi ideology and faith-based violence in Pakistan and beyond. The book comprises 18 chapters, each offering scholarly insights into various facets of Deobandi militancy, its historical roots, ideological underpinnings, and its socio-political ramifications. “This book is a landmark in scholarship on Islam, Pakistan and militancy. It will provide necessary insights into the genesis of violence in the name of religion and sect which scholars, ordinary readers and decision-makers can use to understand why Pakistan’s name is often in the headlines for the wrong reasons.” Abbas Zaidi has worked as a journalist and teacher in Pakistan, Brunei Darussalam and Australia. He is based in Sydney, where he tutors in media studies and academic writing at various universities.

However, the researcher could not find any book which addressed the issue from the perspective of the role of the judiciary in resolving the issue of gender-based violence in Pakistan, hence, this research is unique in its nature and will be a useful document to help out judiciary lawmakers to reform the existing legal and judicial system to reduce gender-based violence in Pakistan.

Significance of the Research

Before starting this research, the researcher went through sufficient literature yet could not find any academic writing on the role of gender-based violence courts in resolving the

issue of violence against women and transgender, hence this research is unique in its nature. This document is useful to help judiciary lawmakers reform the existing legal and judicial system to reduce gender-based violence in Pakistan.

This research has discussed the role of Gender-Based Violence courts along with their purposes for exploring the result-oriented progress of the Courts in light of existing jurisprudential principles and laws related to gender-based violence cases and objectives. A critical evaluation of the role of the Pakistani gender-based violence courts in matters relating to gender-based violence regarding women and transgender has been presented in a legal manner. This study also analysed the working methodology of gender-based violence courts as well as their impacts on the legal and social system of Pakistan. The research study has prompted the identification of a specific advocacy program that will aid in granting the transgender community equal citizenship and dignity.

Scope of the Study

The following main areas have to be kept in view while undertaking this research study.

- i. This research is limited to the extent of the role of Gender-Based Violence courts with reference to the cases of women and transgender only.
- ii. This research study is also limited to examining the nature, method, and decisions of courts in gender-based violence cases
- iii. This research also focuses on the evaluation of only relevant laws.
- iv. This study focuses on the random cases concerning GBV (gender-based violence) against women and transgender

Theoretical Framework

This research has been carried out through Feminist theory which believes in equal rights for women in every walk of life. It talks about women's empowerment, education, and right of expression. Feminist theory first emerged as early as 1794.¹⁴ This theory advocates against male dominance and talks about the safety of women if she turns down male's orders or wants to do something by her own will. It advocates human rights, social security, right to exercise her will independently. Feminism is against all kinds of social stigmas associated with a person on basis of his/her gender and it negates all kinds of subjectivity as well. Feminists demand equal treatment of women in relation to men and constitutional amendments to ensure this as females' right. This has been accomplished through studying the connections between the law and gender as well as applying feminist analysis to concrete areas of law. According to Wollstonecraft, was that they were socialized to remain in an 'infantile' state.¹⁵

SCHEME OF STUDY

This research titled “A Critical Analysis of the Role of Judiciary in Resolving the Issue of Gender-Based Violence in Pakistan,” contains an introductory portion and six chapters along with conclusions and recommendations.

The introductory part of this research consists of the synopsis of the thesis. It provides an overview of the research topic, research hypothesis, research questions, research objectives, and its significance. It begins with the thesis statement, which summarizes the purpose of the study. The introduction section establishes the background and context of the

¹⁴ Mary Wollstonecraft, *A Vindication of the Rights of Woman* (French: Social publications, 1998), 34.

¹⁵ Yanyi K.D Jamba and Sitawa R. Kimuna, *Gender-Based Violence Perspectives from Africa, the Middle East, and India* (USA: Kindle Edition, 2015), 76.

research, explaining why it is important to investigate further.

The research questions are explicitly stated, outlining the specific inquiries to be answered. The research hypothesis proposes relationships or associations between variables. The research objectives define the goals and aims of the study. The research methodology describes the overall methodology, research design, data collection methods, sampling techniques, and data analysis procedures.

It identifies the gaps or issues in the field that necessitate the research and justifies its relevance. The section also discusses the potential impact and benefits of the research findings. The literature review analyses existing scholarly work, identifying key theories, concepts, and empirical findings while highlighting any gaps or inconsistencies. Overall, this part establishes the foundation for the subsequent chapters, providing a roadmap for the research process.

Chapter 1 deals with the existence of the issue of Gender-Based Violence as a global issue. It explains the history of the issue since the Greek society. Chapter 2 highlights the pandemic of GBV in Pakistan. It provides an introduction to the GBV issue with reference to women and transgender persons in Pakistan. This chapter also describes the causes and different types of gender-based violence in Pakistan.

Chapter 3 discusses the arguments and proofs of GBV (GENDER gender-based violence) Laws, their development and growth, as well as their importance, task, and need. This chapter focuses on all the national and international relevant laws that are considered as legal measures to combat gender-based violence enforceable within the country. Here, all these laws are also mentioned to reveal the kind of protection that is provided to women in

Pakistan. The extent to which all these laws are effective in the legal system is also observed in this chapter.

Chapter 4 of the thesis describes the development of gender-based violence courts and their jurisdictions. The chapter also covers the function of GBV (gender-based violence) Courts in all provinces of Pakistan and delves into the composition, objectives, and functioning of these courts. Pattern and priorities of gender-based violence courts, streamlining of the judicial process and making speedy justice, making of justice more accessible to victims and survivors of gender-based violence.

Chapter 5 of the thesis provides a comprehensive and critical analysis of key cases adjudicated by the Gender-Based Violence (GBV) Courts and the Supreme Court of Pakistan, focusing on their approaches, interpretations, and effectiveness in addressing gender-based violence (GBV). It fulfills the requirement of Research Question Four, which seeks to evaluate the judicial performance and procedural practices adopted in cases concerning GBV. The chapter devolves into landmark judgments and notable case law, shedding light on how these courts have handled issues such as domestic violence, sexual assault, honor crimes, and harassment against women and transgender community. This chapter also analyse analyse critically, the role of gender-based violence courts/judiciary in resolving the issue of gender-based violence in Pakistan. It further highlights the major hurdles in the way of speedy trial and access to justice for gender-based violence victims. It also focuses on the critical analysis of important judgments of the Apex courts. It also identifies several barriers that complainant of gender-based violence facing to encounter in accessing the justice system has also been explored in this chapter. It examines key decisions, analyses their legal implications, and provides a critical evaluation of their impact on GBV cases.

In the end some conclusions and recommendations have been framed to reform the existing judicial system to overcome the issue of gender-based violence in Pakistan.

CHAPTER ONE

HISTORY OF THE ISSUE OF GENDER-BASED VIOLENCE

Introduction

This chapter focuses on the exploration of the issue of gender-based violence as a global issue. It tries to investigate the issue from the perspective of question number first of the research “whether or not the issue of gender-based violence is taken as one of the threatening issues. The recognition of gender-based violence (GBV) as a serious global issue gained significant traction during the late 20th century. Although violence against women has existed throughout history, the framing of GBV as a distinct, systemic problem requiring international attention emerged primarily in the 1970s and 1980s, with the rise of feminist movements worldwide. Thus, this chapter explores the issue deeply starting from the Greek society to date. The study highlights that this issue has affected all countries, even those that have made commendable advancements in other capacities. Historically, the world has witnessed that others, women are the biggest targets of cruelty, injustice, harassment, and exploitation. Currently, such and similar violence has been declared as “gender-based violence.” This chapter intends to discuss the issue of GBV from three perspectives like existence of gender-based violence in the ancient Period, gender-based violence in the Medieval Period, and the issue of gender-based violence in WWI & WWII. It also describes the movement of the modern world to curb the issue.

1.1 Concept and Definition of Gender-Based Violence

Gender-based violence means any act of violence against anyone on the basis of gender that causes her bodily, sexual, or emotional injury. It includes all forms of violence acts such as beatings, bullying, stalking, violence, mistreatment, rape, acid throwing, and honour killings, etc.¹⁶

The ‘United Nations Declaration on the Elimination of Violence against Women 1993’, defines violence against transgender and women as an act "that causes or is likely to cause physical, sexual, psychological, or economic harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether in public or private life".¹⁷

It is a result of historically existing power imbalances between men and women, which constrain women to occupy a subservient position and hinder them from exercising their civic, social, economic, and political rights. Approximately 58% of all female homicides are committed by family members. As a result, family members are the most aggressive individuals, and the household is the most dangerous place for women.¹⁸

¹⁶ Kimberlé Crenshaw, "De-Marginalizing The Intersection Of Race And Sex: A Black Feminist Critique Of Anti-discrimination Doctrine, Feminist Theory And Antiracist Politics," *University of Chicago Legal Forum* (1989): 139; Muhammad Zia-ul-Haq, *Gender Based Violence: Model II* (Islamabad: Islamic Research Institute, 2023), 6.

¹⁷ United Nations General Assembly, "Declaration on the Elimination of Violence against Women, 1993." <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-violence-against-women>. Accessed on 23-08-23.

¹⁸ Rebecca Cook and Simone Cusack, *Gender Stereotyping: Transnational Legal Perspectives* (USA: University of Pennsylvania Press, 2011) 31; Prathik Karthikeyan, "The Application of Dignity in Law," *SSRN Electronic Journal* 2 (2019): 23. <https://www.ssrn.com/index.cfm/en/>; Parveen Azam Ali and Michaela M. Rogers, *Gender-Based: Violence: A Comprehensive Guide* (New York: Springer International Publishing, 2023), 88.

About 35% of women have experienced either physical or sexual violence from their life partner or from their family members and outsiders.¹⁹ An International report on GBV points out that this pandemic affects 1/3 women globally.²⁰

Physical violence comprises abusive intimate relationships, domestic violence, rape, and sexual assault, femicide in various family and community contexts, honour killing and dowry-related killing, acid attacks, trafficking, sexual exploitation, sexual harassment, forced or early marriage are harmful practices against women in the south region of the world.²¹

Psychological/emotional violence is a sophisticated form of violence that does not result in physical injury.²² It includes verbal abuse, humiliation, exclusion, intimidation, controlling behavior, online violence or technology-based violence, and harassment.²³

A study of 10,000 men (who engage in sexual violence) revealed that more than a quarter of men admitted to raping a woman, and fifty percent of those interviewed admitted to using physical or sexual violence against a female partner. In the vast majority of cases 72% to 97%, men who admitted to committing rape confronted no legal consequences. When perpetrators are not held accountable by the legal system, violence against women is more likely to become ingrained in society.²⁴

¹⁹ <https://www.un.org/en/global-issues/gender-equality>.

²⁰ <https://www.wilsoncenter.org>.

²¹ Lorna Turnbull, "The Promise of Brooks v. Canada Safeway Ltd: Those Who Bear Children Should Not Be Disadvantaged," *Can. J. Women & L.* 17 (2005): 151; Monika Silva, "Prohibition of Segregation: A Missing Norm in International Human Rights Law?" *Studia Bezpieczeństwa Narodowego* 9 (2019):41.

²² Ishrat Husain, Aijaz A. Qureshi and Nadeem Hussain, *The Economy of Modern Sindh: Opportunities Lost and Lessons For The Future* (UK: Oxford University Press, 2019), 31.

²³ Alice Katharine Boyd, *In The Interchange of Plays between London and New York* (USA: Columbia University Press, 1948), 1124; Jennifer R. Wies and Hillary J. Haldane, *Anthropology at the Front Lines of Gender-Based Violence* (Tennessee: Vanderbilt University Press, 2011),131.

²⁴ International Centre for Research on Women, *Report on Advancing the Rights of Women and Girls* (London: International Centre for Research on Women, 2004), 22. <https://www.icrw.org/>. Last accessed on 21-10-23.

Another global study done in 2004, showed that the most gender-sensitive region in the world regarding GBV violence is South Asia, where 44 percent of the world's females reside and are illiterates and are sold into sex slavery by their families.²⁵ According to the report, 9/10 women have been abused by their spouses, and 21% of women in India experience violence when they are 15 years old. In addition, the majority of women are not aware of their fundamental rights. This ignorance guarantees their acceptance of violence and as a result, the continuation of violence could not be challenged. Even when a woman reach a certain level of understanding of such violence, she feels herself helpless to affect the current mal practice of violence and to overcome her fear.²⁶

The conventional wisdom holds that because of certain societal structures, traditions, prejudices, and attitudes about women and their place in society, they are more susceptible to crime than males are.²⁷ Fundamentalist organizations frequently focus on restraining women while opposing their rights citing cultural justifications.²⁸

Gender Based Violence against suppressed class of the society including women is considered as gross infringement of human rights of women and portrays a discriminatory behavior against them, which is strictly forbidden under “international human rights law” as enshrined in “CEDAW.”²⁹

²⁵ Ibid, 38.

²⁶ National Research Council, *Report on Advancing the Federal Research agenda on Violence against Women* (UK: National Academies Press, 2004), 41.

²⁷ Virginia Beane Rutter, *Woman Changing Woman: Feminine Psychology Re-Conceived Through Myth and Experience* (Harper: SanFrancisco Publishers,1993), 65; Val Kalei Kanuha, “Colonization And Violence Against Women,” *Asian Pacific Institute on Gender-Based Violence* 6 (2002): 207.

²⁸ Azam Ali & Rogers, *Gender-Based: Violence: A Comprehensive Guide*, 89; Kanuha, “Colonization and violence against women,” 56; Zia-ul-Haq, *Gender Based Violence: Model II*, 17.

²⁹ UN Committee on the Elimination of Discrimination against Women, (11th session, General Recommendation No. 19, 1992).

1.2 History of Gender-based Violence Issue

In ancient Greece, diverse city-state dynamics and skewed justice underscored a deeply entrenched patriarchy. Around 500 A.D, women's status in ancient Greek society, often referred to as the “Byzantine Empire,” was defined by the intricate interaction between Christian influence and classical Greek customs.³⁰ The Byzantine Empire, which was a continuation of the Eastern Roman Empire at that time, had a profound effect on gender roles and social conventions when Christianity replaced Eastern Roman law as the recognized state religion.³¹

1.2.1 Violence against Women in Greek Society 500 A.D

In Greek society, women's roles were mostly restricted to the household, and they had few legal rights in Byzantine culture. Marriage remained a major institution, with social prestige and economic ties frequently playing a role in the arrangement of patriarchal marriages, with a focus on women's subservience to their husbands.³² Families were seen as the primary building blocks of society, with women generally in charge of running the domestic spheres, rearing the children, and helping their husbands fulfil their tasks.³³

Women's access to education was typically limited, and when it was provided, it was typically focused on moral and religious education. While elite women from wealthy backgrounds may have had greater access to education, the curriculum was not created to

³⁰ Shulamit Ramon, Michele Lloyd and Bridget Penhale, *Gendered Domestic Violence and Abuse in Popular Culture* (Leeds: Emerald Publishing Limited, 2020), 165.

³¹ Shulamit Ramon, Michele Lloyd and Bridget Penhale, *Gendered Domestic Violence and Abuse in Popular Culture* (Leeds: Emerald Publishing Limited, 2020), 165.

³² Jacqui True, *Violence against Women: What Everyone Needs to Know* (Oxford: Oxford University Press, 2020), 134.

³³ Ibid.

promote intellectual growth but rather to uphold traditional gender norms.³⁴ Notwithstanding these restrictions, some women did participate actively in religious life, especially as nuns, and they made contributions to church activities through contemplation, prayer, and almsgiving.³⁵

The dominant cultural norms, which have their roots in Christian and classical traditions, greatly influenced people's views and behaviors about gender roles. Christian teachings shaped expectations and constraints towards women by influencing attitudes of them. The experiences of women were further contextualized by economic factors, political and legal frameworks, and the aftermath of conflicts.

Byzantine rule began establishing itself in Greece around 500 A.D., bringing with it a great deal of transformation from the Classical age. During this time, a combination of Christian ideals, classical traditions, and the changing socio-political environment affected women's roles and expectations in numerous spheres of Greek society.

The women's roles and expectations in different spheres of life portray gender standards that dominated women's responsibilities in the Byzantine Empire, which ruled over the Eastern Roman Empire. Domestic responsibilities were expected from women, and these included running households, rearing kids, and upholding peace within the family. The concept of women as virtue-seeking, nurturing individuals was strengthened at the time by the prevalent Christian ideals, which placed a strong emphasis on their responsibilities as mothers and wives.³⁶ Women

³⁴ Rebecca Emerson Dobash and Russell P. Dobash, *Rethinking Violence against Women* (California: Sage Publications, 1998), 201.

³⁵ Ibid, 212.

³⁶ Evan Stark, *Coercive Control: How Men Entrap Women in Personal Life* (Oxford: Oxford University Press, 2023), 465.

were frequently portrayed as the ethical pillars of the family, guiding their offspring in the development of moral and religious principles.³⁷

Although women were involved in the private realm, there were some exceptions in the public sphere. Elite females from aristocratic or imperial households may have sway behind the scenes by taking part in diplomacy and court politics.³⁸ However, cultural norms and religious convictions frequently placed restrictions on their behavior. There were very few educational opportunities for women. They were taught basic literacy and religious lessons within the privacy of their homes or convents, but the male aristocracy was usually the only one who received formal education.³⁹

In 500 A.D. Greek society shows a blend of classical traditions and newly emerging Christian ideas greatly influenced the legal and social standing of women in Greek society, especially in the Byzantine Empire. Legally, women's autonomy and rights were restricted. Byzantine inheritance rules favored male heirs and gave them more power in terms of property and wealth, reflecting patriarchal attitudes.⁴⁰ In order to handle legal issues, women frequently required male guardians, who were usually spouses or fathers. Even though women had certain legal rights, like the ability to inherit property in the event that there were no male heirs, these rights were typically limited and subject to social standards.⁴¹ This analyzes women's legal and social standing in the 500 A.D period.

³⁷ Ibid.

³⁸ Evan Stark, *Coercive Control: How Men Entrap Women in Personal Life* (Oxford: Oxford University Press, 2023), 466.

³⁹ Evan Stark, *Coercive Control: How Men Entrap Women in Personal Life* (Oxford: Oxford University Press, 2023), 466.

⁴⁰ Rashmi Goel and Leigh Goodmark, *Comparative Perspectives on Gender Violence: Lessons from Efforts Worldwide* (Oxford: Oxford University Press, 2015), 49.

⁴¹ Ibid, 52.

Women's social roles were mainly domestic; Byzantine society maintained gender roles, stressing the virtues of modesty and domesticity for women; Christian influence further cemented these expectations, advancing the idea of women as moral pillars within the family; elite women from imperial or noble families may have benefited from some privileges and influence, but their lives were frequently curtailed by social conventions.⁴²

Notwithstanding these limitations, women's status varied according to social class and geographic distinctions. Compared to their rural or lower-class peers, women from metropolitan areas or from wealthy origins may have had slightly more options for education and involvement in public life.⁴³

Women encountered a variety of types of violence in Greek society, which was a reflection of the patriarchal and hierarchical nature of the civilization.⁴⁴ These types of violence had social, emotional, and physical dimensions. Various forms of violence encountered by women in ancient Greek society are as follows;

Physical Violence against women was not unusual and may take many forms, such as forced marriages, domestic abuse, or even brutal punishment for alleged social norm transgressions. Women had few legal options for protection from this kind of abuse.⁴⁵

Emotional abuse frequently stems from cultural norms and expectations that put a great deal of pressure on women to fit into particular roles. Strict gender norms and a focus on female

⁴² Evan Stark, *Coercive Control: How Men Entrap Women in Personal Life* (Oxford: Oxford University Press, 2023), 468.

⁴³ Ann Taket et.al, *Eliminating Gender-Based Violence* (Oxfordshire: Routledge Publications, 2017), 113.

⁴⁴ Evan Stark, *Coercive Control: How Men Entrap Women in Personal Life* (Oxford: Oxford University Press, 2023), 468.

⁴⁵ Catherine Itzin, Ann Taket and Sarah Barter Godfrey, *Domestic and Sexual Violence and Abuse: Tackling the Health and Mental Health Effects* (Oxford: Oxford University Press, 2010), 143.

virtue may cause emotional abuse, such as rejection, humiliation, or condemnation for alleged departures from acceptable behavior.⁴⁶

With respect to social violence, women's standing and reputation within the community were the targets of social violence. Rumors, public humiliation, and gossip were effective means of enforcing obedience. For instance, adultery could have a negative social influence on a woman's connections and standing in the society.⁴⁷

Economic Violence against women was due to their frequent economic dependence, women in ancient Greek society were particularly susceptible to economic violence. Women were subjected to economic exploitation or hardship due to male family members' disproportionate control over finances as a result of their limited access to education and career prospects.⁴⁸

The general framework of society itself encouraged violence against women termed as “structural violence.” Legal frameworks, religious beliefs, and cultural traditions all played a part in the systematic oppression of women, making them more susceptible to different types of violence.⁴⁹

The Historical Narratives of Violence against Women in Greek Society reveals the Legendary Tales which are the “Greek mythology” that is full of stories where women are abused. The tale of Medea, for instance, illustrates the terrible repercussions that women may

⁴⁶ Michael Flood, *Engaging Men and Boys in Violence Prevention* (London: Palgrave Macmillan, 2018), 238.

⁴⁷ Nancy Lombard and Lesley McMillan, *Violence against Women: Current Theory and Practice in Domestic Abuse, Sexual Violence and Exploitation* (London: Jessica Kingsley Publishers, 2012), 215.

⁴⁸ Nancy Lombard and Lesley McMillan, *Violence against Women: Current Theory and Practice in Domestic Abuse, Sexual Violence and Exploitation* (London: Jessica Kingsley Publishers, 2012), 216.

⁴⁹ Heather Nancarrow, *Unintended Consequences of Domestic Violence Law: Gendered Aspirations and Racialised Realities* (London: Palgrave Macmillan, 2019), 193.

experience when they are marginalized or harmed.⁵⁰ Medea kills her own children in retaliation. These beliefs frequently mirrored and upheld social mores.

This culture represented legal domination where men were given preference in the legal codes of that era due to patriarchal customs. Women were frequently under the control of male family members and had few legal options. For example, inheritance rules frequently restricted women's rights and gave preference to male heirs.⁵¹

For domestic violence, the home's private space may be the scene of violence against women. The basic hierarchical structure of the family placed women in lower positions, perhaps leaving them vulnerable to domestic abuse, even if specific cases may not be well-documented.⁵²

Women who violated established social conventions risked social violence, rejection and were socially excluded. For instance, a woman may get stigmatized and shamed in her community if she is accused of adultery or impropriety.⁵³

Women's intellectual and social growth was hampered by the institutional violence that resulted from their lack of education and restricted educational opportunities. Women's reputation as inferiors was furthered by their frequent exclusion from formal educational institutions.⁵⁴

It is pertinent to examine the ways in which myths and cultural beliefs may have contributed to the persistence of violence against women. Greek culture around the year 500 A.D. was greatly impacted by mythological stories and cultural ideas, which contributed

⁵⁰ Geraldine Terry and Joanna Hoare, *Gender based Violence* (Nairobi: Oxfam Publishers, 2007), 101.

⁵¹ Yanyi K. Djamba and Sitawa R. Kimuna, *Gender-Based Violence: Perspectives from Africa, the Middle East, and India* (New York: Springer Publications, 2015), 211.

⁵² Gill Hague, *History and Memories of the Domestic Violence Movement: We've Come Further than You Think* (England: Policy Press, 2021), 166.

⁵³ Ibid, 168.

⁵⁴ Yanyi K. Djamba and Sitawa R. Kimuna, *Gender-Based Violence: Perspectives from Africa, the Middle East, and India* (New York: Springer Publications, 2015), 211.

significantly to the continuation of violence against women. Women were enslaved in part because of the society's pervasive patriarchal system, which was based on religious and cultural beliefs.

The legendary tales, which are sometimes regarded as sacred, perpetuated gender hierarchies by portraying women as less than human or as the causes of evil deeds. For example, the “myth of Pandora” perpetuated negative perceptions about women by portraying the first woman as the source of all human sorrow.⁵⁵ Stories about goddesses like Hera who suffered because their godfathers were unfaithful also contributed to the idea that women were too responsible for social evils.⁵⁶

Deeply rooted cultural beliefs supported the notion that women's main responsibilities were restricted to homemaking and childbearing. Women's autonomy was further curtailed by the societal notions of honor and shame, which also contributed to a culture of silence over violence against them.⁵⁷ Women who defied these expectations ran the risk of being punished or shunned.

The perusal of the characterization of women in ancient Greek mythology and literature exposes the representation of women in ancient Greek literature and mythology was complex and reflected the social mores and standards of the time.⁵⁸ Women were frequently portrayed in the context of conventional gender norms, and both the divine and mortal domains had an impact on how they were portrayed.

⁵⁵ Ayşe Gül Altınay et.al, *Women Mobilizing Memory* (New York: Columbia University Press, 2019), 376.

⁵⁶ Ayşe Gül Altınay et.al, *Women Mobilizing Memory* (New York: Columbia University Press, 2019), 378

⁵⁷ Ibid, 376.

⁵⁸ Yanyi K. Djamba and Sitawa R. Kimuna, *Gender-Based Violence: Perspectives from Africa, the Middle East, and India* (New York: Springer Publications, 2015), 214.

Goddesses such as Athena, Hera, and Aphrodite portrayed many facets of womanhood in mythology and were important figures.⁵⁹ For instance, Athena represented knowledge and combat, whereas Hera was the goddess of marriage and family and the queen of the gods. In contrast, Aphrodite represented beauty and love. These goddesses had important roles, but their tales also included challenges and conflicts, reflecting the complexity of women's lives.⁶⁰

Greek literature depicted mortal women as having a variety of qualities and shortcomings. Wives of heroes, like Penelope in "Odyssey" were praised for their loyalty and fortitude during their husbands' protracted absences.⁶¹ Tragic characters like Medea and Clytemnestra, however, brought attention to the negative effects of women disregarding social norms. These representations frequently functioned as cautionary tales and reinforced social standards.

Furthermore, female characters' emotional and psychological depths were explored in the plays of classical Greek writers like Euripides and Sophocles. Tragedies such as "Antigone" and "Medea" examined women's agency, their battles inside patriarchal systems, and the fallout from their decisions.⁶²

Greek civilization in the fifth century A.D. lacked clear and comprehensive rules that addressed violence against women according to social and legal attitudes and responses encountered by them.⁶³ The judicial system of that time was firmly based on antiquated practices,

⁵⁹ Gill Hague, *History and Memories of the Domestic Violence Movement: We've Come Further than You Think* (England: Policy Press, 2021), 172.

⁶⁰ Ibid.

⁶¹ Ayşe Gül Altınay et.al, *Women Mobilizing Memory* (New York: Columbia University Press, 2019), 379.

⁶² Ibid.

⁶³ Rashmi Goel and Leigh Goodmark, *Comparative Perspectives on Gender Violence: Lessons from Efforts Worldwide* (Oxford: Oxford University Press, 2015), 213.

conventions, and traditions, and it prioritized upholding social order over defending the rights of people, particularly women.⁶⁴

Through the exploration of societal attitudes and laws addressing violence against women in this historical setting, gender-based violence against women was frequently accepted by society, and women in ancient Greece were primarily subservient to men.⁶⁵ If there was a legal system, it reflected and reinforced these gender norms, which made it difficult for women to pursue justice when they were victims of abuse.⁶⁶

Marriage laws, which were common at that time, were more concerned with controlling family life than they were with protecting women from violence. The lack of formalized legal provisions left women susceptible to many forms of abuse, even in the absence of unwritten norms of conduct or informal systems within local communities.⁶⁷

The function of societal structures and justice shielding women from abuse shows Greek society in the year 500 A.D. was comprised of an intricate network of city-states, each having its own political system and set of customs.⁶⁸ Predominant legal, religious, and philosophical frameworks at this time affected how justice and societal institutions protected women from violence.

In ancient Greece, justice frequently revolved around the idea of upholding equilibrium and order, emphasizing vengeance above rehabilitation. However, the degree to which women were safeguarded by justice differed throughout city-states. In Athens, for example, women's

⁶⁴ Ibid.

⁶⁵ Hannah Bows and Bianca Fileborn, *Geographies of Gender-Based Violence: A Multi-Disciplinary Perspective* (England: Policy Press, 2022), 199.

⁶⁶ Ibid.

⁶⁷ Boys Stones et al, *The Oxford Handbook of Hellenic Studies* (Oxford: Oxford University Press, 2009), 126.

⁶⁸ Elisabeth Veronika Henn, *International Human Rights Law and Structural Discrimination: The Example of Violence against Women* (New York: Springer Publications, 2019), 154.

legal status was restricted and the legal system tended to favor male citizens.⁶⁹ Justice in incidents of violence against women was frequently administered inside the family or community, and the severity of the punishment was not always appropriate for the crime.⁷⁰

Significant impact was exerted by societal mechanisms, including religious beliefs and cultural standards. Greek religion and mythology, with its pantheon of gods and goddesses, have the power to occasionally influence how society views women. Depending on regional traditions, women's standing varied among city-states, with some giving them greater privileges and protections than others.⁷¹

Although there have been examples of laws and public opinions aimed at shielding women from abuse, the effectiveness of these measures has been constrained by the dominant patriarchal systems and cultural standards.⁷² During this time, Greek culture protected women against abuse through a complex web of interlocking legal, theological, and cultural elements that differed greatly amongst city-states.

Women endured many difficulties and frequently experienced violence in ancient Greek culture around 500 A.D., but historical documents and legendary tales show instances of women's fortitude and perseverance in the face of such hardships.

In accordance with scrutiny of incidents of women's tenacity and fortitude in the face of abuse the "tale of Medea," a Colchis woman who showed tenacity and defiance of patriarchal conventions, is one famous instance.⁷³ In Euripides' play "Medea," after her husband Jason

⁶⁹ Boys Stones et al, *The Oxford Handbook of Hellenic Studies* (Oxford: Oxford University Press, 2009), 128.

⁷⁰ Ibid, 129.

⁷¹ Hannah Bows and Bianca Fileborn, *Geographies of Gender-Based Violence: A Multi-Disciplinary Perspective* (England: Policy Press, 2022), 195.

⁷² Boys Stones et al, *The Oxford Handbook of Hellenic Studies* (Oxford: Oxford University Press, 2009), 129.

⁷³ Hannah Bows and Bianca Fileborn, *Geographies of Gender-Based Violence: A Multi-Disciplinary Perspective* (England: Policy Press, 2022), 195.

betrays her, she refuses to play the helpless victim and resolves the situation on her own. Even if it is tragic, Medea's acts, such as the killing of her own children, might be interpreted as a desperate attempt to take back control of her life and a form of rebellion against social expectations.⁷⁴

The “Aspasia,” a historical character connected to the powerful Athenian statesman Pericles, is another example. Aspasia was a foreigner and a courtesan, but she was able to influence people and participate in political debates.⁷⁵ Her ability to function in the male-dominated political arena demonstrates a kind of defiance against the limitations Greek society imposes on women.⁷⁶

These examples show that some people were able to resist and show resilience even in a society where women faced significant limits. These tales, whether drawn from mythology or historical accounts, offer insights into the complex tactics women in ancient Greece used to stand up to abuse and show their independence.

The exploration of societal movements or initiatives to eliminate abuse against women in classical Greece indicates that even while there were no formalized social organizations in ancient Greece like there are in modern advocacy groups, there were individual initiatives and thought pieces that addressed or contested violence against women.

A prominent individual is the philosopher “Socrates,” whose conversations with female figures such as “Diotima” and “Theano” proposed a fairer method of intellectual pursuits.⁷⁷

⁷⁴ Yanyi K. Djamba and Sitawa R. Kimuna, *Gender-Based Violence: Perspectives from Africa, the Middle East, and India* (New York: Springer Publications, 2015), 214.

⁷⁵ Ayşe Gül Altınay et.al, *Women Mobilizing Memory* (New York: Columbia University Press, 2019), 381.

⁷⁶ Ibid.

⁷⁷ Gill Hague, *History and Memories of the Domestic Violence Movement: We've Come Further than You Think* (England: Policy Press, 2021), 182.

Socratic dialogues, despite the paucity of surviving records, suggested that women may be wise and make significant contributions to philosophical debates, subverting gender stereotypes.⁷⁸

In addition, legal changes were implemented in a few city-states to address violence against women. For instance, in the beginning of the sixth century B.C., the Athens legislator “Solon” changed the law to try to reduce violence against and mistreatment of women. Penalties for those who mistreated their wives were part of these modifications.

Women's camaraderie was also fostered by the ancient religious initiation ceremony known as the “Eleusinian Mysteries.” It is hypothesized that these rituals gave women a forum to interact, exchange stories, and perhaps look for support when faced with violence.⁷⁹

In a nutshell, analyzing violence against women in 500 A.D. ancient Greece reveals a variety of city-state systems with a biased justice system that benefits men. Women's limited legal status highlights complicated cultural norms and individual resilience in contrast to stories like Medea and personalities like Aspasia. The period exhibits a highly patriarchal system, notwithstanding certain legal advances and egalitarian speech.

1.2.2 Violence Against Women in the Medieval Period

The Medieval era witnessed enduring patriarchal structures and religious influences, shaping societal norms. Europe witnessed significant socio-political and economic transformation during the medieval era, which is commonly defined as the fifth to the fifteenth centuries. It was distinguished by a feudal system in which the clergy, peasants, nobles, knights, and monarchs constituted the upper rungs of a hierarchical social structure.⁸⁰ The rise of feudalism, the Catholic

⁷⁸ Ibid.

⁷⁹ Yanyi K. Djamba and Sitawa R. Kimuna, *Gender-Based Violence: Perspectives from Africa, the Middle East, and India* (New York: Springer Publications, 2015), 216.

⁸⁰ R. Howard Bloch, *Medieval French Literature and Law* (Berkeley: University of California Press, 1977), 246.

Church's influence, and the slow shift from the fall of the Roman Empire to the Renaissance all defined the medieval era.⁸¹

Women's status and role in this era were mostly influenced by their social class. Noblewomen enjoyed certain privileges but were often limited to household management and child-rearing duties. Agricultural labor and household chores presented difficulties for rural women, who frequently lacked social mobility or autonomy.⁸² The Catholic Church, which emphasized the virtues of devotion and obedience for women, had a major influence on the development of gender standards.⁸³

Medieval women were especially exposed to violence because of the prevalent patriarchal standards and the restricted legal safeguards in place. Although chivalry idealized women's safety, this did not always transfer to actual women's safety.⁸⁴ Women in communities or castles under siege during wartime were vulnerable to violence from invading armies. Concerns about domestic violence in homes were also raised, since there were few legal options available to women who were abused.⁸⁵

There were divisions among noblewomen, bourgeoisie women, and peasant women in medieval society, and these divisions had a significant impact on the legal and social standing of women.

The noblewomen in comparison to their peers from lower social classes, noblewomen enjoyed a more privileged position. In order to maintain political ties, they were frequently involved in estate management, home administration, and marriage arrangements.

⁸¹ Ibid.

⁸² R. Howard Bloch and Frances Ferguson, *Misogyny, Misandry, and Misanthropy* (Berkeley: University of California Press, 1989), 754.

⁸³ Ibid.

⁸⁴ Susan Brownmiller, *Against Our Will: Men, Women, and Rape* (New York: Fawcett Columbine, 1993), 312.

⁸⁵ *ibid*, 316.

Notwithstanding these obligations, patriarchal conventions limited their agency and frequently defined their main function as being within the home.⁸⁶

The bourgeoisie women, or urban middle class women, were offered greater opportunity to participate in the economy, especially in trade or family businesses. Some worked alongside their husbands in trade or skilled crafts. Their legal standing was still restricted, though, and social norms frequently forced them into stereotypical gender roles.⁸⁷

The majority of the population comprised peasant women who had more difficult conditions. They worked in agriculture and around the house, had few legal rights, and were under their fathers' and husbands' authority. The Church, by promoting the qualities of obedience and humility, was a major factor in maintaining women's subservient status.⁸⁸

Medieval law provided women with restricted legal recourse in times of abuse or conflicts, reflecting patriarchal standards in terms of legal safeguards. For example, widows' legal positions varied; some were entitled to inherit their husbands' assets, while others experienced difficulties.⁸⁹

The exploration of expectations and social norms led to the susceptibility of women to violence. Women in medieval culture were frequently at risk of violence because of deeply rooted cultural expectations and conventions that restricted their freedom and perpetuated gender inequality. Women had to submit to men because of the patriarchal system that was in place,

⁸⁶ James A. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago: University of Chicago Press, 1987), 498.

⁸⁷ Susan Brownmiller, *Against Our Will: Men, Women, and Rape* (New York: Fawcett Columbine, 1993), 312.

⁸⁸ Vern L. Bullough and James A. Brundage, *Sexual Practices & the Medieval Church* (New York: Prometheus Books, 1982), 318.

⁸⁹ Anna Roberts, *Violence against Women in Medieval Texts* (Gainesville: University Press of Florida, 1998), 512.

both in the family and in larger societal settings.⁹⁰ Rigid gender roles were required of women, with a focus on attributes like chastity, obedience, and submissiveness.

The foundation of medieval society i.e. marriage further cemented women's vulnerability. Women had few legal rights and were frequently viewed as their husbands' property.⁹¹ Even while it wasn't officially accepted, domestic abuse was frequently accepted, and there weren't many ways for women to get justice.⁹² Religious ideas that were in vogue at the time also had a big impact, supporting the image of female purity and maintaining women's subservience.

Women's vulnerability was made even worse by the lack of economic independence and legal protections.⁹³ Women have few options for leaving violent relationships since they have restricted access to jobs and education. As a result, the culture of violence against women was more likely to occur and was less likely to be addressed by society at large due to the prevailing norms and expectations.⁹⁴

Women endured a variety of violent acts during the middle ages, acts that were firmly ingrained in the power structures and social mores of the day. Perhaps the most obvious and common kind of violence was physical, which could take the shape of forced marriages, domestic abuse, or even open combat.⁹⁵ In those days, it was common for spouses to treat their wives like their fathers or husbands' property. Although historians disagree, the use of chastity belts is a sign of attempts to physically regulate women's libido.

⁹⁰ John Marshall Carter, *Rape in Medieval England: An Historical and Sociological Study* (Lanham: University Press of America, 1985), 373.

⁹¹ Alice Clark, *Working Life of Women in the Seventeenth Century* (New York: Routledge, 1992), 167.

⁹² John Marshall Carter, *Rape in Medieval England: An Historical and Sociological Study* (Lanham: University Press of America, 1985), 373.

⁹³ Alice Clark, *Working Life of Women in the Seventeenth Century* (New York: Routledge, 1992), 167.

⁹⁴ Ibid.

⁹⁵ John Simister, *Gender Based Violence: Causes and Remedies* (New York: Nova Science Publishers, 2012), 218.

Examination of the abuses encountered by women indicates that commonly prevalent was sexual violence, with rape being used as a weapon of war during hostilities. Women were especially vulnerable to attacks from invading soldiers when their castles or towns were under siege.⁹⁶ Moreover, the notion of "marital rape" was essentially nonexistent due to the restricted sexual liberty of women in marriage.

There were also a lot of social and economic abuses against women. For example, widows frequently experienced financial trouble and were at risk of being taken advantage of. Women were further marginalized by being denied inheritance and property rights, which made them more vulnerable to violence and economically reliant.⁹⁷

Another layer of religious violence involved the charge of witchcraft, which resulted in the persecution and death of numerous women. The Inquisition contributed to the systematic violence against women by focusing on people who disobeyed social norms and frequently labeled them as heretics or witches.⁹⁸

The Comprehensive Perusal of the Effects of Sexual, Mental, and Physical Abuse on Women unveils that Women encountered numerous difficulties in the medieval period, and they were frequently and severely impacted by sexual, emotional, and physical abuse in the medieval era. Physical abuse of women was a cruel treatment and was frequently condoned by legal and social structures. Women were viewed as the property of their husbands or fathers, and domestic abuse was not only common but also frequently ignored.⁹⁹ Women's vulnerability was made

⁹⁶ James A. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago: University of Chicago Press, 1987), 496.

⁹⁷ Ibid.

⁹⁸ Elisabeth Veronika Henn, *International Human Rights Law and Structural Discrimination: The Example of Violence against Women* (New York: Springer Publications, 2019), 94.

⁹⁹ Hannah E. Britton, *Ending Gender-Based Violence: Justice and Community in South Africa* (Illinois: University of Illinois Press, 2020), 32.

worse by the lack of legal protections, which made them more vulnerable to physical violence in their homes.¹⁰⁰

Fear and anxiety were prevalent in medieval culture due to the ongoing danger of violence and the inferior status of women. Social rules and expectations that limited women to set roles cast a permanent shadow over them.¹⁰¹ The psychological effects of persistent systemic oppression, along with the anxiety of physical injury, created an environment that was oppressive for women.¹⁰² Emotional abuse was pervasive in medieval culture and shaped women's experiences on a larger scale. It was not just restricted to intimate relationships.

Another prevalent sort of abuse that medieval women had to deal with was sexual violence. Gender hierarchies were reinforced through the use of rape and other types of sexual coercion as instruments of power and control. The pain endured by survivors of sexual violence was exacerbated by the absence of legal remedies and the pervasive victim-blaming culture.¹⁰³

Ideologies rooted in religion and culture greatly influenced views towards women and violence in medieval civilization. Christianity was the most common religion in medieval Europe, and gender roles and social conventions were greatly influenced by church teachings.¹⁰⁴ As a fundamental principle of medieval society, the idea of "chivalry" promoted protection, decency, and honor. Despite the fact that chivalry sought to raise women's position by

¹⁰⁰ Laura J. Shepherd, *Handbook on Gender and Violence* (Cheltenham: Edward Elgar Publishing, 2019), 322.

¹⁰¹ Hannah E. Britton, *Ending Gender-Based Violence: Justice and Community in South Africa* (Illinois: University of Illinois Press, 2020), 32.

¹⁰² Laura J. Shepherd, *Handbook on Gender and Violence* (Cheltenham: Edward Elgar Publishing, 2019), 322.

¹⁰³ Ibid.

¹⁰⁴ Lidia L. Zanetti Domingues et.al, *Women and Violence in the Late Medieval Mediterranean* (Oxfordshire: Routledge Publishers, 2023), 191.

highlighting their virtue and the necessity of their protection, it paradoxically served to uphold established gender hierarchies.¹⁰⁵

The evaluation of ideologies determining attitudes towards women highlights the impact of Christianity on views toward women in medieval times was complex. Because it associated women with ideas of sin and temptation, the biblical story of Adam and Eve was frequently used to defend the subjugation of women.¹⁰⁶ Religious organizations contributed to the upholding of patriarchal systems by promoting the notion that women should be obedient to men.¹⁰⁷ In the meantime, the “Virgin Mary” represented obedience and purity, making her an idealized role model for women. The medieval era was characterized by a complicated interaction between religious teachings and cultural behaviors in terms of violence. Feudal civilizations frequently accepted the use of violence to resolve conflicts and uphold social order. Even while the Church publicly condemned the violence, it found it difficult to reconcile its teachings with the realities of a turbulent and violent time.¹⁰⁸ Though ideas like the “just war” doctrine developed in an effort to offer moral standards for the use of force, violence remained a commonplace feature of medieval society.

The role of cultural values and religious institutions in the mitigation or perpetuation of abuse against women reveals that religious organizations and cultural standards in medieval society both contributed to the persistence of some forms of oppression against women and also

¹⁰⁵ Ibid.

¹⁰⁶ R. Howard Bloch and Frances Ferguson, *Misogyny, Misandry, and Misanthropy* (Berkeley: University of California Press, 1989), 755.

¹⁰⁷ *ibid*, 733.

¹⁰⁸ Anna Roberts, *Violence against Women in Medieval Texts* (Gainesville: University Press of Florida, 1998), 519.

provided mitigating elements.¹⁰⁹ Women were frequently oppressed by the patriarchal structures of both the Church and the secular authority.¹¹⁰

Gender standards were reinforced by religious institutions like the Catholic Church, which promoted the idea of women as inferior through theological interpretations. The biblical texts that gave rise to the Eve and Mary dichotomy portrayed women as either virtuous or seductive, which reinforced the idea that women need supervision and defense.¹¹¹ Religious doctrines frequently supported male dominance in the domestic spheres and in society at large, subtly endorsing the use of force to maintain peace.¹¹²

Feudal structures and cultural norms also supported violence against women. Though purportedly advocating for women's safety, the notion of chivalry inadvertently strengthened a patriarchal mindset that saw women as objects of male respect.¹¹³ This could result in acts of violence carried out in the name of upholding the virtues of women.

Nonetheless, there were times when women were somewhat protected by religious and cultural conventions. A societal expectation of female purity was influenced by the idealization of the Virgin Mary, which raised women's standing theoretically.¹¹⁴ Certain chivalric norms emphasized the value of gallantry and respect, discouraging aggression against women.

Medieval society responded to acts of violence against women in a way that was influenced by a mixture of individual acts, legal frameworks, and social attitudes. Social customs

¹⁰⁹ John Marshall Carter, *Rape in Medieval England: An Historical and Sociological Study* (Lanham: University Press of America, 1985), 379.

¹¹⁰ Ibid.

¹¹¹ David Charles Douglas, *English Historical Documents* (London: Eyre & Spottiswoode, 1968), 156.

¹¹² Ibid.

¹¹³ John Marshall Carter, *Rape in Medieval England: An Historical and Sociological Study* (Lanham: University Press of America, 1985), 380.

¹¹⁴ Vern L. Bullough and James A. Brundage, *Sexual Practices & the Medieval Church* (New York: Prometheus Books, 1982), 322.

frequently mirrored a patriarchal system in which women were viewed as inferior to males.¹¹⁵ There was a culture of quiet and impunity when it came to acts of violence against women, which was occasionally accepted or normalized.

While legal, individual, and societal responses, there were differences in the legal responses in medieval countries, women were not always adequately protected. Religious beliefs and societal structures frequently shaped legal systems, which frequently had less harsh punishments for offenses against women than for crimes against males. There was no legal protection for women, and domestic abuse cases were frequently handled in secret.

Violence against women has occasionally been condemned on a societal level, especially when it transgresses accepted moral or chivalric norms. But because of the uneven application of these principles and the prevailing power structures, victims frequently faced an elusive course to justice.

The ways that people responded to violence against women differed greatly. While some men lived by chivalric ideals and denounced such atrocities, others were free to commit violent crimes. Because there were few legal options and social structures that frequently failed to support them, women themselves faced enormous obstacles when trying to obtain justice or safety.¹¹⁶

The Appraisal of Resilience and Resistance of Women Organizations Combating Violence shows that in spite of the difficulties and limitations brought about by patriarchal institutions in medieval society, women showed incredible fortitude and bravery in the face of

¹¹⁵John Marshall Carter, *Rape in Medieval England: An Historical and Sociological Study* (Lanham: University Press of America, 1985), 380.

¹¹⁶Alice Clark, *Working Life of Women in the Seventeenth Century* (New York: Routledge, 1992), 171.

abuse. Even in the absence of formal movements promoting women's rights, many women showed bravery and ingenuity in overcoming adversity.¹¹⁷

Women frequently used a variety of tactics, such as asking for help from others in their communities, to fend off violence. As women established networks for protection and support, female solidarity was vital. Some women used unofficial routes to communicate their stories of abuse and look for emotional assistance, such as confiding in family members or close friends.¹¹⁸

In several instances, women subtly disobeyed social norms while still acting as women. This could entail using rhetoric strategically or exerting influence over male relatives to influence choices in their favor. Women were also crucial in preserving traditional customs that honored the fortitude and resiliency of women.

There were times when religious places offered chances for resistance. Religious groups provided comfort and assistance for women, and others sought safety in convents to flee harsh circumstances. Nuns in particular were able to exercise some autonomy despite being bound by the religious conventions of the time and provide help to women who were enduring hardship.¹¹⁹

Even though there were no large-scale, organized movements for women's rights during the medieval era, individual acts demonstrated the tenacity and resolve of women in overcoming difficult social circumstances. The intricate fabric of women's experiences in medieval society was enriched by their resistance, which took the form of subtly defiant acts or networks of interpersonal support.¹²⁰

¹¹⁷ R. Howard Bloch and Frances Ferguson, *Misogyny, Misandry, and Misanthropy* (Berkeley: University of California Press, 1989), 767.

¹¹⁸ Ibid.

¹¹⁹ Anna Roberts, *Violence against Women in Medieval Texts* (Gainesville: University Press of Florida, 1998), 533.

¹²⁰ Anna Roberts, *Violence against Women in Medieval Texts* (Gainesville: University Press of Florida, 1998), 533.

The trajectory of gender relations has been permanently altered by medieval attitudes towards women and violence, which will continue to shape cultural norms and perceptions for centuries to come. The profoundly ingrained patriarchal ideals, which were bolstered by institutions of religion and culture, created a long-lasting shadow that extended far beyond the medieval period.

The legacy of “Medieval Behavior” indicates gender inequality endured into later historical eras, clearly demonstrating the impact of medieval attitudes. The idea that women are inferior, which is frequently reinforced by religious tales such as the account of Adam and Eve, has shaped society norms and restricted women's chances. Ironically, chivalric ideas contributed to the objectification and paternalistic control of women, despite their seeming promotion of women's protection.¹²¹

These attitudes shaped the legal structures that were constructed during the Middle Ages, which in turn created the conditions for the continued difficulties in addressing violence against women. Since the definition of gender rights and equality has changed over the centuries, legal frameworks frequently fell short of providing women with the protection they needed to undergo extensive revision and adaptation.¹²²

Furthermore, modern cultural conventions and stereotypes still bear traces of attitudes from the Middle Ages. The durability of historical patterns is reflected in the continuation of gender-based violence and discrimination, highlighting the significance of continuous attempts to question and alter deeply rooted societal ideas.¹²³

¹²¹ R. Howard Bloch, *Medieval French Literature and Law* (Berkeley: University of California Press, 1977), 259.

¹²² R. Howard Bloch and Frances Ferguson, *Misogyny, Misandry, and Misanthropy* (Berkeley: University of California Press, 1989), 761.

¹²³ R. Howard Bloch and Frances Ferguson, *Misogyny, Misandry, and Misanthropy* (Berkeley: University of California Press, 1989), 761.

Among contemporary efforts to address Gender-Based Violence; first of all, historical research emphasizes how persistent patriarchal systems are and how they affect the lives of women. By acknowledging that deeply ingrained societal standards are the source of gender-based violence, modern campaigners are able to focus on structural problems. History's battles against comparable systems can serve as an inspiration for current initiatives to subvert patriarchal ideology and question conventional gender norms.

Second, studying the ways in which medieval legal systems failed to adequately protect women highlights the necessity of thorough legal change in modern times. The rights and safety of women must be given top priority in contemporary legal frameworks in order for laws to effectively deter and punish gender-based violence.¹²⁴ Historical injustices highlight how urgent it is to establish legal frameworks that support survivors and hold offenders accountable.

Moreover, modern activism draws inspiration from the tenacity and defiance exhibited by women in medieval society. Acknowledging the power of individual and group efforts in trying times might inspire campaigners today to keep up the fight against gender-based violence.

The persistence of patriarchal and religious influences in medieval violence against women highlights the necessity of questioning conventions and placing a high priority on gender equality. Activism in the present times is influenced by historical lessons, highlighting the importance of addressing historical legacies.

1.2.3 Violence against Women in World War I and World War II

World Wars I (1914–1918) and II (1939–1945) were two crucial periods in the 20th century that had a significant effect on communities around the world. While expansionist

¹²⁴ John Marshall Carter, *Rape in Medieval England: An Historical and Sociological Study* (Lanham: University Press of America, 1985), 389.

ideology and territorial disputes set off World War II, complicated political alliances and tensions preceded World War I.

Due to the strain on social institutions caused by men leaving for the front lines during World War I, women were forced to assume new duties at home and in the workforce. Women made substantial contributions to the war effort by working on farms, in offices, and in munitions factories.¹²⁵ Following the war, there were more calls for women to have the right to vote and for their abilities to be acknowledged, which led to changes in society.¹²⁶

Women once again had varied roles in World War II. They took on domestic duties, worked in factories, and participated in auxiliary military groups. The feminist movement gained momentum as a result of the conflict, raising awareness of women's equality and rights.

Nonetheless, women were left vulnerable by both wars. Women were more susceptible to violence while men were absent, especially in occupied territories.¹²⁷ Economic demands and social conventions were stressed as a result of the war's effects on societal institutions. The hardships and tribulations that these wartime experiences brought about for women spurred post-war campaigns for human rights and gender equality, which in turn shaped the course of women's positions in society in the successive years.¹²⁸

The particular conditions brought about by World Wars I and II had a tremendous impact on the social and cultural standards pertaining to women during those times. During both wars,

¹²⁵ Sabina De Werth Neu, *A Long Silence: Memories of a German Refugee Child, 1941- 1958* (New York: Prometheus Books, 2011), 287.

¹²⁶ Clara Kramer, *Clara's War: One Girl's Story of Survival* (New York: HarperCollins Publishers, 2009), 234.

¹²⁷ Ibid.

¹²⁸ Clara Kramer, *Clara's War: One Girl's Story of Survival* (New York: HarperCollins Publishers, 2009), 234.

women's roles grew to accommodate the demands of the war economy as males were dragged into the armed forces.¹²⁹

The social standing of women during wartime reveals that in several nations, women filled positions that had previously been held by men during World War I, including those in offices, farms, and weapons factories.¹³⁰ This change questioned established gender norms and raised awareness of women's potential. But after the war, social standards returned, and these modifications were frequently presented as makeshift necessities.

A similar but more marked transition occurred during World War II. Once more, a huge number of women joined the labor and assumed key positions in the manufacturing and service industries.¹³¹ Propaganda-driven cultural narrative portrayed women as patriotic wartime contributors. As women's demands for equal rights gained support and the feminist movement gained steam, this age witnessed a more enduring impact on society standards.¹³²

Although the wars gave women the chance to reject conventional positions, there was a conflict between these new roles and what society expected of them. During the postwar era, women's accomplishments during the conflicts were frequently resisted. However, women's experiences in World War I and World War II prepared the way for later feminist movements and aided in the progressive breakdown of inflexible gender stereotypes as well as the pursuit of greater gender equality in the decades that followed.

The examination of the effect of world wars on the vulnerability of women against violence unfolds the fact that both World Wars I and II had a significant impact on women's

¹²⁹ Sabina De Werth Neu, *A Long Silence: Memories of a German Refugee Child, 1941- 1958* (New York: Prometheus Books, 2011), 289.

¹³⁰ Ilse Stritzke, *Nightmares of an East Prussian Childhood: A Memoir of the Russian Occupation* (North Carolina: McFarland & Company, Inc., 2013), 410.

¹³¹ Lucie Aubrac, *Outwitting the Gestapo* (Nebraska: Bison Books, 1994), 145.

¹³² Irene Gut Opdyke, *In My Hands* (New York: Random House, 2004), 483.

responsibilities and status, bringing with them possibilities and difficulties that affected their susceptibility to violence.¹³³ During the wars, women entered the workforce in non-traditional roles, which changed their social status and upended gender conventions.

Women made significant contributions to the military effort during World military I, which raised awareness of their potential. But after the wars ended, society expected women to return to their customary duties and expectations frequently reverted to pre-war levels.¹³⁴ Women were particularly vulnerable to violence during this period of transition because views about gender roles did not often shift permanently despite improvements to societal structures.¹³⁵

Women's responsibilities changed more permanently after World War II. Women's rights made substantial progress as a result of the widespread mobilization of women in the labor and the feminist undertones of the time.¹³⁶ This empowerment did not, however, come without criticism. Women faced resistance to the gains won during the war and social pressure to revert to traditional roles in the post-war era.

The social disruption brought about by the wars was the reason for the heightened susceptibility to violence. During both conflicts, women were more vulnerable to sexual abuse and exploitation in occupied territory. The weakening of social structures, unstable economic conditions, and the lack of male guardians were among the factors that made women more vulnerable.¹³⁷

¹³³ Ilse Stritzke, *Nightmares of an East Prussian Childhood: A Memoir of the Russian Occupation* (North Carolina: McFarland & Company, Inc., 2013), 412.

¹³⁴ Clara Kramer, *Clara's War: One Girl's Story of Survival* (New York: HarperCollins Publishers, 2009), 244.

¹³⁵ Ibid.

¹³⁶ Ibid.

¹³⁷ Ilse Stritzke, *Nightmares of an East Prussian Childhood: A Memoir of the Russian Occupation* (North Carolina: McFarland & Company, Inc., 2013), 422.

Women suffered in different ways from violence throughout both World Wars I and II, which was a reflection of the upheavals and disruptions brought on by the wars. The lack of male family members, increasing stress, and economic strain all contributed to an upsurge in domestic violence during the war.¹³⁸ Tensions already present in households were exacerbated by the strains of war on relationships.

The detailed examination of abuses encountered by women reveals prevalent and unsettling facet of women's lives during both wars was sexual violence. Women in occupied areas were at risk of being sexually assaulted by hostile soldiers. Tragically, there were many cases of forced prostitution, rape, and other sexual exploitation.¹³⁹ The breakdown of law and order in war-torn places made women even more vulnerable in these circumstances.

Another example of violence throughout the conflict was the exploitation of women's labor. Employers frequently exploited women in munitions factories, offices, and other war-related businesses, subjecting them to dangerous working conditions and inadequate pay.¹⁴⁰ Women were particularly vulnerable to exploitation as a result of the economic strains of war, since they were occasionally compelled to accept bad working circumstances because of the pressing need for labor.¹⁴¹ In addition, women who entered the workforce encountered pay disparities, discriminatory practices, and little prospects for career progression.

The consequences of war-related abuses on the psychological and physical well-being of women indicate women's physical and mental health was severely impacted by war-related violence in complex ways, with terrible long-term impacts that go well beyond the fighting itself. Women were frequently the victims of physical abuse, including sexual assault, kidnapping, and

¹³⁸ Clara Kramer, *Clara's War: One Girl's Story of Survival* (New York: HarperCollins Publishers, 2009), 244.

¹³⁹ Irene Gut Opdyke, *In My Hands* (New York: Random House, 2004), 490.

¹⁴⁰ Ibid.

¹⁴¹ Irene Gut Opdyke, *In My Hands* (New York: Random House, 2004), 490.

bodily harm.¹⁴² Sexually transmitted illnesses, injuries, unintended pregnancies, and even death are possible outcomes. These problems were made worse by displacement and the collapse of healthcare systems during wars, which restricts access to crucial reproductive health services and raises susceptibility.¹⁴³

In conflict areas, women suffered an equally severe psychological toll. Stress, anxiety, and sadness are all elevated when there is a persistent fear of violence and other negative outcomes. Post-traumatic stress disorder (PTSD) affects women, causing them to experience ongoing trauma even after the battle has ended. Feelings of pessimism and isolation were exacerbated by the death of family members, relocation, and the disintegration of social systems.¹⁴⁴ Witnessing the pain of children or being forced to separate from them exacerbates the psychological distress.

In addition, the breakdown of conventional gender norms during conflicts caused long-term changes in the dynamics of society that impact the status and roles of women. After a conflict, women experienced prejudice, marginalization, and difficulties in starting over in their lives.¹⁴⁵ Comprehensive treatments that involve medical care, mental health assistance, and measures to repair social institutions are required to address the impact of violence associated with war on women.

Around World War I and II, violence against women in military settings was a terrible reality that spread around the world. Despite the fact that males fought in these conflicts for the

¹⁴² Hannah E. Britton, *Ending Gender-Based Violence: Justice and Community in South Africa* (Illinois: University of Illinois Press, 2020), 158.

¹⁴³ Ibid.

¹⁴⁴ Parveen Ali and Michaela M. Rogers, *Gender-Based Violence: A Comprehensive Guide* (New York: Springer Publications, 2023), 413.

¹⁴⁵ Elisabeth Veronika Henn, *International Human Rights Law and Structural Discrimination: The Example of Violence against Women* (New York: Springer Publications, 2019), 212.

most part, women suffered from discrimination, abuse, and exploitation both in domestic spheres and in the battle zones.

The various examples of women exploitation and abuse shows women performed auxiliary jobs in the First World War, including nursing, clerking, and providing support services. However, there were frequent reports of sexual assaults and other violent crimes against civilians and female nurses in war-torn areas, as well as cases of harassment and exploitation.¹⁴⁶ Furthermore, women who actively participated in the war effort and defied conventional gender norms frequently encountered social criticism.

Women were more widely involved in the military and civilian workforce during World War II. As a result of systematic abuse by enemy forces in occupied territory, there was a rise in sexual violence against women during the conflict. The Japanese military forced the so-called "comfort women," who were primarily Asian, into sexual slavery where they endured unspeakable misery.¹⁴⁷

Stress from the conflict added to more domestic abuse and exploitation of women on the home front. Pre-existing gender disparities were exacerbated by the war environment, and many women continued to experience prejudice and financial hardship despite making substantial contributions to the war effort.¹⁴⁸

The repercussions of world wars on non-military women unfold that both World Wars had a significant negative effect on civilian women, resulting in pain, loss, and displacement.

¹⁴⁶ John Simister, *Gender Based Violence: Causes and Remedies* (New York: Nova Science Publishers, 2012), 187.

¹⁴⁷ Aisling Swaine, *Conflict-Related Violence against Women: Transforming Transition* (Cambridge: Cambridge University Press, 2018), 432.

¹⁴⁸ John Simister, *Gender Based Violence: Causes and Remedies* (New York: Nova Science Publishers, 2012), 187.

Civilian women frequently found themselves on the front lines of their homes as conflicts raged on, dealing with the fallout from fighting that went beyond the battlefield.

Due to bombings, invasions, and military occupations, women and families were forcibly removed from their homes, resulting in widespread displacement.¹⁴⁹ Many of them ended up as refugees, struggling to find food, shelter, and protection in the midst of the mayhem. For many women, the upheaval of routine brought about by relocation left permanent wounds.

Women also had to deal with the painful reality of losing husbands, sons, and other loved ones who were directly involved in the hostilities, either dead or injured. Families suffered greatly, and women suffered incalculable amounts of loss and emotional suffering.¹⁵⁰ Women's responsibilities increased during these turbulent times because they were frequently the primary caretakers after the death of male family members.

Physical and psychological trauma spread widely. Women had to deal with the stress of economic deprivation, the ongoing danger of violence, and the devastation of their communities. Long after hostilities had finished, the psychological aftereffects of war persisted. These included anxiety, depression, and post-traumatic stress disorder.

Exploring violence during World War I and II offers critical insights into patterns, failures, and root causes, guiding contemporary interventions. Through this multifaceted historical lens, this unveils the complex interplay of societal norms and individual agency, emphasizing the imperative for challenging entrenched norms, reforming legal frameworks, and prioritizing gender equality across diverse historical landscapes.¹⁵¹

¹⁴⁹ Aisling Swaine, *Conflict-Related Violence against Women: Transforming Transition* (Cambridge: Cambridge University Press, 2018), 432.

¹⁵⁰ Kate Fitz-Gibbon et.al, *Intimate Partner Violence, Risk and Security: Securing Women's Lives in a Global World* (Oxfordshire: Routledge Publications, 2018), 288.

¹⁵¹ Aisling Swaine, *Conflict-Related Violence against Women: Transforming Transition* (Cambridge: Cambridge University Press, 2018), 433.

Beyond the end of hostilities, the effects of violence against women during wartime have a long-lasting impact on post-war societal attitudes. Women suffer long-lasting injuries from the trauma they experience during armed wars, which negatively impacts both their physical and emotional health.¹⁵² A major factor in the normalization of violence against women in post-war cultures is the widespread culture of impunity that exists during times of conflict, when those who commit crimes frequently escape punishment.

The legacy of post-wartime societal attitudes towards women reveals the stigmatization and social isolation that survivors of wartime violence frequently experience exacerbates their sufferings. Discriminatory practices and gender-based inequality can be sustained by the fractured social fabric that is caused by conflict.¹⁵³ Reintegrating into communities that do not address the unique needs of survivors or question deeply ingrained patriarchal beliefs can be difficult for women.

In addition, women become more vulnerable when conventional support networks collapse during a crisis, which leads to their economic marginalization and eventual political disenfranchisement.¹⁵⁴ The ensuing power disparities may endure, impeding the process of rebuilding just societies.

Comprehensive actions are needed to address the long-term effects of violence against women during warfare. This entails putting in place legal procedures to hold offenders accountable, offering strong support services to victims, and opposing cultural norms that

¹⁵² Catherine Itzin, Ann Taket and Sarah Barter Godfrey, *Domestic and Sexual Violence and Abuse: Tackling the Health and Mental Health Effects* (Oxford: Oxford University Press, 2010), 197.

¹⁵³ Elisabeth Veronika Henn, *International Human Rights Law and Structural Discrimination: The Example of Violence against Women* (New York: Springer Publications, 2019), 119.

¹⁵⁴ John Simister, *Gender Based Violence: Causes and Remedies* (New York: Nova Science Publishers, 2012), 112.

encourage gender-based violence.¹⁵⁵ In order to modify perceptions, cultivate empathy, and establish a more welcoming and gender-sensitive post-war society, education and awareness initiatives are essential.

The contemporary efforts to address gender-based abuse in conflicted regions; first of all, understanding the past clarifies the systematic character of violence against women during warfare. Numerous women were raped and exploited during the world wars when sexual violence was employed as a weapon of war.¹⁵⁶ Modern interventions are informed by this trend, highlighting the significance of sexual violence prevention and treatment as a purposeful strategy in conflict.¹⁵⁷

Second, historical viewpoints show how inadequate post-war reactions were in meeting the demands of female survivors. The necessity of the current initiatives to guarantee justice and complete support for victims of gender-based violence is highlighted by the past inadequacies in holding offenders accountable and offering comprehensive help.¹⁵⁸

Furthermore, knowing the causes of gender-based violence during times of war which are frequently linked to societal injustices already in place helps guide current preventative initiatives. By using historical lessons, efforts to question and alter gender norms, empower women, and incorporate gender-sensitive policies into conflict resolution procedures might result in more long-lasting and successful outcomes.¹⁵⁹

¹⁵⁵ Hannah E. Britton, *Ending Gender-Based Violence: Justice and Community in South Africa* (Illinois: University of Illinois Press, 2020), 93.

¹⁵⁶ Clara Kramer, *Clara's War: One Girl's Story of Survival* (New York: HarperCollins Publishers, 2009), 203.

¹⁵⁷ Ibid.

¹⁵⁸ Susan Brownmiller, *Against Our Will: Men, Women, and Rape* (New York: Fawcett Columbine, 1993), 184.

¹⁵⁹ Elisabeth Veronika Henn, *International Human Rights Law and Structural Discrimination: The Example of Violence against Women* (New York: Springer Publications, 2019), 216.

The analysis of violence during warfare provides information for focused interventions, encouraging responsibility and forming a future where women's rights are unquestionably protected, even during hostilities.¹⁶⁰

1.2.4 Movements to Curb Violence against Women

The effects of World War first and World War second were inclusive to all from Asia Pacific to Western and Eastern Europe. The wars disordered all traits of daily life. The states involved in wars fought at the cost of the lives of their people and at the cost of their economic and social aspects of their lives. The common men from ordinary citizens and from colonies were forced to take part in wars by way of providing their labor for transportation of weapons, rations and by serving military forces. Apart from a general impact of wars upon all, women were great victim of war crimes. Women were abducted, raped and forced to serve militants. Women were also forced taking part in wars for achieving specific goals which could not be achieved otherwise.¹⁶¹

Before this, the industrial revolution in the 18th & 19th centuries, led the birth of movement against the exploitation of labor class particularly of women and children. Moreover, during WWI Women's employment rates increased due to engagement of men into war. Around 40% of the married women involved in labor and paid activities. However, women were paid less than men so, women started agitation and protest against their employer that created a fear of shortage of labor.¹⁶²

¹⁶⁰ Susan Brownmiller, *Against Our Will: Men, Women, and Rape* (New York: Fawcett Columbine, 1993), 184.

¹⁶¹ Sandra Trudgen Dawson, "Women and the Second World War," *International Journal of Military History and Historiography* 39 (2019) 171-180.

¹⁶² <https://www.striking-women.org/module/impact-world-war-i-womens-work>. Last Accessed on 17-11-23.

After WWII, the world took the issues of suppressed communities like women, children, slaves, and transgender etc. Among them, women were found as greater sufferers of the evils of wars. Women and girls were victim of mal treatment and exploitation from their families and of kidnapping, and rape from outsiders. It was observed that without full participation of women in the social and economic fields of a society, the society could not be developed. To achieve peaceful societies, with full human potential and sustainable development, contribution of women is essential.

The official policy of the “memory of World War First and Second could not include women's experience of sexual violence. The reason was that the relevant states did not break the notion of praise of war combatants. For most of the women who practiced sexual abuse, the attempts of sexual violence at war made the captives of the official politics of memory in peacetime and thus they were forced to “work through their past”. Generally, men-officers had a regular family before the war while their captives as momentary wives had a chance of having their company and serving them as tasty meals. The women were sent to the front line hardly. There were no stories about sexual violence in memoirs written during the war period because such stories could destroy the official policy of the memory about the war and the concept of the combatant as national heroes who were part of the “Great Victory in the Great Patriotic War”. In this way, until the 1960s, the role of women in wars could not get attention and the effects of war were a matter of prime concern. After the 1960s, the activities and role of women in the “first and second World Wars” started to be discussed through scholarly

writings as war workers, and as subordinates to male-controlled militaries and armed forces.

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The international feminist movement began to gain achievement in the 1970s which led the “UN General Assembly” to declare the year 1975 as the “International Women’s Year” and planned the “first World Conference on Women”, in “Mexico City”. In the conference, the women got warm welcome and their issues were discussed in details. The conference submitted its recommendations to the “UN General Assembly” in which suggestions were given to highlight the issues of women at each platform, locally and globally and to allocate international fund for the improvement and betterment of the situation of women. As a result, the “United Nations Organization declared the whole decade 1975-1985 as the “UN DECADE for WOMEN, and developed a “Voluntary Fund” to achieve the goals of the conference and of the decade.¹⁶⁴ However, the issue of sexual violence against women in wars could not be addressed by scholars, writers, and social activists while the first stories of raped women came on the scene in Russia in the 1990s.¹⁶⁵ From the 1980s, the issues of women got into the discussion of victimization and exploitation of women were discussed later on titled “gender-based violence”, gender as a lens to interrogate wartime experiences.¹⁶⁶

¹⁶³ Sandra Trudgen Dawson, “Women and the Second World War,” *International Journal of Military History and Historiography* 2 (2019): 175.

¹⁶⁴ UN Women, “An Analysis for War Crimes against Women.” <https://rm.coe.int/168044e7c0>. Accessed on 21-11-23

¹⁶⁵ Sandra Trudgen Dawson, “Women and the Second World War,” *International Journal of Military History and Historiography* 2 (2019): 177.

¹⁶⁶ Művelődés Tudomány, “Women’s Traumatic Experience at World War II: the Soviet case,” *Journal of History of Culture, Science and Medicine* 5 (2014): 182-190. <http://www.Kaleidoscopehistory.hu> Last Accessed on 2-10-2023.

Steadily, other organizations and segments, and medical experts from the health sector were involved in the investigation of war crimes and abuse of women in the wars. Finally, certain reforms were made in the body of laws like the “Swedish Penal Code” in which the issues of violence against women were addressed and a policy was framed to provide speedy justice to the victims of sexual abuse in wars. Several institutions were developed for appropriate connections between the justice system and other essential service providers to the victims of exploitation and sexual abuse.¹⁶⁷

In 1985, a “World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development, and Peace,” was held in Nairobi which made all member states bound to make laws to ensure gender equality and to eradicate gender discrimination and gender-based violence. At the same time, a non-governmental organization (NGO) organized a conference to call for gender equality in which about fifteen hundred members from all over the world contributed which got global recognition and that conference was declared by social activists and social reformers as “the birth of global feminism.” The “Fourth World Conference on Women”, held in Beijing in 1995, was the next step to the “Nairobi Conference” and resulted in the adoption of “The Beijing Declaration” which declared women’s rights as human rights and devoted to particular actions to guarantee admiration for those rights.¹⁶⁸

In the coming years, the world realized that the objectives of the “Mexico City Conference” could not be achieved properly so it needed to be focused. Consequently, on the recommendations of UNO, 157 member countries adopted the “Nairobi Forward-looking Strategies 2000.” This draft

¹⁶⁷ Ibid, 234.

¹⁶⁸ Durán Paloma, "The Pursuit Of Equality Between Women And Men: The Contribution Of The United Nations," *Cuadernos constitucionales de la Cátedra Fadrique Furió Ceriol* 62 (2008), 234-244.

declared all issues to be women's issues and would be dealt with accordingly.¹⁶⁹ The international body of human rights, the "United Nations" decided to establish an independent agency and as a result, on second July 2010, the "General Assembly" adopted a single "UN Body" that was obliged to work for the betterment of women, women empowerment, and for seeking gender equality named as "The UN Entity for Gender Equality and the Empowerment of Women". It was formulated by merging four major organizations working for women's empowerment such as the "UN Development Fund for Women (UNIFEM)", the "Division for the Advancement of Women (DAW)", the "Office of the Special Adviser on Gender Issues", and the "UN International Research and Training Institute for the Advancement of Women."¹⁷⁰

In the year 2012, a "United Nations Conference on Sustainable Development" was held in Rio de Janeiro where the international human rights body adopted "the Sustainable Development Goals (SDGs)" which are seventeen in number. The purpose was to yield a universal policy of common objectives of all nations to encounter the critical issues developed through environmental, political, and economic challenges that the modern world is confronting. Under the "seventeen targets of SDGs, the important place of women has been acknowledged and women have been made a crucial part of this agenda. They are assigned different roles in promoting gender equality culminating in gender disparity. Thus, women have been assigned a very important role in achieving the objectives and targets of the SDGs, with many targets."¹⁷¹

¹⁶⁹ Izumi Kaori, "Gender-Based Violence And Property Grabbing In Africa: A Denial Of Women's Liberty And Security," *Gender & Development* 15 (2008), 97.

¹⁷⁰ The UN Development Fund for Women, *Gender Equality and the Empowerment of Women*, 34, <https://www.un.org/en/women>. Accessed on 20-11-23.

¹⁷¹ The Sustainable Development Goals (SDGs) 2012, [https://www.undp.org/sdg-accelerator/background-goals#:~:text=The%20Sustainable%20Development%20Goals%20\(SDGs,economic%20](https://www.undp.org/sdg-accelerator/background-goals#:~:text=The%20Sustainable%20Development%20Goals%20(SDGs,economic%20). Accessed on 12-11-2023.

In 2017, the European Union and the United Nations launched a common agenda called as “Spotlight Initiative”. It is a worldwide multi-year enterprise to speed up the process of reduction of gender disparity and violence against women and girls. Under this agenda, the 25th of November of each year has been declared as “The International Day for the Elimination of Violence against Women”, and the 6th of February of each year has been announced as “the International Day of Zero Tolerance to Female Genital Mutilation, while 11th February is the “International Day of Women and Girls in Science”. In addition to this, 19th June assigned the title as “the International Day for the Elimination of Sexual Violence in Conflict” and 23rd June is considered as the “International Widows' Day. Moreover, the 11th of October of every year is celebrated as the “International Day of the Girl Child”, and the 15th of October is observed as the “International Day of Rural Women”. The main purpose behind the intrusion of these particular days is to create attentiveness among the people and to spread information about various features of the efforts made by international institutions for the elimination of gender disparity and for achieving gender equality and women empowerment worldwide.¹⁷²

All this resulted in the development of a system of harmonization between the social activists, agencies, and the concerned legal system that further succeeded in the quality of legislation against violence against women to make the survivor of war violence an essential substance of the social harmonized system. In the majority of instances, laws, and criminal laws, in particular, were framed to stop more criminalities against women and suppressed classes including children. However, a truly coordinated response system could not be developed to eliminate violence against women including exploitation and domestic

¹⁷² Development Fund for Women, *Gender Equality and the Empowerment of Women*, 42.

violence.¹⁷³ The statistics on women's labor market earnings and political representation highlight the persistent structural inequalities that underpin **gender-based violence (GBV)** globally. Economic disparity and underrepresentation in decision-making bodies are critical indicators of gender inequality—conditions that often correlate with higher vulnerability to violence and limited access to justice for women.

1.3 The Role of Religion and Its Misuse in Gender-Based Violence in Pakistan

Religion, especially Islam, plays a deeply influential role in the social, cultural, and legal fabric of Pakistan. Given that Pakistan is an Islamic republic, the interpretation and application of Islamic principles significantly impact gender roles, rights, and protections. Religion holds a profound influence on the social, legal, and cultural fabric of Pakistan. Islam, which is the state religion, emphasizes principles of justice, equality, and the protection of human dignity, including the rights of women. The Quran and Hadith advocate for respect, fairness, and the prohibition of violence against women. However, these teachings are often overlooked, and instead, cultural practices rooted in patriarchy are falsely justified using religious rhetoric. Genuine Islamic values that uphold women's rights are frequently overshadowed by deeply entrenched societal norms, resulting in practices like domestic abuse, honor killings, and forced marriages being wrongfully perceived as having religious legitimacy.

The misuse of religion is a critical factor in perpetuating gender-based violence in Pakistan. Patriarchal interpretations of religious texts are often used to suppress women and justify acts of violence. For instance, domestic violence is sometimes defended by referencing

¹⁷³ UN Women, *An Analysis For ASEAN Countries Based On International Standards And Good Practices In Domestic Violence Legislation And Its Implementation*. <https://rm.coe.int/168044e7c0>. Accessed on 23-11-23.

misinterpreted Quranic verses, while practices like honor killings are carried out under the pretense of preserving family honor, despite Islam's clear stance against murder and injustice. This legal and social framework fosters an environment where perpetrators operate with impunity, and victims are often silenced by fear and shame.

Moreover, religious extremism and the influence of informal judicial bodies such as jirgas and panchayats have further facilitated the abuse of women. These parallel systems often use distorted religious and cultural principles to resolve disputes, resulting in practices like Swara (giving girls as compensation) and Vani (child marriages), which are not sanctioned by Islam. Such customs thrive in rural areas where formal legal protection is weak, and religious illiteracy prevents individuals from distinguishing between cultural practices and authentic Islamic teachings. Empowering religious scholars to promote interpretations of Islam that emphasize gender justice, alongside strengthening legal protections and raising awareness about women's rights within an Islamic framework, is essential to counteract the misuse of religion and ensure the safety and dignity of women in Pakistan.

It is necessary to set out why and how a focus on the patriarchal nature of society in ancient, medieval, and modern times leads us to consider the specific question of the role of judicial institutions in addressing gender-based violence in Pakistan because the persistence of patriarchy has deeply influenced both societal attitudes and legal structures. Throughout history, patriarchal systems have upheld male dominance and relegated women to positions of subordination, limiting their access to justice and reinforcing gender inequality. In ancient and medieval societies, women were often treated as the property of their male relatives, and violence against them was either normalized or justified under the pretext of maintaining family honor or societal order. These historical power dynamics laid the foundation for legal systems that were designed primarily to

serve the interests of men, often denying women the right to seek justice or protecting perpetrators from accountability.

In modern times, despite constitutional guarantees of equality and the introduction of progressive laws, the influence of patriarchy remains deeply embedded in Pakistan's judicial and legal framework. This legacy manifests in judicial attitudes, procedural delays, and the reluctance to challenge social norms that protect male privilege. Judges, lawyers, and law enforcement officers often reflect societal biases, resulting in victim-blaming, skepticism towards survivors, and leniency towards perpetrators in cases of gender-based violence. Moreover, the concepts of honor, modesty, and family reputation continue to shape judicial reasoning, leading to compromises, out-of-court settlements, and the misuse of forgiveness provisions (Qisas and Diyat laws) in cases involving violence against women. Thus, examining the historical and cultural backdrop of patriarchy is crucial to understanding why the judicial system in Pakistan often fails to provide effective remedies for survivors.

Therefore, this historical and societal context brings us to the critical question: How can judicial institutions, operating within a patriarchal framework, effectively address the problem of gender-based violence in Pakistan? This inquiry is not merely about evaluating the performance of courts but also about understanding the structural barriers rooted in centuries of gendered oppression. Without addressing the intersection of law and patriarchy, judicial reforms risk being superficial and ineffective, failing to challenge the deeply ingrained biases that prevent women from accessing justice. Therefore, a historical and sociological analysis of patriarchy becomes indispensable for evaluating the role of judicial institutions and for proposing meaningful reforms aimed at dismantling gender-based violence in Pakistan.

1.4 Gender-Based Violence (GBV) Courts Role Including the Transgender Community in South Asia

Gender-Based Violence (GBV) courts play a crucial role in addressing violence against marginalized communities, including the transgender community in South Asia. These specialized courts are designed to handle cases of gender-based violence, including domestic violence, sexual assault, and hate crimes, with a focus on providing justice to victims who often face systemic discrimination and barriers in accessing legal remedies.¹⁷⁴ The transgender community, in particular, is disproportionately affected by violence, stigma, and exclusion, often finding it difficult to seek legal protection due to societal biases and institutional neglect. GBV courts offer a more structured and sensitive legal approach, ensuring that transgender individuals receive justice in an environment that acknowledges their unique vulnerabilities.¹⁷⁵

In the context of South Asia, transgender individuals frequently experience violence both in private and public spaces, including family rejection, police brutality, sexual violence, and economic marginalization. Traditional judicial mechanisms often fail to address these issues effectively due to legal gaps, prejudiced law enforcement, and a lack of gender-sensitive judicial training. GBV courts can bridge this gap by incorporating a victim-centered approach that prioritizes the dignity, safety, and legal rights of transgender individuals. By employing specially trained judges, prosecutors, and support staff, these courts can ensure that cases of violence against transgender

¹⁷⁴Braga, Francesca. "Access to Justice for LGBT People Who were Victims of Sexual and Gender-based Violence in Southeast Asia, Europe and North America. A Comparative Research." In Papers of the 7th International Conference on Gender & Women Studies 2020, p. 63. 2020.

¹⁷⁵ Ibid.

people are handled without bias, while also expediting proceedings to prevent prolonged legal battles that often deter victims from seeking justice.¹⁷⁶

Furthermore, the establishment of GBV courts can contribute to broader social change by reinforcing the legal recognition and protection of transgender rights. These courts can set legal precedents that strengthen anti-discrimination laws, advocate for policy reforms, and promote awareness about the rights of transgender individuals. Additionally, their presence can encourage better coordination between the judiciary, law enforcement, and social welfare institutions, ensuring a more comprehensive response to gender-based violence. By fostering a legal environment that upholds the rights of marginalized communities, GBV courts serve as a vital mechanism for combating systemic violence and promoting inclusivity, ultimately paving the way for a more just and equitable society in South Asia.¹⁷⁷

1.4.1: Challenges for Courts Regarding Gender-Based Violence (GBV)

Despite the crucial role Gender-Based Violence (GBV) courts play in addressing violence against marginalized communities, including the transgender community in South Asia, several challenges hinder their effectiveness. One of the most significant barriers is the deep-rooted societal stigma and discrimination against transgender individuals, which extends into the legal system. Many law enforcement officials, judicial officers, and even legal practitioners harbor biases that can lead to the misrepresentation or dismissal of transgender victims' cases.¹⁷⁸ Additionally, a lack of gender-

¹⁷⁶ Bishwajit, Ghose, Sajeeb Sarker, and Sanni Yaya. "Socio-cultural aspects of gender-based violence and its impacts on women's health in South Asia [version 1; peer review: 1 approved with reservations]." (2016)

¹⁷⁷ Ibid.

¹⁷⁸ Dabby, Chic, and Mieko Yoshihama. "Gender-based violence and culturally specific advocacy in Asian and Pacific Islander communities." In Handbook of interpersonal violence and abuse across the lifespan: A project of the national partnership to end interpersonal violence across the lifespan (NPEIV), pp. 2675-2703. Cham: Springer International Publishing, 2021.

sensitive training for judges and court staff means that transgender individuals often face hostile or insensitive treatment in legal proceedings, discouraging them from seeking justice. The absence of clear legal frameworks explicitly protecting transgender individuals from GBV further complicates matters, making it difficult to secure convictions and enforce judgments in their favor.¹⁷⁹

Another major challenge is the lack of accessibility and representation for transgender individuals within GBV courts. Many transgender individuals in South Asia struggle to access legal services due to financial instability, illiteracy, and fear of retaliation from both state and non-state actors. In many instances, they lack proper identification documents that align with their gender identity, leading to bureaucratic hurdles that prevent them from filing cases or seeking legal protection. Furthermore, the limited presence of transgender or gender-sensitive legal professionals within the justice system means that victims often do not have adequate representation. This lack of inclusivity results in legal proceedings that fail to fully consider the lived experiences of transgender individuals, reducing their chances of obtaining fair and just outcomes.¹⁸⁰

In addition to systemic and institutional barriers, GBV courts also face operational and structural limitations that affect their efficiency in handling cases involving transgender individuals. Many GBV courts suffer from case backlogs, insufficient resources, and a lack of specialized personnel trained to handle gender-based violence cases effectively. Moreover, the implementation of legal protections for transgender individuals varies across South Asian countries, with some jurisdictions having progressive laws while others still criminalize transgender identities or fail to

¹⁷⁹ Ibid.

¹⁸⁰ Gupta, Urvi. "Gender Based Violence and Discrimination in India-Women and Transgenders." Available at SSRN 3923340 (2021).

recognize them altogether. This inconsistency in legal protections undermines the effectiveness of GBV courts in addressing the violence faced by transgender individuals, as court rulings may not always align with broader human rights principles. Without strong institutional support, adequate funding, and legal reforms, GBV courts will continue to face difficulties in providing meaningful justice to transgender individuals in South Asia.¹⁸¹

1.4.2: Strengthening the Role of GBV Courts in South Asia

Beyond legal and institutional reforms, strengthening GBV courts also requires improving accessibility and victim support mechanisms. Governments should establish legal aid programs, shelters, and counseling services specifically tailored for transgender survivors of GBV, ensuring they receive both legal and psychological support throughout the judicial process. Mobile courts or community-based legal outreach initiatives can also be introduced to reach transgender individuals in remote or underserved areas where access to justice remains limited. Additionally, collaboration between GBV courts, law enforcement agencies, and civil society organizations can help create a more coordinated response to gender-based violence, ensuring that survivors receive holistic support.¹⁸² By addressing both legal and structural barriers, GBV courts can play a more effective role in protecting transgender individuals and promoting a justice system that upholds equality and human rights in South Asia.¹⁸³

Strengthening the role of Gender-Based Violence (GBV) courts in Pakistan requires a multi-faceted approach that addresses legal, institutional, and societal barriers to justice for survivors,

¹⁸¹ Ibid.

¹⁸² Handy, Michelle. "A legal empowerment approach to improving access to justice for victim-survivors of sexual and gender-based violence." *University of Colombo Review* 5, no. 1 (2024).

¹⁸³ Ibid.

particularly transgender individuals and other marginalized groups. First, comprehensive legal reforms must explicitly recognize transgender individuals as protected citizens under GBV laws, ensuring that cases involving them are treated with the same urgency and seriousness as other gender-based violence cases. Additionally, increasing the number of dedicated GBV courts, particularly in rural and underserved areas, can help expedite case proceedings and reduce legal backlogs.¹⁸⁴ To improve accessibility, the government should establish free legal aid services, introduce victim protection mechanisms, and collaborate with civil society organizations to provide psychological and rehabilitative support for survivors. Furthermore, enhancing coordination between GBV courts, police departments, and human rights commissions can ensure more efficient case handling and better enforcement of court rulings. Public awareness campaigns and legal literacy programs must also be launched to encourage survivors, including transgender individuals, to report cases without fear of stigma or retaliation.¹⁸⁵ By addressing both systemic and structural challenges, Pakistan can strengthen the role of GBV courts in delivering justice, ensuring accountability for perpetrators, and fostering a safer, more inclusive society for all.

¹⁸⁴ Gangoli, Geetanjali, Lis Bates, and Marianne Hester. "What does justice mean to black and minority ethnic (BME) victims/survivors of gender-based violence?." *Journal of Ethnic and Migration Studies* 46, no. 15 (2020): 3119-3135.

¹⁸⁵ Ibid.

1.4.5 Legal And procedural gaps in the current judicial system

The judicial systems around the world, despite being the cornerstone of the rule of law, face significant legal and procedural gaps that hinder the delivery of timely, affordable, and equitable justice. One of the most critical issues is access to justice, particularly for marginalized populations. High legal costs, complex procedures, and geographical barriers prevent many individuals—especially in rural or underserved regions—from effectively navigating the courts (UNDP, 2022)¹⁸⁶. Language and literacy barriers further exacerbate the problem, leaving vulnerable communities at a disadvantage. A related issue is the persistent backlog and delay in case resolution. Courts in countries like India, the Philippines, and even parts of the United States face massive case backlogs, resulting in justice being delayed for years (World Bank, 2020)¹⁸⁷. These delays are often fueled by outdated procedures, paper-based systems, and an insufficient number of judges and administrative staff.

Another critical gap lies in the lack of transparency and accountability in many judicial systems. In some jurisdictions, judicial decisions are not published or explained in a manner that is accessible to the public, undermining public trust and understanding of the legal system (Transparency International, 2019)¹⁸⁸. Furthermore, the risk of corruption and political interference in judicial appointments or rulings threatens the independence of the judiciary in several countries. Procedural complexities also contribute to injustice. Legal proceedings are often overly formalistic, requiring specialized legal knowledge that makes self-representation nearly

¹⁸⁶ United Nations Development Programme (UNDP). (2022). *Access to Justice and Rule of Law*. Retrieved from <https://www.undp.org>

¹⁸⁷ World Bank. (2020). *Doing Business Report – Enforcing Contracts*. Retrieved from <https://www.worldbank.org>

¹⁸⁸ Transparency International. (2019). *Global Corruption Report: Corruption in the Judiciary*. Retrieved from <https://www.transparency.org>

impossible. Even in countries with public legal aid systems, underfunding and poor administration often result in substandard representation for the indigent (OECD, 2021)¹⁸⁹.

Additionally, there is a notable lack of consistency in the application of laws, with judicial discretion sometimes resulting in disparate sentencing for similar offenses. This inconsistency can be due to vague or outdated legislation, or insufficient reliance on precedent in non-common-law jurisdictions. Meanwhile, many judicial systems are technologically underdeveloped, with limited digital infrastructure for e-filing, online hearings, or case tracking. The COVID-19 pandemic highlighted this digital gap, pushing courts to adopt technology rapidly, but the progress remains uneven. This is further compounded by the digital divide, which excludes litigants without access to the internet or digital literacy.

Furthermore, alternative dispute resolution (ADR) mechanisms like mediation and arbitration remain underutilized in many jurisdictions, despite their potential to reduce court burdens and offer faster, less adversarial conflict resolution. Where ADR is used, enforcement mechanisms are often weak or unclear, reducing its effectiveness. Lastly, judicial systems globally face challenges of systemic bias. Gender-based discrimination, racial profiling, and lack of sensitivity to minority issues persist in courtrooms, partly due to insufficient training and lack of representation among judicial officers (UN Women, 2020)¹⁹⁰.

In conclusion, while legal reforms are often discussed, addressing these systemic gaps requires a multidimensional strategy—combining legal modernization, administrative reforms, digital

¹⁸⁹ Organisation for Economic Co-operation and Development (OECD). (2021). *Equal Access to Justice for Inclusive Growth*. Retrieved from <https://www.oecd.org>

¹⁹⁰ UN Women. (2020). *Justice for Women Amidst COVID-19*. Retrieved from <https://www.unwomen.org>

transformation, judicial training, and robust oversight mechanisms—to ensure justice is truly accessible and equitable for all.¹⁹¹

1.4.6 Flaws and gaps in the legislation of gender discrimination laws

Despite significant progress in enacting laws aimed at preventing gender discrimination, legislative frameworks around the world continue to suffer from substantial flaws and gaps that hinder their effectiveness. One of the most fundamental issues is the lack of comprehensive legal definitions of gender discrimination, particularly with respect to indirect, structural, and intersectional forms of bias. Many laws focus narrowly on overt and intentional discrimination, overlooking the more subtle institutional barriers that affect women and gender minorities in areas such as employment, education, property rights, and political participation. In numerous jurisdictions, laws still fail to explicitly protect individuals from discrimination based on gender identity or sexual orientation, thereby excluding transgender and non-binary people from legal protections. According to a 2023 Human Rights Watch report, over 60 countries lack any legislation protecting LGBTQ+ individuals from discrimination in employment, housing, and public accommodations.

Furthermore, even where anti-discrimination laws exist, legal loopholes and weak enforcement mechanisms undermine their utility. For instance, some labor laws that prohibit gender discrimination in the workplace allow exemptions for certain sectors, such as domestic work or the informal economy, where women are disproportionately represented (ILO, 2021)¹⁹². Enforcement agencies are often underfunded, lack autonomy, or do not have the authority to impose meaningful

¹⁹² UN Women. (2020). *Progress of the World's Women 2019–2020: Families in a Changing World*. Retrieved from <https://www.unwomen.org>

sanctions. Victims of discrimination may also face procedural barriers, such as short deadlines for filing complaints, the burden of proof placed entirely on the complainant, or lack of access to legal aid. This is compounded by social stigma and fear of retaliation, which deter many from seeking justice.

In addition, many gender discrimination laws lack integration with broader legal frameworks, such as criminal, family, and inheritance laws. For example, while some countries may prohibit gender-based discrimination in the workplace, their family laws might still permit unequal parental rights or unequal treatment in divorce and custody matters, reflecting inconsistencies across the legal system (World Bank, 2022)¹⁹³. In some cultures, customary and religious laws may even override statutory laws, perpetuating systemic discrimination under the guise of tradition. Furthermore, monitoring and evaluation mechanisms are often absent, making it difficult to assess the effectiveness of existing gender laws or identify areas in need of reform. Few jurisdictions mandate gender impact assessments before enacting new legislation, which means that laws may be passed without regard to their differential impact on women and gender minorities.

In conclusion, while gender discrimination laws have proliferated globally, they remain fragmented, under-enforced, and often symbolic, falling short of their intended purpose. To close these gaps, reforms must aim at making legal definitions inclusive, harmonizing gender equality principles across all branches of law, ensuring robust enforcement mechanisms, and embedding gender sensitivity into all stages of lawmaking and policy implementation.

¹⁹³ World Bank. (2022). *Women, Business and the Law 2022*. Retrieved from <https://wbl.worldbank.org>

1.4.7 Flaws in cross gender laws

Despite increasing awareness and advocacy, laws addressing cross-gender identities and issues remain deeply flawed, fragmented, and inconsistent across jurisdictions. One of the most glaring problems is the lack of legal recognition for gender identities beyond the binary of male and female. Many countries still do not allow individuals to legally change their gender marker on official documents, or they require invasive procedures such as sterilization, psychiatric evaluations, or proof of surgical transition to do so—practices that violate bodily autonomy and human rights (Human Rights Watch, 2022)¹⁹⁴. In cases where a third gender or non-binary identity is recognized, such as in India, Germany, or Nepal, the legal mechanisms for updating documents are often unclear, inaccessible, or inconsistent across different government agencies. Moreover, many anti-discrimination laws still fail to explicitly include gender identity and expression as protected characteristics, leaving transgender and gender-diverse individuals vulnerable to discrimination in employment, education, housing, and healthcare.

Another major flaw is the criminalization or policing of gender non-conformity, which persists in several countries through laws against "cross-dressing" or vague "public decency" statutes. These laws are often used arbitrarily to harass or detain transgender individuals, particularly those from lower socio-economic backgrounds or marginalized ethnic communities. Even in countries with progressive gender laws, implementation gaps remain due to a lack of training for police, healthcare workers, and judiciary personnel, resulting in systemic bias, misgendering, or outright denial of services. In addition, healthcare laws and policies are often non-inclusive, failing to guarantee access to gender-affirming care, mental health support, or hormone therapy as essential

¹⁹⁴ Human Rights Watch. (2022). *"I Want to Be Like Nature Made Me": Medically Unnecessary Surgeries on Intersex Children in the US*. Retrieved from <https://www.hrw.org>

services—despite the World Health Organization's recognition of their importance in supporting the well-being of transgender people.

Educational institutions, too, often lack gender-inclusive policies, leading to bullying, exclusion, and mental health issues among transgender youth. Prison laws and systems represent another critical area of concern, where individuals are often incarcerated according to their sex assigned at birth rather than their gender identity, subjecting them to violence, isolation, or denial of medical care. Finally, the absence of legal representation and participatory policymaking for trans and gender-diverse communities means that many of these laws are created without input from those they most affect, leading to policies that are either ineffective or further marginalizing.

Conclusion

This chapter concludes that violence against women and other marginalized communities, including transgender individuals, is a persistent and deeply rooted global issue. The historical evolution of societies across civilizations reveals that women have long been the primary victims of brutality, inequality, persecution, and manipulation, subjected to systemic oppression that transcends geographical and cultural boundaries. From ancient societies to the medieval period and into the modern era, women have endured various forms of violence and discrimination, often being denied basic rights to autonomy, dignity, and legal protection. The oppression faced by other vulnerable groups, such as transgender individuals, has also been shaped by rigid patriarchal structures that refuse to acknowledge their existence and rights. The struggles for recognition and equality by these communities highlight the universal nature of gender-based violence as a product of historically entrenched power imbalances.

Although the establishment of the United Nations (UNO) and other international bodies in the aftermath of World War II brought increased attention to human rights and gender equality, the core issues concerning violence against women and gender minorities remain far from resolved. The adoption of international instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and various regional charters was intended to protect women's rights and prevent violence. However, the enforcement and implementation of these frameworks have largely been inadequate. Many states continue to lack

the political will or institutional capacity to ensure effective protection and legal recourse for survivors of violence. Societal attitudes, deep-rooted patriarchy, and cultural justifications often undermine legal efforts, leaving women and transgender individuals vulnerable to continued violence and discrimination.

Contemporary developments reflect that violence against women and transgender individuals is not diminishing but, in fact, increasing in many parts of the world. Reports from human rights organizations and international agencies demonstrate that every year, cases of domestic abuse, sexual violence, honor killings, acid attacks, and harassment rise across both developed and developing nations. In recent years, such violence has been widely recognized and categorized under the broader term “gender-based violence” (GBV), emphasizing that the violence is not random but stems from unequal power relations and gender discrimination. This conceptual shift highlights the need for societies and legal systems to view such violence not merely as isolated criminal acts but as manifestations of systemic inequality. Therefore, combating GBV requires more than legal reforms, it demands a comprehensive societal transformation towards equality, respect, and dignity for all genders.

CHAPTER TWO

PRACTICE OF GENDER-BASED VIOLENCE IN PAKISTAN

Introduction

This chapter is an effort to address and answer the second research question, which focuses on the prevalence and manifestation of gender-based violence (GBV) in Pakistan. It aims to establish the extent to which GBV exists in the country by presenting data and factual evidence gathered from various national and international sources, including government reports, non-governmental organizations (NGOs), and human rights bodies. The chapter not only demonstrates that gender-based violence is a deeply entrenched issue in Pakistani society but also highlights how it cuts across rural and urban settings, affecting women, transgender individuals, and other marginalized groups across all socio-economic backgrounds. The data presented underscores the alarming frequency and normalization of violence against women and gender minorities, reflecting a systemic issue that demands urgent legal and social intervention.

In this context, the chapter categorizes and describes the different forms of gender-based violence prevalent in Pakistan, including but not limited to domestic violence, honor killings, sexual assault, harassment, acid attacks, forced marriages, child marriages, and denial of basic rights such as education and property ownership. Each form of violence is examined with specific examples and case references to demonstrate the severity and persistence of these abuses. The chapter also explores the intersectionality of gender discrimination with factors such as class, caste, and ethnicity, showing how certain groups of women and transgender individuals

face compounded vulnerabilities. This comprehensive overview helps paint a broader picture of the diverse and multifaceted nature of GBV in the Pakistani context, where cultural norms, societal expectations, and legal loopholes often shield perpetrators from accountability.

Furthermore, the chapter delves into the root causes and contributing factors behind the perpetuation of GBV in Pakistan. It analyzes the socio-cultural, economic, and legal factors that sustain gender inequality and perpetuate violence, such as patriarchal mindsets, discriminatory customs, lack of education, poverty, inadequate legal enforcement, and institutional weaknesses. Religious interpretations and traditional practices are also examined as influential drivers, often used to justify violence and suppress women's autonomy. By unpacking these underlying causes, the chapter seeks to provide a contextual understanding of why gender-based violence remains a persistent and pervasive problem in Pakistan, thus laying the foundation for subsequent discussions on legal responses and institutional interventions in the later chapters of this research.

2.1. Existence of Gender-Based Violence issue in Pakistan

Pakistan is the sixth most populous country in the globe. In Pakistan, violence against women is prevalent everywhere, every woman suffers insofar where she resides, what she does, what she engages in, and her family life are all affected by the prospect or occurrence of such violence. They are not made aware of their rights. They have limited access to knowledge, expertise, training, and their fair part of societal advancement.¹⁹⁵ Pakistan is

¹⁹⁵ Sara Rizvi Jafree, *Women, Healthcare and Violence in Pakistan* (UK: Oxford University Press, 2018), 100; National Research Council Report, *Advancing the Federal Research agenda on Violence against Women*, 71; Zarizana Abdul Aziz and Maria Sicangco, *Court Companion on Gender-Based Violence Cases*, 31.

ranked 145th out of 156 nations on the Gender-related Development Index and 99th out of 109 nations on the Gender Empowerment Measure.¹⁹⁶

The roots of GBV in Pakistan can be found in the malpractices of the society based on Hindu culture. The Hindu sacred Book “Manusmriti” founded in the second century BC called women generic having the habit of lying, cheating, greed with an unending lust for ornaments, having sitting around nature, prompt angriness, meanness, and bad manners. As a whole, women were badly treated by their families and in cases of murder, and theft by male members of their families, they were offered to the opponents as compensation and *badli-e-sulh*. Women were considered as submissive and humble to men. They were treated like low-caste people who had no rights and were declared as private property of upper class and rich people.¹⁹⁷

In this way, this bad dealing with women created the hate theory against women which in the later period was accepted by the people of the whole sub-continent, Muslims and non-Muslims. The hate creed low status of women, and rigid customs of marriage forced the parents of women to offer heavy dowry and precious gifts to the groom. Hindu husbands were too dominant to ask for the scarification of the life of the wife at the cost of his pleasure. To prove herself pure, the wife had to perform ‘*dharma*’ by sacrificing her life later on converted into a creed by which women were accepted and even aspired to prove her chastity by way of *dharma*.¹⁹⁸ After the arrival of Muslims in India, the Muslim Empire ignored the strict and

¹⁹⁶The National Human Development, *Pakistan National Human Development Report on Inequality* (New York: The National Human Development, 2021). <https://www.undp.org/pakistan/publications/pakistan-national-human-development-report-inequality> Gender-related Development Index. Last accessed on 23-9-23.

¹⁹⁷ R. Radha, “Historical Perspective Of Violence Against Women In India Through Various Ages,” *International Journal of Basic and Applied Research* 9 (2019), 149–153.

¹⁹⁸ Uma Chakravarti, “Conceptualising Brahmanical Patriarchy In Early India: Gender, Caste, Class And State,” *Economic and Political Weekly* 5 (1993), 579–585

biased customary practices against women and did not try to reform the existing culture. Muslims thus, started following Hindu customary practices and adopted in the name of Islam and is still continued in Pakistan.¹⁹⁹

According to a report published in 2017 it was observed that domestic violence in Pakistan suffered from significant underreporting, with the formal legal system posing a substantial obstacle in addressing this issue. The study demonstrates that there was a prevalent belief that intimate partner abuse should be regarded as a private matter.²⁰⁰

However, the rate of conviction is very low a survey held in 2019 showed that only 100 of the 2,353 rape cases considered by the courts resulted in convictions while 2,183 cases resulted in acquittals and 70 cases were consigned to the record room. Thus, the rate of conviction is only 4.25 percent.²⁰¹ These numbers exclude the vast majority of cases that were withdrawn prior to court listing for various reasons. In addition, between 2008 and 2012, in Islamabad, the conviction rate against 103 rape cases was zero %.²⁰²

The 'World Bank Report, 2021 reveals that violence against women particularly, sexual violence remains highly stigmatizing, making disclosure difficult in societies where victims and survivors are likely to be blamed for it; this results in underreporting and, consequently, an underestimation of the prevalence.²⁰³

¹⁹⁹ R. Radha, "Historical Perspective of Violence Against Women in India Through Various Ages," *International Journal of Basic and Applied Research* 9 (2019), 153.

²⁰⁰ The Overseas Development Institute, *Report on Domestic Violence in Pakistan*. <https://odi.org/en/tagged/pakistan/Ruchira>. Last accessed on 23-9-23; Tabassum Naved, et.al, *Understanding Intimate Partner Violence in Rural Bangladesh* (London: Overseas Development Institute, 2017), 21; Grossman Joanna and Gillian Thomas, "Making Sure Pregnancy Works: Accommodation Claims after Young v. United Parcel Service, Inc," *Harv. L. & Pol'y Rev.* 14 (2019): 319.

²⁰¹ Abdul Aziz and Sicangco, "Court Companion on Gender-Based Violence Cases", 31.

²⁰² Ayesha Khan, "Pakistan's National Commission on the Status of Women: A Sandwich Strategy Initiative," *Collective for Social Science Research/Accountability Research Center*, 2021. <http://researchcollective.Org/publications>. Assessed on May 12, 2023

²⁰³ World Bank, *Report on Violence against Women*, 2021. www.un.org.com. Accessed on 23-9-23.

In Pakistan, victims of gender-based violence (GBV) did not have access to formal services until after they had already experienced victimization. Moreover, it is witnessed that in cases where the wife pursues legal recourse, the in-laws often respond by subjecting her to other instances of mistreatment. It is imperative for first responders to cultivate a mindset that prioritizes the provision of aid to victims, coupled with the principles of respect and non-judgmental treatment. The violation of an individual's rights results in the infringement of their life, physical well-being, or mental well-being.²⁰⁴

More than one-quarter of Pakistani women are married before the age of 18 years. Only 4% of women with a high school diploma or higher were married before the age of 18; however, 35% of women who are illiterate or have less than a primary education was married before the age of 18," which is a barrier to the economic and social empowerment of women. In addition to continuing to prioritize education, the Pakistani government has taken positive measures to encourage and promote women's participation in politics and the workforce. Through their legal decisions, Pakistan's superior courts have primarily contributed to the realization of women's rights.²⁰⁵

In Pakistan, because of the male-dominated culture, women are suppressed and vulnerable to exploitation and violence. They must rely on their male relatives to pursue justice even after an incident. It is found that in cases where a woman seeks to file a complaint, the male counterpart, despite being supportive, tends to express objections to the chosen location.²⁰⁶

²⁰⁴Sultana Mustafa, "The Deprived Children and Their Rights under the Law," *Asian Social Studies and Applied Research Council* 2 (2021): 5.

²⁰⁵ UN Nations, *Report on Education and Training of Women*, 2014. <https://www.unwomen.org/en/news/in-focus/end-violence-against-women/2014/education>. Last accessed on 23-9-23.

²⁰⁶ Shehar Bano Khan, and Shirin Gul, "The Criminalization Of Rape In Pakistan," *CMI Working Paper*, 2017, <https://www.cmi.no/publications/6323-the-criminalisation-of-rape-in-pakistan>, Assessed on: April 29, 2023; Banvard-Fox et.al, "Sexual assault in adolescents," *Primary Care: Clinics in Office Practice* 47 (2020): 331-349.

The UNHR (2018) report demonstrates that police and judges sometimes resisted taking action in domestic abuse cases because they saw it as a family issue. Instead, they usually responded by urging the parties to make amends. The police neglect to use the victim's words Male complainants may make untrue allegations; a male relative who is not a witness files the complaint, resulting in the inclusion of conjecture in the complaint.²⁰⁷

2.1.1 Intersectionality in Gender-Based Violence (GBV)

Transgender individuals often face unique and severe forms of GBV, including physical assault, sexual violence, police abuse, and even murder. Their gender identity exposes them to a double layer of vulnerability—both as a gender minority and as a marginalized social class.

2.1.2 Human Rights and Legal Protections

Despite the passage of progressive laws such as the Transgender Persons (Protection of Rights) Act, 2018, enforcement remains weak. Highlighting their plight underscores the gap between legislation and lived reality, emphasizing the need for legal reform and implementation.

2.1.3 Social and Economic Exclusion

The lack of access to education, employment, healthcare, and social services contributes to the marginalization and victimization of transgender individuals. Addressing these barriers is crucial to ensuring equality and protection under both human rights and Islamic frameworks.

2.1.4 Religious and Cultural Misconceptions

Misunderstandings about gender identity are often reinforced through misinterpretations of

²⁰⁷ World Health Organization, *Country Cooperation Strategy*, 2017. <https://www.who.int/publications/i/item/WHO-EM-PME-001-E>. Assessed on May 1, 2023.

religious and cultural norms, leading to further stigmatization and exclusion of transgender people. Addressing these misconceptions is essential for fostering inclusion and justice.

2.1.5 Relevance to Policy and Advocacy

Including the transgender community in GBV and social justice discourse ensures inclusive policy-making, targeting all gender identities, not just cisgender men and women. This inclusion is critical for sustainable development and social cohesion in Pakistan.²⁰⁸ Despite the 2009 decision by the Supreme Court of Pakistan that "transgender be given equal inheritance and job opportunity rights, among others," no concrete measures have been taken to achieve this objective.²⁰⁹ There are two ways to describe transgender as a gender identity. One strategy is to view transgender as an adjective, or as a characteristic that enhances noun forms like person, man, or woman. A transgender person, according to perspective, is someone whose gender identity differs from their physical sex or gender at birth.²¹⁰

Pakistan has a multitude of occurrences involving discrimination against the transgender minority, encompassing institutional, societal, and legal dimensions.

The problem is exacerbated by the absence of regard and inclusivity towards these collectives, resulting in their marginalization from society, deprivation of fundamental entitlements, and vulnerability to various manifestations of prejudice, mistreatment, and aggression merely on the grounds of their gender and identity.²¹¹

²⁰⁸ WHO, *Country Cooperation Strategy of 2020-2025*, 65.

²⁰⁹ Maliha Aslam, *Gender Based Explosions* (Tokyo: United Nations University, 2012), 300.

²¹⁰ AL Wirtz, et.al, "Gender-Based Violence Against Transgender," *Trauma, Violence, & Abuse* 21 (2020): 227-241.

²¹¹Val Kalei Kanuha, "Colonization and Violence against Women," *Asian Pacific Institute on Gender-Based Violence* 6 (2002):188.

Transgender are subject to legal branding, denied the opportunity to adopt a chela, and faced heightened levels of mistreatment due to their conspicuous conduct in the public sphere. Individuals who have been officially documented in the aforementioned manner and publicly present themselves while adorned in feminine attire or accessories, or intentionally position themselves in a different setting with the purpose of being observed from a public vantage point, or engage in public performances involving dance, music, or other forms of public display, may be subject to apprehension without the need for a warrant.²¹²

Employment possibilities are restricted by discrimination, and the transgender community frequently experiences abuse, humiliation, and intimidation. Many also fall prey to criminal groups, sexual assault, and extortion. Transgender individuals continue to face adversities including criminalization, maltreatment, and physical assault. The police and other law enforcement agencies never educate the public about the transgender population's human rights and never handle them with respect. Numerous instances have been documented in which police officers have raped and physically assaulted transgender women, in addition to harassing them and perceiving them as vulnerable and defenseless. When transwomen arrive late from weddings or extend birthday parties into the early hours, police officers are accused of attempting to compensate them.²¹³

The issue is made worse by the lack of respect and acceptance for these groups, which renders them social outsiders, denies them access to basic rights, and exposes them to many forms of discrimination, harassment, and violence based solely on their gender and identity. No concrete steps have been taken to achieve this goal despite the Supreme Court of Pakistan's

²¹² Pakistan Penal Code (Act No. XLV of 1860), (The Official Gazette of Pakistan, Extraordinary Part I, October 6, 1860), s.21

²¹³ Ibid.

2009 decision that "transgender be given equal inheritance and job opportunity rights, amongst others."²¹⁴

On January 22, 2013, over 50 members of the transgender community demonstrated outside the Rahim Yar Khan Press Club in protest of the alleged beating and theft of merchandise from two transgender people at a meeting. They'd done it. On May 8, 2013, a 20-year-old transgender woman was sexually attacked at gunpoint in her house in Islamabad's F-11 neighborhood, but authorities failed to press charges.²¹⁵ The eunuchs of the areas were evicted on May 28, 2013, following a motorcycle blast in Peshawar's Imamia Colony that killed two people and injured 17 others. The eunuchs went to the police to complain after a brawl with the locals in October, but their request was denied. The eunuchs protested by blocking the GT Road, where they were attacked by police, who also seriously injured the group president. At least one transwoman was present at the dance party where Cheema and other officers apprehended several people.²¹⁶

2.2 Causes of Gender-Based Violence

The causes of gender-based violence are numerous, its intersections heighten the risk of violence, and its effects are far-reaching. The threat of male violence is not a private matter when all women, regardless of background, dread it (and modify their behaviour to avoid it). However, a social custom serves a purpose. Where violence against women is prevalent, every woman suffers from the practice insofar as her environment, where she resides, what

²¹⁴ World Health Organization, "Violence against Women Prevalence Estimates," *Global Health Education and Learning Incubator at Harvard University*, 2021, <https://repository.gheli.harvard.edu/repository/13628/>. Assessed on 12 September 2023.

²¹⁵ Shah Meer Baloch, 'Pakistan's Transgender Women Protest Against Rising Tide Of Violence' *The Guardian*, April 1, 2022, <https://www.theguardian.com/global-development/2022/apr/01/pakistan-transgender-women-protest-against-rising-tide-of-violence>. Assessed on April 12, 2023.

²¹⁶ Meer Baloch, 'Pakistan's Transgender Women Protest against Rising Tide of Violence,' 67.

she does, what she engages in, and her family life is all affected by the prospect or occurrence of such violence. Men and women are, however, companions who care for one another.

There are multiple factors behind the issue of gender-based violence and are given below:

2.2.1 Community's Mindset

The incidence of violence and the rates of reporting can be significantly influenced by a community's ideas towards gender roles, sexuality, familial violence, and sexual assault. Cultures that uphold male dominance over women stigmatize those who have been harmed. The language used in the community trivializes and normalizes GBV (gender-based violence) e.g., "It was only a slap"). Males and women agree, for instance, that violence can be justified and that rape occurs when males cannot control their sex needs or when women "ask" to be raped. Excusatory loopholes are provided by culture and legislation that allow acts of violence against women in the form of defenses, justifications, and mitigating factors.²¹⁷

In addition, society has diverse standards for assigning responsibility and granting forgiveness for "bad behavior." The following are not factors that contribute to or support GBV (gender-based violence) such as, refusal to heed her husband or father, Inadequate dower or wedding gifts, insistence on going out at night, inappropriate attire, excessive Facebook use, inability to supervise children; noisy children, rejects interest in or marriage proposal.²¹⁸

When women are deemed to have violated cultural norms e.g., she is rude, she has no shame, she speaks too much, and culture institutionalizes the perception of violence against women as a sanctioned social punishment. This allows victims to be held accountable for

²¹⁷ Moeen H. Cheema, "Judicial Patronage of Honor Killings in Pakistan: The Supreme Court's Persistent Adherence to the Doctrine of Grave and Sudden Provocation," *Buff. Hum. Rts. L. Rev.* 14 (2008): 51.

²¹⁸ Naghma Rehan and K. Qayyum, "Customary Marriages in Rural Pakistan," *The Medical journal of Malaysia* 72 (2017): 175-178.

their own harm (rather than offenders) (e.g., "she deserves to be raped" as opposed to "no one deserves to be raped" or "she must have deserved the beating"). As a result, punishments for male perpetrators of violence are upheld, whereas women who cause harm are rarely punished.²¹⁹

2.2.2 Gender Inequality

Most of the causes of gender-based violence are based on the issue of gender discrimination. As the preponderance of GBV (gender-based violence) victims are female, this violence is discriminatory against women. It is violence perpetrated against women solely on the basis of their gender, or when the effects of violence are disproportionately felt by women. "Any sex-based distinction, exclusion, or restriction having the effect or purpose of preventing women from recognizing, enjoying, or exercising their human rights and fundamental freedoms regardless of their marital status; based on the equality of men and women; In the political, economic, social, cultural, civil, or any other field" is the definition of discrimination against women.²²⁰

2.2.3 Cultural Rigidity

Cultural rigidity and traditional practices sustain society and support discrimination against women. These norms and procedures reinforce preconceived notions of gender. The cultural policies serve to reinforce gender stereotypes. Despite the fact that Islam is recognized as the state religion of Pakistan and that 96.47 percent of the population identifies as Muslim, the majority of cultural norms regulating gender roles and relationships are

²¹⁹Naghma Rehan and K. Qayyum, "Customary Marriages in Rural Pakistan," *The Medical journal of Malaysia* 72 (2017): 175-178.

²²⁰ Ibid.

interpreted through the lens of regional subcontinental customs or traditional practice.²²¹

Examples include preventing women from inheriting property, the dowry custom, discouraging widowed women from remarriage, and various forced unions justified by culture, including Watta Satta, Walwar, Sar Paisa, Addo Baddo, Sang Chatti, Swara, Wanni, Pait Likhi (betrothals of girls to male family members at birth), and marriage to the Qur'an. 58.7% of marriages in a 2017 study of 4,385 ever-married women from six rural regions, spanning in age from 18 to 83, were Wanni, Swara, Sang Chatti, Badal, and Bazo (i.e., to settle blood feuds).²²² 7.9% of marriages involved buying the bride; 1.0% involved Badal-i-Sulh (i.e., agreements to resolve conflicts other than murder); and 0.1% involved women getting married to the Qur'an. Traditional marriages, which consider the preferences of both families and the consent of the couple, accounted for 20.3% of all marriages.²²³

2.2.4 Institutionalized Policies

The gender-based policies of the institutions have become a major challenge and an irrefutable social standard. This is known as structural or systemic discrimination.

Direct discrimination is witnessed in almost every institution. For instance, in Pakistan, most of the companies deny a woman a leading post due to her gender. In the same manner, if the job description for a bank manager requires candidates to be at least 5 feet 7 inches tall, the first consideration should be whether men or women would find it simpler to meet this requirement.²²⁴

²²¹ Adeline Delavande and Basit Zafar, *Gender Discrimination and Social Identity* (Philadelphia: Diane Publishing Company, 2013), 31.

²²² Ibid.

²²³ Moeen H. Cheema, "Judicial Patronage of Honor Killings in Pakistan: The Supreme Court's Persistent Adherence to the Doctrine of Grave and Sudden Provocation," *Buff. Hum. Rts. L. Rev.* 14 (2008): 171.

²²⁴ Nadia Khadim et.al, "Analytical Framework for Judicial Data Collection in Pakistan," *Policy Perspectives* 16 (2019):87.

Due to the fact that most women are shorter than men and less than 5% of women are 5 feet 7 inches tall, the height requirement in this instance means that fewer women can register. The second issue that must be addressed is whether the position itself specifies a minimum height requirement of 5 feet 7 inches. The imposition of a minimum height requirement, such as 5 feet 7 inches, has significant gender implications and raises concerns about equal access to employment. Since the average height of women is generally lower than that of men, and fewer than 5% of women meet this specific height threshold, such a requirement disproportionately excludes women from eligibility, even if they are otherwise qualified for the position. This makes the criterion potentially discriminatory unless it can be justified as a genuine occupational requirement. The relevance of questioning whether the job *actually necessitates* a minimum height of 5 feet 7 inches lies in evaluating whether the standard is rooted in legitimate job functions or reflects outdated or biased norms that disadvantage women. Addressing this issue is essential to ensure that employment criteria are fair, evidence-based, and do not unintentionally perpetuate gender inequality. It is not discriminatory if someone can only perform the job if they satisfy the requirement. Can a bank manager only fulfill their duties if they are at least 1.70 meters tall? Since it is not an inherent requirement in this instance, the requirement is discriminatory against women.²²⁵

2.2.5 Gender Ideology

The broad range of concepts regarding gender roles and behavior is collectively known as gender ideology. Every society has its own distinctive gender ideology. This gender ideology is crucial in influencing how genders are treated in a certain community. Many of our good values and judgments come from culture. Many of our societal customs and

²²⁵ Joseph P. De Santis and Carol A. Patsdaughter, "The Dangerous Intersection Of Violence And HIV Infection," *Journal of the Association of Nurses in AIDS Care* 25 (2014): S1-S4.

prejudices originated there as well. Men in diverse societies believe that males are spiritually superior to females and that females are feeble, dangerous, and unreliable²²⁶. These beliefs severely impede the growth and prosperity of an entire gender and permit the subjugation of women in every aspect of life.

Gender ideology manifests itself in commonplace cultural practices, such as the notion that young girls are of lesser worth or the expression of sorrow and humiliation upon the birth of a female child. The custom also serves as a constant reminder that the girl is a guest in her family's home and that she will soon marry and depart,²²⁷ Tribe, Biradari (paternal clan or lineage), and the fact that she is only temporarily residing with her nuclear family.²²⁸

2.2.6 Lack of Education

Experience indicates that these regional customs and attitudes are ultimately rooted in the educational policies. Not only explicit instruction has an impact on education. They erupt forcefully from the responsible use of political official power and from the reality-changing effects of living under the law, which occur practically subconsciously. Take women and education as an illustration. However, a sizable number of girls are forbidden from continuing their education past the primary level due to traditional and conservative cultural attitudes that are mistakenly misconstrued as religious practices.²²⁹

²²⁶ Richard Feinberg, "Dialectics Of Culture: Relativism In Popular And Anthropological Discourse," *Anthropological Quarterly* 80 (2007): 777-790.

²²⁷ Katharine Charsley, "Unhappy Husbands: Masculinity and Migration in Transnational Pakistani Marriages," *Journal of the Royal Anthropological Institute* 11 (2005): 85-105.

²²⁸ Amjad Hussain and Humaira Afzal, "Exploring the Issue of Run-Away Women in Pakistan-A Call for Social and Legal Change," *Journal of Law and Social Research* 4 (2013): 59-72.

²²⁹ Ioan Voicu, "Universal Declaration on Cultural Diversity," *ABAC Journal* 22 (2002):32.

2.2.7 Protected Characteristics

The concept of "protected characteristics" refers to specific attributes or traits that are safeguarded by legal provisions to prevent discrimination and provide equal rights. Because only one gender experiences pregnancy, pregnancy discrimination is unquestionably one of the most difficult cases to prove. Childbirth and breastfeeding, which are only experienced by one sex, fall under this category. For instance, it constitutes blatant discrimination if a pregnant woman is fired only because of her pregnancy, as happened to Beatrice Fernandez.²³⁰

2.2.8 Intersectional Discrimination

A person who goes to court may have experienced prejudice in other ways besides gender. For instance, a poor lady can experience two downward pressures. She can face prejudice because she is a woman and a low-income person. Another example is that male relatives frequently make these decisions for female victims, denying them the liberty to determine whether to file or withdraw a complaint. A victim from a low-income family is more vulnerable to intimidation and threats that she will not testify against her rapist in court or that she will fabricate an accusation that she's misidentified' the suspect.²³¹ This is because she faces two forms of discrimination: first, because she is a woman, and second, because, as the saying goes, justice is blind. Sadly, not everyone has equal access to justice, regardless of their degree of blindness.²³² Gender identity is the sensation of being naturally female, male, or transsexual. In reaffirming the fundamental rights of transgender individuals, the Supreme

²³⁰ Joanna Grossman, and Gillian Thomas, "Making Sure Pregnancy Works: Accommodation Claims After *Young V. United Parcel Service, Inc.*," *Harv. L. & Pol'y Rev* 14 (2019): 319.

²³¹ John Simister, "Gender-Based Violence: Causes and Remedies," 23; Grossman and Thomas, "Making Sure Pregnancy Works," 325.

²³² *Ibid.*

Court of India stated, "Seldom does our society realize or care to realize the trauma, agony, and pain that the members of the Transgender community endure, nor does it appreciate the innate feelings of the members of the Transgender community, particularly those whose mind and body disown their biological sex."²³³

2.3 Types of Gender-based Violence in Pakistan

Gender-based violence includes the most prevalent form, intimate partner violence, as well as acts of violence committed in online forums. Multiple instances of violence can occur concurrently and reinforce one another because they are not mutually exclusive. Violence may also be motivated by a person's experiences with discrimination based on their race, handicap, age, socioeconomic status, religion, or sexual orientation. All women experience violence and discrimination based on gender. The following are examples of gender-based violence which include, Child marriage, Honour killings, genital mutilation of women, Slavery or sex trafficking, Partner violence in the home, Physical discipline, Sexual assault, Emotional aggression, and Psychological aggression.²³⁴

2.3.1 Rape and Sexual Assault

In accordance with Section 377A of the Pakistan Penal Code of 1860, charges should be filed under the rape provisions rather than the child sexual abuse provisions when applicable. This is due to the fact that a rape or attempted rape of a minor is equivalent to any other rape or attempted rape of an adult.

A study reveals that between 2014 and 2018, over 15,000 rape incidents, including 646 gang rape cases, were reported to the police, according to information obtained from Punjab

²³³World Health Organization, "Violence against women prevalence estimates," 123.

²³⁴John Simister, *Gender-Based Violence: Causes and Remedies* (UK: Nova Science Pub Inc, 2012), 42.

police officials; police received reports of 1,365 rapes and 84 gang rapes in the first half of 2017.²³⁵

From January 2014 to July 2017, 41% of all reported instances of violence against women involved were assaults. In a study by the United Nations Development Program (UNDP) and UN Women on why males commit rape, men's sexual entitlement and their belief that they have a right to sex regardless of consent was found to be the most common reason (70–80% of the time). After anger and punishment, the second most commonly reported motivation is pursuing entertainment.²³⁶

2.3.2 Acid Attacks

Between 1999 and 2019, more than 3,400 instances of acid burning were documented. Chemical burns, which feel like being scalded by boiling water and cause excruciating pain that extends deeper into the bones, teeth, and eyes, are among the most agonizing injuries. Women are harmed in order to humiliate or deface them for the rest of their lives (for example, because they seek a divorce or reject a marriage proposal).²³⁷

2.3.3 The Online GBV (Gender-Based Violence)

Men and women can both be targets of online harassment, but women are disproportionately harmed by cyberbullying and suffer severe consequences. Frequently, online threats are intended to intimidate. The following are examples of gender-based violence (GBV) related to the Internet or information and communication technology (ICT):

²³⁵ Ibid.

²³⁶ Tahir Wasti, *List of Cases: In the Application of Islamic Criminal Law in Pakistan* (USA: Brill Nijhoff, 2009), 380.

²³⁷ Anam Saleem and Ghania Khan, "Constitutional Safeguard and Plight of Women in Pakistan," *Pakistan Journal of Multidisciplinary Research* 1 (2020): 14.

Cyberstalking, is the unwanted monitoring or surveillance of an individual through ICT, specifically the internet or other electronic platforms and applications. It is a pattern of behavior that causes damage or distress to others. It includes cyberbullying (the use of technology to bully) and online threats and extortion. Sexual harassment on the Internet is more difficult to investigate and more likely to be trivialized. Frequently, victims are told to "just ignore it."²³⁸

This response disregards the increasingly digital nature of the world in which we live. evaluating or uploading/disseminating private data and images without permission; accessing or disseminating private data and images; constructing phone profiles (where the offender assumes the victim's identity and acts in the victim's name, frequently in an embarrassing or dangerous manner); morphing photographs or videos (for example, "deep fake"); morphing photographs or videos (for example, "deep fake").²³⁹ Cyber-flashing (receiving unsolicited images of male genitalia frequently with the intent to silence women), grooming predation (befriending and gaining the trust of a child to facilitate child sexual abuse), doxing (searching and making public someone's personal information), and multiple platform harassment (harassing someone across various online or digital media with no respite) are examples of these crimes. Due to the significance of digital connections, the victim may feel extremely isolated; mistreatment of women and young girls, and dog piling, a severe mob assault on a person for making a comment.²⁴⁰

²³⁸ Nadia Agha and Zamir Ahmed, "Prevalence and Nature Of Violence Against Women In Pakistan: A Six-Month Content Analysis Of A Pakistani Newspaper," *Pakistan Journal of Criminology* 10 (2018): 100-120.

²³⁹ Radhika Coomaraswamy, "Report of the Special Rapporteur on Violence against Women, its Causes and Consequences" *United Nations Digital Library*, 1996, <https://digitallibrary.un.org/record/238264?ln=en> Assessed on May 15, 2023.

²⁴⁰ Ibid.

2.3.4. Intimate Partner Violence

A survey of Pakistan's demographic, maternity, and infant health issues was conducted by the National Institute of Demographic Studies in 2017 and 2018. More than 4,000 women were interrogated about domestic violence in accordance with World Health Organization (WHO) guidelines for the ethical collection of data on domestic abuse. According to national research, 28% of women between the ages of 15 and 49 reported having a history of breast cancer. Physical violence 34% of every married woman have experienced physical, sexual, or emotional violence at the hands of their spouse. Since the age of 15, approximately 6% of women have experienced sexual violence, while 7% of pregnant women have experienced violence. 8% of married women report that their spouses exhibit three or more distinct controlling behaviors.²⁴¹

After emotional violence, physical violence is the second most common form of domestic violence (at 26% frequency). 5 percent of women have reported experiencing spousal sexual violence, and 26 percent of women who have ever been married and have been victims of spousal physical or sexual violence have sustained injuries. The most common types of reported injuries are cuts and bruising. In addition, the survey demonstrates that Women between the ages of 15 and 19 who have never been married are the most likely to have experienced physical abuse since turning 15 (32%); women between the ages of 20 and 24 are the least likely (21%).²⁴²

²⁴¹ Tazeen Ali, et.al, "Intimate Partner Violence against Women: A Comprehensive Depiction Of Pakistani Literature," *World Health Organization*, 2021, <https://www.emro.who.int/emhj-volume-27-2021/volume-27-issue-2/intimate-partner-violence-against-women-a-comprehensive-depiction-of-pakistani-literature.html>. Assessed on 10 October 2023.

²⁴² Moeen H. Cheema, "Judicial Patronage of Honor Killings in Pakistan: The Supreme Court's Persistent Adherence to the Doctrine of Grave and Sudden Provocation," *Buffalo Human Rights Law Review* 14 (2008): 99.

The Federally Administered Tribal Area has the highest proportion of women who have experienced physical violence (56%), followed by Baluchistan (48%) and Khyber Pakhtunkhwa (43%). In Sindh, the incidence of physical violence against women is the lowest (15%). Women who have been divorced, separated, or widowed are more likely than women who are still married to have encountered physical violence (41% versus 27%). 78% of married women who have experienced sexual assault since the age of 15 identify their current husband as the perpetrator, while 18% name a former spouse. 2% of victims indicate that police, soldiers, or other family members were the perpetrators.²⁴³

Consistent with WHO data, 35% of South Asian women who have ever been in a relationship have experienced partner violence.²⁴⁴ This means that one in three women who have ever been in a relationship have experienced violence at the hands of a relative. According to WHO data, intimate partner violence begins in adolescence, with one in four adolescent females (aged 15 to 19) who have ever been married reporting at least one instance of physical or sexual abuse. Physical, psychological, and sexual violence does not occur independently. Women may simultaneously experience all three types, which can have negative long-term effects on their lives, health, and well-being.²⁴⁵

Women who have experienced intimate partner violence are more likely to deliver infants with a low birth weight.²⁴⁶ Moreover, they are more likely to undergo an abortion. In

²⁴⁴ Abdul Aziz, “Online Violence against Women: A Multicounty Study,” *UN Women: Asia and Pacific 2* (2020): 33. <https://asiapacific.unwomen.org/en/digital-library/publications/2020/12/online-violence-against-women-in-asia>. Assessed on: 23 October 2023.

²⁴⁶ Ibid.

addition to being more likely to have an abortion and to suffer from depression, women who have experienced partner violence are also more likely to have an abortion and to experience depression. 56% of women who have experienced any form of physical or sexual assault have not sought assistance or spoken to anyone about putting an end to the violence, which is alarming. 76% of those who requested help did so from their own family, 36% from their husband's family, and 2% from current or former spouses or neighbours. The percentage of women patronizing the legal, law enforcement, and social service sectors was very low (1%). Seventy-seven percent of victims of physical abuse who sought help did so out of fear or incapacity to endure further violence. 24% of women reported that their peers had supported them.²⁴⁷

2.3.5. Economic Violence

The concept of economic violence refers to the use of economic means or mechanisms to exert control, dominance, or harm over individuals or groups subject to the Constitution and any reasonable legal restrictions, every Pakistani citizen is guaranteed the right to acquire, retain, and dispose of the property in any part of the country.²⁴⁸ However, 66.6% of Pakistani women are unable to choose their line of work. Baluchistan is the most restrictive province in Pakistan, preventing 96% of its female residents from choosing their jobs in Baluchistan, 100% of women lack the freedom to travel, compared to about 66.1% of women across Pakistan.²⁴⁹

²⁴⁷ Kainat Shahid, Shumaila Kauser and Wajid Zulqarnain, "Unveiling The Evil; Pakistani Young Girls And Online Harassment," *Journal of Research and Reviews in Social Sciences Pakistan* 1 (2018): 152-163.

²⁴⁸ Ibid.

²⁴⁹ Kaori Izumi, "Gender-Based Violence And Property Grabbing In Africa: A Denial Of Women's Liberty And Security," *Gender & Development* 15 (2007): 11.

Despite comprising approximately half of Pakistan's population, women make up only 9 to 26% of the labor force. Women typically work in dangerous jobs for low pay. Property ownership is a crucial element of economic empowerment. Women only own 2% of the land and 3% of the homes. 39% of people have a cell phone, yet only 6% have a bank account. Compared to the 87% of males who have access to loans, only 13% of women do. Land, housing, and property rights are crucial to women's equality and well-being, according to the Office of the High Commissioner. In rural areas, women's living conditions are influenced by their access to and control over land, shelter, and property. Despite the importance of these liberties for women, individuals have a disproportionately low rate of job security.²⁵⁰

In the Supreme Court case, *Fawad Ishaq and Mst. Khurshida Ishaq vs. Mst. Mehreen Mansoor*, a woman's husband attempted to grant the bride (their daughter-in-law) their house as their son's dower at the wedding. The Supreme Court ruled that the property could not be given as a dower because the woman had not signed the Nikahnama (Marriage contract), and the husband was unable to administer the woman's property because she had not granted him power of attorney. In the case of *Fawad Ishaq and Mst. Khurshida Ishaq vs. Mst. Mehreen Mansoor*, the dispute centered around the validity of transferring a property as dower (Haq Mehr) during a marriage ceremony. Specifically, the woman's husband attempted to gift their house to their son's bride (their daughter-in-law) as part of the dower, without the explicit consent of his wife, who was the legal owner of the property. Crucially, the wife had not signed the Nikahnama (marriage contract), and there was no power of attorney authorizing the husband to act on her behalf.²⁵¹

²⁵⁰UN Women Pakistan, “*Women’s Economic Participation & Empowerment in Pakistan-Status Report*” (Islamabad: UN Women Pakistan, 2016), 99.

²⁵¹ *Fawad Ishaq and Mst. Khurshida Ishaq v. Mst. Mehreen Mansoor*, PLD 2020 269.

2.3.6 Denial of Women's Inheritance Rights

In Pakistan, mostly women are deprived of their granted right of inheritance. Women's "natural love and affection" for their brothers are used to persuade, intimidate, or coerce them into relinquishing their inheritance rights. To retain property within the family Women are also wedded within the family or according to the Qur'an.²⁵²

A National Commission on Women survey found that 40.81 percent of women "succeeded in acquiring inheritance," with 45 percent owning movable property and 34.5 percent owning immovable property. Realistically, although women may inherit property, the males of the family continue to have authority over the property.²⁵³

A common defense used by male heirs to deny female heirs' shares is to contest the paternity of the female heirs. In *Mst. Rubina Kausar v. Additional Sessions Judge*, the Lahore High Court stated that the petitioner's paternity was only contested when she claimed her share of the inheritance. The Supreme Court ruled that the trial court's previously recorded oral and written evidence was sufficient to establish paternity and rejected the parties' use of DNA testing as a matter of routine procedure. In one instance, the Supreme Court reached a similar conclusion and declined the use of DNA testing to deny the inheritance to the deceased's daughter. Such DNA testing cannot be ordered absent consent. In *Laila Qayyum v. Fawad Qayyum*, the plaintiff attempted to seize his sister's inheritance. The court ruled that the plaintiff's requested statements and the order to revoke the documents were unlawful.

²⁵² Sara Khan, "The Taboo of Haq Bakhshish in Pakistan where Women are forced to Marry the Quran," *Parhlo*, April 29, 2017, <https://www.parhlo.com/haq-bakshish-marriage-with-quran>, Assessed on: 21 September, 2023.

²⁵³ Abdul Aziz, "Questionnaire on Information Communication Technology Related Violence against Women," *Asian Development Bank*, 2020. <https://www.adb.org/sites/default/files/publication/735941/court-companion-gender-based-violence-cases.pdf>. Assessed on May 18, 2023.

"Keeping such a lawsuit pending will only increase the petitioner's harassment and may deprive her of her inheritance," stated the court.²⁵⁴

2.3.7 Honor Killing

Honour killing is the murder of women on the basis of their gender. Even though only 20% of homicides are committed by an intimate partner or family member, 82% of intimate partner homicide victims are women and girls.²⁵⁵ According to a report, "the most dangerous individuals in women's lives are family members and intimate partners, who are responsible for 64 percent of all murders of women and girls. It is revolting and cannot be justified. However, brutal killings are portrayed as honourable and justified because certain actions of (typically) women in the family (such as choosing their own spouse, speaking with a man, or singing at a party) dishonour the males of the family, Wedding, messaging, and improperly preparing roti (bread)".²⁵⁶

In Pakistan, forty percent of the population defends the honourable execution of women.²⁵⁷ The Human Rights Commission of Pakistan condemned the execution of a 16-year-old girl on the orders of an all-male tribal council (Jirga) and issued a dire warning, stating, "Past and present rulers have much to answer for. Not least because of their failure to confront societal attitudes toward women or to sufficiently push back against heinous acts

²⁵⁴*Mst. Kausar Bibi vs. Mst. Ayesha Bibi and 6 others*, Lahore High Court 2017 CLC 1601.

²⁵⁵United Nations Office on Drugs and Crime, *Global Study On Homicide: Gender-Related Killing Of Women And Girls* (New York: United Nations Office on Drugs and Crime, 2018). <https://www.unodc.org/pakistan>, Assessed on: 19 September, 2023.

²⁵⁶Report Submitted in United Nations Office of Drugs and Crime of the United Nations, 2021, <https://www.unodc.org/unodc/en/data-and-analysis/wdr2021.html>. Accessed on August 14, 2023.

²⁵⁷Neha Sahgal and Tim Townsend, "Four-In-Ten Pakistanis Say Honour Killing Of Women Can Be At Least Sometimes Justified," *Policy Commons*, 2014, <https://policycommons.net/artifacts/619895/four-in-ten-pakistanis-say-honor-killing-of-women-can-be-at-least-sometimes-justified/1601090/>, Assessed on: 21 September, 2023.

committed in the name of honour. In the name of honour, an estimated 5,000 women are killed annually in the world. The figure is about 1,100 within Pakistan.²⁵⁸

According to the Supreme Court of Pakistan, the majority of the victims of Pakistan's honour killings are female, making Pakistan one of the country with the highest rate of honour killings worldwide. The murderer attempts to justify his or her actions by asserting that they were committed in the name of *ghairat* (honor). It may also elevate the murderer's social standing in the minds of those unfamiliar with what Almighty Allah commands in the Holy Qur'an. Even more lamentable is the fact that such murders lack honour. Until recently, those who committed femicide in the name of honour claimed that the victim was provoked into losing control, which led to the murder.²⁵⁹

2.3.8. Forced marriages

When at least one of the partners is forced into approving the union, it is considered forced. It infringes on the fundamental rights of parties.²⁶⁰ Endogamous unions make up the vast majority of weddings in Pakistan. The right to choose a spouse for their children, particularly girls, is traditionally exercised by guardians, who are mostly fathers, brothers, and uncles, and their selections are binding. In Baluchistan, this number jumps to 96%, and over 76.1% of women do not have the option to choose their partner. Guardians may

²⁵⁸The Human Rights Commission of Pakistan 2021, 145.

²⁵⁹Sidra Jamil, et al. "Pakistan's Rising Women Empowerment: A Mixed Methods Study." *International Journal of Business and Economic Affairs* 6 (2021): 187.

²⁶⁰Paloma Duran. "The Pursuit Of Equality Between Women And Men: The Contribution Of the United Nations," *Constitucionales de la Cátedra Fadrique Furió Ceriol* 62 (2008): 127.

purposefully leave out the bride's rights in cases when a marriage is recorded. Women and girls who disobey their families' desires run the risk of being murdered.²⁶¹

2.3.9. Child Marriages

Child marriage is a form of forced marriage because kids can't offer their permission. Most provinces allow girls as young as 16 to be married while retaining an 18-year legal minimum for boys, with the exception of Sindh, where the legal age for both men and women to marry is 18 years.²⁶² Art. 16(2) of CEDAW states that "betrothal and the marriage of a child shall have no legal effect".²⁶³ Rather this practice is prohibited by law in Pakistan. Under section 366A of the PPC, obtaining a girl under the age of 18 for the purpose of engaging in coerced sexual activity.²⁶⁴ Due to a number of variables, such as "traditional norms, low rates," it is still challenging to enforce legislation against child marriage. According to information acquired by the Society for the Protection of the Rights of the Child from 20 Newspapers, girls experience more harmful traditional practices than men do. It is challenging to find information about this because many weddings are not registered.

2.3.10. Watta Satta Marriage

The concept of "Watta Satta" marriage refers to traditional practice in South Asia when two families agree to exchange marital partners. This is a form of marriage exchange. For example, a woman or girl from family A marries a man or boy from family B, and a woman

²⁶¹ The Pakistan Penal Code (Act No. XLV of 1860), (The Official Gazette of Pakistan, Extraordinary Part I, October 6, 1860), s. 365 B & 496 A.

²⁶² Amar Hussain, Muhammad Arshad, and Muhammad Kashif. "Forced and Under Age Marriages in Islamic Republic of Pakistan: In The Light Of Relevant Laws," *International Journal of Islamic Business, Administration and Social Sciences* 1 (2021): 1.

²⁶³ UNICEF, "Child Marriage is a Violation Of Human Rights, But Is All Too Common," *Henta frå*, 2018, <https://data.unicef.org/topic/child-protection/child-marriage>, Assessed on 05 September 2023.

²⁶⁴ The Pakistan Penal Code (Act No. XLV of 1860), (The Official Gazette of Pakistan, Extraordinary Part I, October 6, 1860), s 336A.

or girl from family B marries a man or boy from family A.²⁶⁵ Occasionally, there may not be a suitable match, but because exchange marriages are required, they are compelled to marry. This is a common occurrence for families of all socioeconomic backgrounds, whether they reside in the metropolis or the countryside.²⁶⁶ At 17.5%, one of the federally governed northern regions has the maximum frequency, followed by Punjab at 13.5%, Baluchistan at 12.5%, the North West Frontier Province/Federally governed Tribal Area at 12%, and Azad Jammu and Kashmir at 8.5%.²⁶⁷

2.3.11. Ghag Marriage

Avaaz Lagana, also known as ghag, signifies the act of announcing something. Without the girl's or her family's consent, it is Pashtun's custom for a man to proclaim a woman to be his fiancée. The custom is still practiced despite being contrary to Islam, the Constitution, and the Khyber Pakhtunkhwa Elimination of Customs of Ghag Act of 2013.²⁶⁸ Avaaz Lagana, also known as ghag, is a traditional Pashtun custom that involves a man publicly proclaiming a woman as his fiancée without her consent or that of her family. This act is often used to assert a claim over the woman, effectively restricting her right to choose her own partner or marry someone else. Despite its deep roots in certain tribal practices, the custom of ghag stands in clear violation of Islamic principles, which emphasize free will and mutual consent in marriage. It also contradicts the Constitution of Pakistan, which guarantees equality and

²⁶⁵ Sanchita Bhattacharya, "Violence On Women: World Affairs," *The Journal of International Issues* 24 (2020): 142; Dugmeci Fatih, and Esin Gursel, "The Obligations and Responsibility of the State for the Prevention of Domestic Violence against Women." *Dokuz Eylul Universitesi Hukuk Fakultesi Dergisi* 21 (2019): 843.

²⁶⁶ Amar Hussain, Muhammad Arshad, and Muhammad Kashif, "Forced and Under Age Marriages in Islamic Republic of Pakistan: In The Light Of Relevant Laws," *International Journal of Islamic Business, Administration and Social Sciences* 1 (2021): 10.

²⁶⁷ Francisco J. Lara and Phil Champain, *Inclusive Peace In Muslim Mindanao: Revisiting The Dynamics Of Conflict And Exclusion* (London: International Alert, 2009), 19.

²⁶⁸ Amar Hussain, Muhammad Arshad and Muhammad Kashif. "Forced and Under Age Marriages in Islamic Republic of Pakistan: In The Light Of Relevant Laws," *International Journal of Islamic Business, Administration and Social Sciences* 1 (2021): 10.

the right to personal liberty for all citizens, including women. Recognizing the harm and injustice caused by this practice, the Khyber Pakhtunkhwa Elimination of Customs of Ghag Act, 2013 was enacted to criminalize and eliminate this tradition. However, despite being legally banned and religiously condemned, the practice persists in some areas due to entrenched patriarchal norms and weak enforcement of the law. Addressing this issue is crucial to upholding women's rights and ensuring that cultural traditions do not override fundamental legal and ethical standards.

2.3.12. Marriage to the Holy Qur'an

The other mal social practice is to marry a girl to the Holy Qur'an just to secure the so called sacredness of the family.²⁶⁹ While section 498C of the Penal Code prohibits the morally and religiously reprehensible marriage of girls and women to the Holy Qur'an. In Sindh, more than 5,000 women were wed to the Holy Qur'an in 2000.²⁷⁰ These marriages deprive women of their inheritance rights and property ownership rights.

2.3.13. Badla-E-Sulha, Swara, Wanni and Sung Chatti

Among other horrifying type of forced marriage is the *Badla-e-Sulha*, *Wanni*, or *Swara* marriage, which is forbidden by Section 310A of the PPC. These are forced weddings known as compensation marriages, in which girls are given to the party who has been wronged as payment for the wrongs perpetrated by their male relatives. Compensation unions are frequently acknowledged as a means of maintaining harmony. But girls who are forcibly

²⁶⁹ Sanchita Bhattacharya, "Violence on Women: World Affairs," *The Journal of International Issues* 24 (2020): 142; Dugmeci Fatih, and Esin Gursel, "The Obligations and Responsibility of the State for the Prevention of Domestic Violence against Women." *Dokuz Eylul Universitesi Hukuk Fakultesi Dergisi* 21 (2019): 843.

²⁷⁰ Khabir Ahmed, "Pakistan Unveils Wide-Ranging Changes To Human-Rights Procedures," *The Lancet* 355 (2000): 1624; Yanyi K.D and Sitawa R. Kimuna, *Gender-Based Violence Perspectives from Africa, the Middle East, and India* (New York: Springer Publications, 2015), 165.

removed from their homes in this way frequently experience systemic abuse and are compelled to live in virtual servitude.²⁷¹

"The cost of this conflict resolution is borne by women and girls through incestuous marriage as a reminder to the aggressors of the wrong their men inflicted upon the official marital procedures are not followed."²⁷² There is no contract, no *mehr* (dower), and no public declaration. In places where this is practiced, lack of development, illiteracy, and poverty are the common factors, rather than cultural or geographic ties. The case of the three Mianwali sisters who refused to be sent to *Wanni* in 2005 serves as an example. Prior to 14 years ago, *Wanni* marriages made promises to Abda, Amna, and Sajda when they were adolescents. The local *jirga* decided to spare their paternal relative, who had committed a homicide, and requested clemency. After filing a complaint with Pakistan's Supreme Court, the sisters were fortunate to receive justice.²⁷³

2.3.14 Gender-Based Violence (GBV) Courts Role Including the Transgender Community in South Asia

Gender-Based Violence (GBV) courts play a crucial role in addressing violence against marginalized communities, including the transgender community in South Asia. These specialized courts are designed to handle cases of gender-based violence, including domestic violence, sexual assault, and hate crimes, with a focus on providing justice to victims who

²⁷¹Michelle J. Miller, "Stop Forced Child Marriage: A Comparative Global Law Analysis," *International Journal of Humanities and Social Sciences* 9 (2015): 3908; Francisco J. Lara and Phil Champain, *Inclusive Peace in Muslim Mindanao: Revisiting The Dynamics Of Conflict And Exclusion* (London: International Alert, 2009) 21.

²⁷²Samar Minallah, "Judiciary as a Catalyst for Social Change," *Pakistan Journal of Women's Studies Alam-e-Niswan* 14 (2007): 119.

²⁷³PLD 2005 SC 329.

often face systemic discrimination and barriers in accessing legal remedies.²⁷⁴ The transgender community, in particular, is disproportionately affected by violence, stigma, and exclusion, often finding it difficult to seek legal protection due to societal biases and institutional neglect. GBV courts offer a more structured and sensitive legal approach, ensuring that transgender individuals receive justice in an environment that acknowledges their unique vulnerabilities.²⁷⁵

In the context of South Asia, transgender individuals frequently experience violence both in private and public spaces, including family rejection, police brutality, sexual violence, and economic marginalization. Traditional judicial mechanisms often fail to address these issues effectively due to legal gaps, prejudiced law enforcement, and a lack of gender-sensitive judicial training. GBV courts can bridge this gap by incorporating a victim-centered approach that prioritizes the dignity, safety, and legal rights of transgender individuals. By employing specially trained judges, prosecutors, and support staff, these courts can ensure that cases of violence against transgender people are handled without bias, while also expediting proceedings to prevent prolonged legal battles that often deter victims from seeking justice.²⁷⁶

²⁷⁴ Braga, Francesca. "Access to Justice for LGBT People Who were Victims of Sexual and Gender-based Violence in Southeast Asia, Europe and North America. A Comparative Research." In Papers of the 7th International Conference on Gender & Women Studies 2020, p. 63. 2020.

²⁷⁵ Ibid.

²⁷⁶ Bishwajit, Ghose, Sajeeb Sarker, and Sanni Yaya. "Socio-cultural aspects of gender-based violence and its impacts on women's health in South Asia [version 1; peer review: 1 approved with reservations]." (2016).

Furthermore, the establishment of GBV courts can contribute to broader social change by reinforcing the legal recognition and protection of transgender rights.²⁷⁷ These courts can set legal precedents that strengthen anti-discrimination laws, advocate for policy reforms, and promote awareness about the rights of transgender individuals. Additionally, their presence can encourage better coordination between the judiciary, law enforcement, and social welfare institutions, ensuring a more comprehensive response to gender-based violence. By fostering a legal environment that upholds the rights of marginalized communities, GBV courts serve as a vital mechanism for combating systemic violence and promoting inclusivity, ultimately paving the way for a more just and equitable society in South Asia.²⁷⁸

²⁷⁷ Dabby, Chic, and Mieko Yoshihama. "Gender-based violence and culturally specific advocacy in Asian and Pacific Islander communities." In *Handbook of interpersonal violence and abuse across the lifespan: A project of the national partnership to end interpersonal violence across the lifespan (NPEIV)*, pp. 2675-2703. Cham: Springer International Publishing, 2021.

²⁷⁸ Ibid.

2.3.15 Challenges for Courts Regarding Gender-Based Violence (GBV)

Despite the crucial role Gender-Based Violence (GBV) courts play in addressing violence against marginalized communities, including the transgender community in South Asia, several challenges hinder their effectiveness. One of the most significant barriers is the deep-rooted societal stigma and discrimination against transgender individuals, which extends into the legal system. Many law enforcement officials, judicial officers, and even legal practitioners harbor biases that can lead to the misrepresentation or dismissal of transgender victims' cases. Additionally, a lack of gender-sensitive training for judges and court staff means that transgender individuals often face hostile or insensitive treatment in legal proceedings, discouraging them from seeking justice. The absence of clear legal frameworks explicitly protecting transgender individuals from GBV further complicates matters, making it difficult to secure convictions and enforce judgments in their favor.²⁷⁹

Another major challenge is the lack of accessibility and representation for transgender individuals within GBV courts. Many transgender individuals in South Asia struggle to access legal services due to financial instability, illiteracy, and fear of retaliation from both state and non-state actors. In many instances, they lack proper identification documents that align with their gender identity, leading to bureaucratic hurdles that prevent them from filing cases or seeking legal protection.²⁸⁰ Furthermore, the limited presence of transgender or gender-sensitive legal professionals within the justice system means that victims often do not have adequate representation. This lack of inclusivity results in legal proceedings that fail to fully consider the lived experiences of transgender individuals, reducing their chances of obtaining fair and just outcomes.

²⁷⁹ Wirtz, Andrea L., Tonia C. Poteat, Mannat Malik, and Nancy Glass. "Gender-based violence against transgender people in the United States: A call for research and programming." *Trauma, Violence, & Abuse* 21, no. 2 (2020): 227-241.

²⁸⁰ *Ibid.*

In addition to systemic and institutional barriers, GBV courts also face operational and structural limitations that affect their efficiency in handling cases involving transgender individuals. Many GBV courts suffer from case backlogs, insufficient resources, and a lack of specialized personnel trained to handle gender-based violence cases effectively. Moreover, the implementation of legal protections for transgender individuals varies across South Asian countries, with some jurisdictions having progressive laws while others still criminalize transgender identities or fail to recognize them altogether. This inconsistency in legal protections undermines the effectiveness of GBV courts in addressing the violence faced by transgender individuals, as court rulings may not always align with broader human rights principles.²⁸¹ Without strong institutional support, adequate funding, and legal reforms, GBV courts will continue to face difficulties in providing meaningful justice to transgender individuals in South Asia.

2.3.16 Strengthening the Role of GBV Courts in South Asia:

²⁸¹ Handy, Michelle. "A legal empowerment approach to improving access to justice for victim-survivors of sexual and gender-based violence." *University of Colombo Review* 5, no. 1 (2024).

It is essential to implement structural and legal reforms that ensure the effective protection of marginalized communities, particularly transgender individuals. First, governments must introduce comprehensive legal frameworks that explicitly recognize and protect transgender individuals from gender-based violence, ensuring their right to access justice without discrimination. Judicial officers, law enforcement agencies, and court staff should undergo mandatory gender-sensitivity training to eliminate biases and improve their understanding of the unique challenges faced by transgender victims. Additionally, appointing specialized prosecutors and legal representatives who are trained in handling GBV cases involving transgender individuals can enhance the fairness and efficiency of court proceedings. Increasing representation by including transgender legal professionals in the justice system will further promote inclusivity and build trust in these courts.²⁸² Beyond legal and institutional reforms, strengthening GBV courts also requires improving accessibility and victim support mechanisms. Governments should establish legal aid programs, shelters, and counseling services specifically tailored for transgender survivors of GBV, ensuring they receive both legal and psychological support throughout the judicial process. Mobile courts or community-based legal outreach initiatives can also be introduced to reach transgender individuals in remote or underserved areas where access to justice remains limited. Additionally, collaboration between GBV courts, law enforcement agencies, and civil society organizations can help create a more coordinated response to gender-based violence, ensuring that survivors receive holistic support.²⁸³ By addressing both legal and structural barriers, GBV courts can play a more effective role in protecting transgender individuals and promoting a justice system that upholds equality and human rights in South Asia.²⁸⁴

²⁸² Gangoli, Geetanjali, Lis Bates, and Marianne Hester. "What does justice mean to black and minority ethnic (BME) victims/survivors of gender-based violence?." *Journal of Ethnic and Migration Studies* 46, no. 15 (2020): 3119-3135.

²⁸³ Ibid

²⁸⁴ Ibid.

Strengthening the role of Gender-Based Violence (GBV) courts in Pakistan requires a multi-faceted approach that addresses legal, institutional, and societal barriers to justice for survivors, particularly transgender individuals and other marginalized groups. First, comprehensive legal reforms must explicitly recognize transgender individuals as protected citizens under GBV laws, ensuring that cases involving them are treated with the same urgency and seriousness as other gender-based violence cases. Specialized training programs for judges, prosecutors, and law enforcement officials should be made mandatory to eliminate biases and foster a more gender-sensitive judicial system. Additionally, increasing the number of dedicated GBV courts, particularly in rural and underserved areas, can help expedite case proceedings and reduce legal backlogs.²⁸⁵ To improve accessibility, the government should establish free legal aid services, introduce victim protection mechanisms, and collaborate with civil society organizations to provide psychological and rehabilitative support for survivors. Furthermore, enhancing coordination between GBV courts, police departments, and human rights commissions can ensure more efficient case handling and better enforcement of court rulings. Public awareness campaigns and legal literacy programs must also be launched to encourage survivors, including transgender individuals, to report cases without fear of stigma or retaliation. By addressing both systemic and structural challenges, Pakistan can strengthen the role of GBV courts in delivering justice, ensuring accountability for perpetrators, and fostering a safer, more inclusive society for all.²⁸⁶

²⁸⁵ Rehman, Zoya. "Implications of „Khaki v. Rawalpindi“-A Decision for Pakistan“ s Transgender Community." PCL: Student Journal of Law 1 (2017): 1-48.

²⁸⁶ Ibid.

Addressing gender-based violence (GBV) in a Muslim South Asian context involves understanding the interplay between cultural, religious, and socio-economic factors. Here are some key points along with references that provide a deeper insight into the issues and dynamics of GBV in this region:

2.3.17 Key Factors Contributing to GBV

1. Cultural Norms

Patriarchal structures dominate many South Asian societies, often leading to the normalization of violence against women. Studies have shown that cultural beliefs around masculinity and dominance contribute significantly to GBV (Khan, 2018).

2. Religious Interpretations

While many Islamic teachings advocate for the protection and respect of women, some interpretations can perpetuate gender inequality. Scholars argue that misinterpretations of religious texts often serve to justify violence (Hossain, 2017).²⁸⁷

3. Socio-economic Factors

Economic dependency is a critical factor that can trap women in abusive relationships. Research indicates that women with limited access to education and employment are more vulnerable to GBV (Mumtaz & Salway, 2005).

4. Legal and Institutional Frameworks

The effectiveness of laws designed to protect women varies significantly across South Asian countries. In many cases, enforcement is weak, and social stigma further complicates the situation (Hossain et al., 2014).

5. Community and Family Pressure

The concept of family honor often leads to silence around issues of GBV. Women may face severe repercussions for speaking out or seeking help, which reinforces their vulnerability (Niaz, 2003).

2.3.18 Efforts and Responses

1. Legislation

Various South Asian countries have instituted laws against domestic violence and honor killings, but many face challenges in enforcement and compliance (Saeed, 2018).²⁸⁸

2. Awareness Campaigns

Non-governmental organizations (NGOs) play a crucial role in raising awareness about GBV and educating communities about women's rights (UN Women, 2021).

3. Support Services

The establishment of shelters and counseling services has proven essential for survivors. Research indicates that access to these services significantly improves outcomes for women (Peterman et al., 2020).²⁸⁹

²⁸⁸ Akhtar, N. "Comparative analysis of women protection and participation laws in Pakistan, India and Bangladesh: Lessons for Pakistan." KJPP 1, no. 1 (2022): 43.

²⁸⁹ Peterman, Amber, Alina Potts, Megan O'Donnell, Kelly Thompson, Niyati Shah, Sabine Oertelt-Prigione, and Nicole Van Gelder. Pandemics and violence against women and children. Vol. 528. Washington, DC: Center for Global Development, 2020.

4. Engaging Men and Boys

Programs that involve men and boys as advocates for gender equality have shown promise in challenging harmful stereotypes and reducing GBV (Hawkes et al., 2020).²⁹⁰

5. Community Involvement

Grassroots movements and community-led initiatives are critical for changing societal attitudes toward GBV. Empowering women and involving local leaders have been effective strategies (Bari, 2010).²⁹¹

Addressing GBV in a Muslim South Asian context requires comprehensive strategies that engage various stakeholders, including government, civil society, and community members. By focusing on cultural sensitivities and promoting gender equality, significant progress can be made in combating GBV in this region.

Persistent and Widespread Nature of GBV

Gender-based violence (GBV) remains one of the most critical human rights issues in Pakistan. Women across rural and urban settings face various forms of abuse, including domestic violence, sexual assault, acid attacks, honor killings, and forced marriages. This violence is deeply rooted in patriarchal social structures and is often justified under the guise of tradition, family honor, or misinterpreted religious norms.

²⁹⁰ Kennedy, Elissa, Gerda Binder, Karen Humphries-Waa, Tom Tidhar, Karly Cini, Liz Comrie-Thomson, Cathy Vaughan et al. "Gender inequalities in health and wellbeing across the first two decades of life: an analysis of 40 low-income and middle-income countries in the Asia-Pacific region." *The Lancet Global Health* 8, no. 12 (2020): e1473-e1488.

²⁹¹ Bari, F, *Women's Rights and Cultural Change in South Asia: The Role of Community-Based Organizations*. *Journal of South Asian Studies*, 33(2), (2020) 223-239

Surveys indicate that 1 in 3 women experience intimate partner violence, while approximately 58% of female homicides are committed by family members. These figures underscore the normalization of violence within domestic and familial spaces.

2.3.19 Object of Gender Based violence courts in Pakistan

The Gender-Based Violence (GBV) Courts in Pakistan were established with specific objectives aimed at addressing the unique and serious nature of crimes involving violence against women and marginalized genders. Two key objects (objectives) of these courts are:

2.3.19.1. To Provide Expedited and Sensitive Justice for Victims of Gender-Based Violence

One of the primary objectives of the GBV courts in Pakistan is to ensure speedy, efficient, and victim-sensitive handling of cases involving gender-based violence—such as domestic abuse, sexual assault, rape, harassment, and honor crimes. Traditional courts in Pakistan have often been criticized for lengthy trial processes, re-traumatization of survivors during cross-examinations, and an overall lack of gender sensitivity. By contrast, GBV courts aim to create a survivor-centric environment, often equipped with trained judges, female prosecutors, and facilities like video-link testimony and separate waiting areas to protect victims from intimidation. The intent is to reduce delays and increase conviction rates, thus restoring public confidence in the justice system for survivors of gender-based crimes (UNODC Pakistan, 2020).

2.3.19 .2. To Ensure Legal Implementation of Laws Protecting Women and Marginalized Genders

Another major object of GBV courts is to strengthen the enforcement of laws specifically designed to combat gender-based violence, such as the Protection Against Harassment of Women at the Workplace Act (2010), the Anti-Rape (Investigation and Trial) Act (2021), and various sections of the Pakistan Penal Code dealing with rape, domestic violence, and acid attacks. These courts are mandated to focus exclusively on GBV cases, enabling better judicial expertise, consistent interpretation of gender-related laws, and coordinated efforts between the judiciary, police, and prosecution. This specialization supports systemic reform and accountability, ensuring that legislative protections for women and vulnerable groups are not just symbolic but meaningfully enforced (Law and Justice Commission of Pakistan, 2021).

2.3.20 Gaps in Implementation and Critical Legal Analysis of Gender Based Violence

Laws in Pakistan

While the Anti-Rape Act calls for specialized courts and modern forensic tools, its implementation has been slow and uneven. Likewise, the Ghag Act, despite outlawing a harmful cultural practice, lacks strong enforcement. The Child Marriage Restraint Acts remain ineffective in areas where early marriage is normalized and rarely prosecuted. Provincial domestic violence laws, although progressive on paper, often lack sufficient funding, monitoring bodies, or shelters for survivors. There is a lack of coordinated implementation, resource allocation, and public awareness, which limits the impact of these laws

Conclusion

This chapter concludes that the problem of gender-based violence is a crucial issue in Pakistani society where violence against women is persistent and a large number of women are suffering from GBV throughout the country. The mentioned surveys and reports reveal that every one in three women experience intimate partner abuse and that about 58% of all female homicides are carried out by family members. It leads that the problem of gender-based violence has been increasing day by day. Gender-based violence (GBV) remains a critical and deeply entrenched issue in Pakistani society, posing a significant threat to the safety, dignity, and well-being of women across the country. Violence against women is not only persistent but also widespread, cutting across rural and urban areas, social classes, and educational backgrounds. Women in Pakistan face various forms of abuse, including domestic violence, honor killings, sexual assault, acid attacks, and forced marriages. These acts of violence are often justified under the guise of cultural norms, family honor, or misinterpretations of religious principles, which further entrench patriarchal attitudes and prevent women from seeking justice. As a result, GBV continues to thrive as an alarming societal issue, making it one of the most pressing human rights challenges in the country. Statistical data and surveys conducted by national and international organizations reveal the disturbing prevalence of GBV in Pakistan. According to reports, one in every three women experiences intimate partner violence at some point in her life, indicating that domestic abuse is a normalized and widespread reality for countless women. Furthermore, approximately 58% of all female homicides are committed by family members, highlighting the deadly consequences of violence within the private sphere. These figures paint a grim picture of the threats women face even within their homes, which are often considered places of safety.

Such statistics expose the harsh reality that for many women in Pakistan, violence is not an isolated incident but a recurring pattern deeply rooted in social and familial structures. The rising trend of gender-based violence in Pakistan suggests that the problem is escalating rather than being effectively addressed. Despite the existence of laws and policies aimed at protecting women, the implementation remains weak, and survivors often struggle to access justice due to societal stigma, victim-blaming, and the inefficiency of law enforcement agencies. The increasing number of reported cases reflects both a growing awareness among women and the persistent failure of the state and society to ensure their protection. This upward trajectory of GBV demands urgent and sustained action from both the government and civil society to dismantle the structural inequalities that perpetuate violence and to create a culture where women can live free from fear and discrimination. Addressing GBV in a Muslim South Asian context requires comprehensive strategies that engage various stakeholders, including government, civil society, and community members. By focusing on cultural sensitivities and promoting gender equality, significant progress can be made in combating GBV in this region.

CHAPTER THREE

INTERNATIONAL AND NATIONAL LEGISLATIONS TO CURB GENDER-BASED VIOLENCE

Introduction

The present chapter will answer question number three “Whether the international and national laws dealing with the issue of gender-based violence are quite enough to eliminate gender-based violence”. It focuses on all the relevant international and national legislations that are considered legal measures to combat gender-based violence enforceable within and outside the state. Here, all these laws are also mentioned to reveal the kind of protection that is provided to women and transgender at national and international levels. This chapter also focuses on the legislation passed by the parliament of Pakistan in different periods to eliminate GBV and to protect the rights of Women and transgender.

Pakistan has been an active participant in the global effort to address gender-based violence through its engagement with international conventions and frameworks. The country became a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1996, demonstrating its commitment to promoting gender equality and

protecting women's rights. Pakistan has also endorsed the Beijing Declaration and Platform for Action (1995), which emphasizes eliminating violence against women as a core area of concern. Furthermore, Pakistan contributed to the drafting and implementation of Sustainable Development Goal 5 (SDG 5), which focuses on achieving gender equality and empowering all women and girls, particularly by eliminating all forms of violence against them. Through its participation in these international agreements, Pakistan has aligned its domestic policies with global standards, acknowledging the need to combat gender-based violence as part of its human rights obligations.

At the national level, Pakistan has taken significant steps to develop legislation aimed at curbing gender-based violence. Recognizing the need to strengthen the legal framework, the country enacted the Protection of Women (Criminal Laws Amendment) Act, 2006, which sought to rectify the injustices resulting from the Hudood Ordinances and improved legal protections for women against sexual assault and wrongful accusations of adultery. The Domestic Violence (Prevention and Protection) Act, 2012, was a landmark legislation aimed at addressing violence within households, though its enforcement remains inconsistent across provinces. Additionally, Pakistan passed the Anti-Honor Killing Laws (Criminal Amendment) Act, 2016, closing legal loopholes that previously allowed perpetrators of honor killings to escape punishment through forgiveness by the victim's family. These legislative efforts reflect Pakistan's evolving commitment to curbing gender-based violence through legal reform.

Despite these advancements, challenges remain in the implementation and enforcement of both international commitments and domestic laws. Social and cultural barriers, along with

weak institutional capacity, often hinder women's access to justice. However, Pakistan's role in the creation and adoption of these legislative frameworks has laid the groundwork for future progress. Ongoing collaboration with international bodies, local civil society organizations, and women's rights activists is essential to ensure that the existing laws are effectively enforced and further strengthened. Pakistan's continued participation in global initiatives, such as UN Women's programs and periodic reporting to CEDAW, reinforces its responsibility to translate its legal commitments into practical safeguards against gender-based violence.

3.1 International Legislations on the Violence Against Women

The worldwide feminist movements led the stakeholders to recognize the voice of women and to support their movement to accept their rights on an equal basis as men. Thus, the first-ever international legislation was established, and "The International Labor Organization" was established as an independent organization to protect the rights of workers generally and of women and children particularly. There are numerous aspects that led to the establishment of the ILO as a multinational labor organization such as a strong and favorable response emerged to the fast economic progress in the local society which led growth of international trade and international investment in the then industrialized countries and their colonies.²⁹² In the following period, certain legislations were enacted for the protection of women and suppressed class. Followings are the main legislations in this regard:

²⁹² Werner Sengenberger, *The International Labour Organization: Goals, Functions And Political Impact* (Germany: The Friedrich-Ebert-Stiftung, 2002), 45.

3.1.1 The International Labor Organization, 1919

The International Labour Organization (ILO) was founded in 1919 as part of the Treaty of Versailles. In 1946, it became the first specific organization of the United Nations. The ILO represents a vision of worldwide, humane situations for the working class and women to achieve social justice and peace among nations. Among the principal objectives of ILO was to frame a policy consisting of different aspects of international labor values to ensure the safety of the fundamental rights at work, on an equal basis between men and women. It also granted the rights of freedom of association, freedom of work, and freedom of bargaining without any gender discrimination. The charter of ILO prohibits forced and bonded labor sets a minimum age for employment and abolishes child labour. It also ensures the elimination of gender-based discrimination in the workplace.²⁹³

The ILO became known worldwide in 1999 with its Decent Work Agenda, the contemporary credo of the organization. For equal pay for women and men for work of equal value. These standards rank among the general human rights according to the declarations of the United Nations and the European Social Charter. The remaining ILO Conventions are also part of international law and refer to substantive (in ILO jargon: technical) standards for the labour market; employment and training; enterprise development; remuneration; working hours and rest periods; workplace health and safety; social security; particularly vulnerable workers; and collective labour relations and social dialogue. The most significant mission of ILO is the growth and advancement of worker's rights on equal basis. It also observes the local, national and international labour values made by the trade unions and relevant

²⁹³ Ibid, 56.

governments. Currently, the organization has produced about 189 international, legally binding conventions and 202 legally non – binding recommendations for the regulation of labour conditions that are still enforced.²⁹⁴ Unfortunately, working conditions in many countries have not always developed and are getting worsening like 215 million children are still working and among them at least 123 million children are in forced labourers. Likewise, condition of women labors is not much different and the average gap in the payment between women and men for the same work still around 18%.²⁹⁵

3.1.2 Charter of the United Nations Organization, 1945

The United Nations Organization was established in 1945 after WWII. It adopted a charter that contains guidance regarding elimination of gender-based violence around the modern world. The UNO charter 1945 is the first ever, global legislation focused on the issues of women and suppressed communities and prioritized resolving their issues. The UN universal principles place the survivor of violence at the center of the national violence response system. The international standards in favor of women demand the prioritization of the survivor of violence and declare that understanding of specific environments and cultural context of women is crucial to achieve the goals of domestic legislation. Therefore, a special and responsive mechanism would be made for all women irrespective of their differences in race, caste, class, and ethnicity. The focus should be on the recognition of the rights of women and their entitlements. The self-esteem and dignity of every woman must be respected even though they may appear overwhelmed and confused. Victim of violence should be

²⁹⁴ The National Women Report, *Women in WWI*, <https://www.theworldwar.org/learn/women>. Accessed on 12-11-23.

²⁹⁵ Ibid.

rehabilitated in such manners as to enable them to overcome their difficulties with and without any backing. The humanity must avoid judgmental attitudes towards women and their issues. These global standards assist the nation in evaluating the issues of women facing violence by way of determining the time, space, and pace of how the victim women can be assisted and how to proceed with their cases. The UN declared an instant intervention in every aspect of the lives of the people and of the problems of women to create documentation by all stakeholders law-making bodies and law enforcement agencies.²⁹⁶

The United Nations Charter of 1945 is a significant international legislation on the issue of elimination of gender disparity and women's equality. In its preamble, the charter aims to protect the subsequent generations from the plague of war and to confirm fundamental human rights. To achieve the goals of the UNO charter, the member states make sure to establish justice by following the 'obligations arising from treaties and other sources of international law'.²⁹⁷

With the passage of time, the UNO became more focused on the issues of women. To resolve the issues of women worldwide, the educational syllabuses must be changed and if there any biased social and cultural arrays of behavior, as well as offensive gender stereotypes in the current policies of education, they must be omitted. The issues of women should be declared the most sensitive among other problems of the society. Media should be utilized to highlight the issues of violence against women. The UN also recommended launching an awareness-raising campaign for the protection of women. As to the educational curricula, legislation should provide for compulsory education at all levels of schooling, from

²⁹⁶ United Nation's Organization, *UN Handbook on Violence against Women* (New York: United Nations Publications, 2010), 24-29, <https://www.un.org>. Last Accessed on 20-11-23.

²⁹⁷ Ibid, 27.

kindergarten to the tertiary level, on the human rights of women and girls, the promotion of gender equality, and, in particular, the right of women and girls to be free from violence. It also declared that the government policy of intervention is essential to any long-term policy on violence against women.²⁹⁸

The UNO charter also emphasizes the maintenance of ‘social progress and better living standards by way of the protection of ‘the dignity of human beings and equality of men and women everywhere.’²⁹⁹ The Economic and Social Council was founded in 1946 one year after the UN charter that developed the “Commission on the Status of Women”, as the principal global policy-making body.³⁰⁰

3.1.3 The Commission on the Status of Women (CSW), 1946

For the protection of women’s rights and for the reduction of gender-based violence, “the Commission on the Status of Women (CSW)” was established on 21st June 1946. It is a purposeful commission of the “Economic and Social Council (ECOSOC)”. The CSW is influential platform in promoting women’s rights by highlighting the real life problems of women worldwide. Among the objectives of CSW are upgrading the living standard of women, and modeling global criteria on gender equality and the empowerment of women. The Commission has to arrange a multiyear program to evaluate the improvement of the conditions of women globally and mark additional recommendations to hasten the execution of the “Platform for Action”.³⁰¹

²⁹⁸ United Nation’s Organization, *UN Handbook on Violence against Women* (New York: United Nations Publications, 2010), 31, <https://www.un.org>. Last Accessed on 20-11-23.

²⁹⁹ UNO charter 1945, <https://www.un.org/en/about-us/un-charter/full-text>. Accessed on 20-11-23.

³⁰⁰ Ibid.

³⁰¹ The Commission on the Status of Women, <https://www.unwomen.org/en/csw>. Last Accessed on 2-12-2023.

Recently, CSW has adopted a five-year plan of work. In its plan, the Commission shows its commitment to raising the consciousness of ‘gender equality and the liberation of women along with other fundamental rights of women at each level of national and international management. To achieve its goal, a ministerial section has been established to endorse and support the considerations of the Commission through ministerial round tables and other forms of high-level collaborating discourses to exchange experiences, lessons, and good practices. The commission also arranges wide-ranging debates on the status of women, and gender equality to find out ways to reduce gender disparity, and violence against women. The Commission convenes interactive expert panel discussions and other interactive dialogues on steps and initiatives to accelerate implementation and measures to build capacities for mainstreaming gender equality across policies and programs. It evaluates progress in implementing agreed conclusions from previous sessions as a review theme and approves further actions for the promotion of gender equality and the empowerment of women by adopting agreed conclusions and resolutions.³⁰²

It motivates intergovernmental organizations in developing gender perspectives at the work places. It has declared eight March of each year as an “International Women’s Day” to be celebrated to encourage women of the modern world.³⁰³ The most significant achievement of the CSW is the adoption and recognition of the Universal Declaration of Human Rights 1948.”

³⁰² CEDAW, <https://www.unwomen.org/en/csw>. Accessed on 2-12-2023.

³⁰³ ECOSOC Resolution 2022/4, *Current methods of work*, @ <https://www.unwomen.org/en/csw>. Accessed on 2-12-2023.

3.1.4 The Universal Declaration of Human Rights, 1948

After three years of ‘The UNO charter’ and two years of CSW, “The Universal Declaration of Human Rights 1948” was documented by the legislative body considering viewpoints of different legal and cultural backgrounds from all regions of the world. It was taken “as a common standard of achievements for all peoples and all nations. It sets out that fundamental human rights are universal and are protected by legislation. This remarkable declaration later on led to the adoption of more than 70 human rights accords at international and national levels.³⁰⁴

The preamble of UDHR declares that freedom, justice, and peace are based on the principles of human dignity and equality of all members of every nation. That the fundamental human rights, dignity, and worth of human beings are above everything and superior to all other rights. Article 1 of UDHR states that “all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood” and Article 2 explains that “everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as gender, birth, race, religion, language, color, political, ethnic, wealth, national or any other complex. Additionally, no discrepancy shall be done on the basis of the partisan, authority, or global position of the state or region to which an individual belongs.³⁰⁵

‘Article 3 describes that “Everyone has the right to life, liberty and security”, and that (Article 4) “No one shall be held in slavery or servitude and the slave trade is prohibited in

³⁰⁴ Universal Declaration of Human Rights 1948, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>. Last accessed on 12-10-2023.

³⁰⁵ Universal Declaration of Human Rights, 1948, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>, Article 1 and 2. Last accessed on 12-10-2023.

all their practices. Likewise, Article 5 makes it clear that no one shall be endangered by torment or too painful, merciless, or humiliating handling or penalty, and (Article 6) states that every person has the right to acknowledge universally before the law. This declaration also points out that human beings are eligible for equal security against any discernment and against any provocation of such perception. Effective remedy will be provided by the capable domestic courts for acts violating the fundamental rights granted him by the constitution or by law and no one shall be subjected to arbitrary arrest, detention or exile. It also grants complete equivalence to an impartial and public inquiry by an independent and impartial tribunal. That “everyone charged with a penal offense has the right to be presumed innocent until proven guilty according to the law in a public trial and no one shall be held guilty of any penal offense on account of any act or omission which did not constitute a penal offense, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.”³⁰⁶

Right of marriage is also granted to each mature individual that every mature male and female have the right to marry and to establish a family unit without any restraint on the basis of ethnicity, nationality or religion. Both parties are equally, eligible to have equal rights to marriage, during marriage, and at the termination of the marriage bond. It also states that a marriage will be held only with the free and full harmony of the expecting partners. This treaty declares the family system a natural and basic unit to form a society and should be protected by state legislation and that each individual has the right to purchase/sell a property

³⁰⁶ Ibid.

alone as well as in common ownership with others and the owner will not be dispossessed of his property.³⁰⁷

For the protection of personal and family rights this declaration describes that “no one shall be subjected to arbitrary interference with his privacy, family, home, honour, and reputation and that in such case, the victim has the right to be protected by the law. The right of citizenship is also ensured by providing the right to freedom of movement, residence, and nationality within the borders of his/her state and that the person has the right to leave any country, including his own, and to return to his country.”³⁰⁸

3.1.5 The International Covenant on Civil and Political Rights, 1966-76

The other attempt of UNO was that on December 16, 1966, the ‘UN General Assembly’ passed a resolution “The International Covenant on Civil and Political Rights” and opened for signature, and ratification for the protection of suppressed segments of the world. However, for next ten years this resolution could not meet its basic requirement of 35 state parties due to which it came into force for those on 23rd March 1976. As a whole, the ICCPR targets protection of ‘civil and political rights’ of each individual such as it bans all forms of torture and servitude. It prohibits slavery by stating that no one shall be held in slavery and that the slave trade is prohibited. It also prohibits forced or compulsory labor.³⁰⁹ It also recognizes the family system as a natural and central unit of society that should be protected by the State. Every mature man and woman has the right to find a family with his/her choice and consent and no one can force him/her to do marriage without his consent. Each state is

³⁰⁷ Universal Declaration of Human Rights 1948, Article 3-9

³⁰⁸ UDHR 1948, Article 10-15.

³⁰⁹ UDHR 1948, Article 16-17.

responsible for making laws to ensure equality of rights and duties between husband and wife during marriage. In case of termination of marriage, the state will make laws for the protection of the rights of children.³¹⁰

3.1.6 The Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW)

The most important international legislation for the protection of the rights of women and other oppressed classes of society, is “The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)” which has been circulated for the eradication of discrimination against girls, women and transgender, etc.³¹¹

This legislation is considered a key document that directs regarding the status of women globally to achieve gender equality and to ensure empowerment of women and girls. For example, article first describes the meaning of the word ‘discrimination’ that it includes all acts of distinction, segregation, or constraint, based on the differences of gender, sex that affect the political, economic, social, cultural, or civil rights of women. Under second article, each state is obliged to take steps to discourage discrimination against women and to draft a policy for the abolition of discrimination. For this purpose, each country has to make laws regarding the equality of men and women and the elimination of discrimination against women. In case of any case of discrimination, the member states have to provide legal protection and effective remedies to the victim. It is also THE duty of member countries to

³¹⁰ International Covenant on Civil and Political Rights, 1976, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>. Last Accessed on 3-11-23.

³¹¹ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, <https://www.ohchr.org/en/instruments-mechanisms>. Last Accessed on 3-11-23.

ensure that no public authorities or institutions engage in discrimination. Each institution should have a policy of refraining from any act of discrimination against women employees and to take actions to eradicate discrimination against them by any person, organization, or enterprise. If current laws are biased against women, all such laws would be amended. Moreover, present customs and practices that are found on the discrimination of women will be banned.³¹²

The third article explains that every country will take all suitable actions, especially in the ‘political, social, economic and cultural fields’, for the complete progress and development of women, so that they may enjoy their natural rights on an equal basis with men. With full guarantee and confidence. Under Article Five, all member states are bound to legislate through a comprehensive mechanism to condemn all those social and cultural arrays of THE behavior of men and women that are rooted in thoughts of dependency or inferiority of women. All those customs would be abolished which are stereotyped by nature and set specific tasks for men and women other than their natural and biological differences. State should take necessary measures to promote family system in the society. The scheme of study of each state must include guidelines which guide people their social and legal responsibilities and leads the appreciation of the common obligations of men and women in nurturing their children. While article six states that to overturn transportation and trafficking of helpless and needy poor women and to reduce their exploitation and to stop using them as prostitution, the member parties will make laws and disseminate them among the people and the institutions.

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³¹² The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, Article 5-6.

³¹³ CEDAW 1979, Article 7-9.

The political and professional rights of women have been mentioned in article seven which describes that women of every state have equal rights to men in the political field in matters of casting vote with their free consent, joining any political party, doing any legitimate work, holding any public office, participation in developing government policy or any other job of welfare like men. Women have full capacity to represent their countries at the international and national levels and can join any worldwide organization on an equal basis and under the same criteria. On the issue of nationality, women have equal rights as men in deciding their home country and nationality. Article nine points out that “both marriage and change of nationality by the husband during marriage shall not automatically change the nationality of the wife and that women can also decide such issues with her free will and consent. Women’s right to education has been discussed in article ten of CEDAW.³¹⁴ It pronounces that “States Parties shall ensure to women equal rights in the field of education. States Parties shall ensure the same conditions for career guidance, access to studies, and the same teaching staff and equipment. Stereotyped roles of men and women are to be eliminated in all forms of education. States Parties shall ensure that women have the same opportunities to benefit from scholarships and the same access to continuing education. States Parties shall ensure the reduction of female drop-out rates and shall ensure that women have access to educational information to help ensure health and well-being of families, including information on family planning”.³¹⁵

In the field of service and jobs, each state will guarantee similar rights to work, to the same employment chances on the basis of equality of men and women. Women have equal

³¹⁴ Ibid.

³¹⁵ CEDAW 1979, Article, 10-12.

rights to free choice of their employment. They are also equal on the issues of their promotion, remunerations, professional training, equal compensation, and equal treatment in respect of work of equal value. Likewise, women can avail of social security, and unemployment allowances, and safeguard of health on an equal basis as men. The institutions and service providers can not dismiss any woman on the grounds of pregnancy. No employer is allowed to remove any female in light of her marital status. Each service provider and institution is bound to make laws for the grant of maternity leave with pay or social benefits. Healthcare facilities and proper services in connection with pregnancy would be arranged by the relevant institution. Regarding the issues of health of women, every state has to legislate to treat women equally to men. All national and international health programs would give priority to the issues of the health of women. Matters dealing with the issues of family welfare, social life, bank loans, mortgages, and other forms of credit and business, the states will make laws for equal rights and opportunities for women. All forms of business are permissible for men if they have the capacity to deal with them .³¹⁶

Women of rural and remote areas and villages, the relevant state will care for the women. The economic persistence of their families shall ensure to them all rights. The benefits achieved from rural progress, will be distributed equally among men and women on the basis of their contribution and needs such as participation in development planning, admittance to suitable health care services, family planning, benefit from social security programs, receiving training and education, having access to agricultural credit and loans, marketing, and appropriate technology. Women have equal rights in receiving equal treatment in land reform and having adequate living conditions, particularly in relation to housing,

³¹⁶ Ibid, Article, 13-14.

cleanliness, energy and water supply, transport, and communications. Regarding freedom of movement and freedom to choose residence at a specific place and city, women are equally protected by state legislation as men. Each country should legislate to set a minimum age of marriage like 18 years of age as a standard age. In all matters relating to marriage and family relationships, women have equal rights to enter marriage, to choose a partner, and to live accordingly. Both husband and wife have the same rights and duties as parents. Husband and wife will decide the issues of their family life like having children, number of children, and the same rights with regard to ownership of property.³¹⁷

3.1.7. Progress of the World's Women, 1980

One of the most important forums to promote women's empowerment is the "Progress of the world's women" is UN Women's periodic investigation of progress made towards a world where women, girls, and gender-diverse people live free from inequality, poverty, and violence. This forum was established in 1980s to promote capacity of women in the economic sphere of their lives. Among the objectives of this investigatory forum are rising economic sense and a sense of self-worth, and creation of a belief in one's ability to safe preferred alterations and to control one's life. It also promotes the capacity of women to produce opportunities for women and to create in them power of bargaining. With the help of different programs, this periodic report works for the growth of the capacity of organization and directions in the women that may inspire the direction of social change to create a more 'just social and economic order', nationally and internationally. For this purpose, special focus is paid to obtaining awareness and understanding of gender relations on the basis of equality

³¹⁷ The Convention on the Elimination of All Forms of Discrimination against Women, 1979, Article, 16-18.

and finding out the ways and methods in which these relations may be changed and improved.³¹⁸

It highlights the importance of women's contribution to the development of the economic order of a state that economic efficiency cannot be achieved without the economic progress of women. When more and more women enter into paid work, and economic reforms, production becomes better and the economy of the society booms.³¹⁹

3.1.8. The Declaration on the Elimination of Violence against Women, 1993

In 1992, the “CEDAW Committee,” in its Common suggestions on violence against women no. 19 facilitated the UN General Assembly to spread a general recognition of gender-based violence against women as a form of discrimination against women. Accordingly, the United Nations General Assembly, adopted “The Declaration on the Elimination of Violence against Women 1993”. This declaration describes violence against women as “any act of gender-based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”.³²⁰

The declaration explains different forms of violence against women and girls such as violence from a life partner and forcing a woman to get pregnant and forced sex from partner. It also declares forced marriage a form of violence. Among other crimes are honor killing; female genital mutilation; harassment; trafficking; and violence against women and girls in

³¹⁸ Progress of the World' Women, https://iknowpolitics.org/sites/default/files/progress_of_the_world_s_women. Last Accessed on 20-11-2023.

³¹⁹ Ibid.

³²⁰ The Declaration on the Elimination of Violence against Women 1993, <https://archive.unescwa.org/our-work/gender-based-violence>. Last Accessed on 6-11-23.

conflict conditions. According to this accord, all these and similar crimes have negative and destructive effects on the lives of individuals in particular, and on the overall environment of the communities and societies in general. It also causes economic and social costs for the states. The accord has described the responsibilities of each member state to show reaction back to violence against women and girls that have been preserved in a number of global conventions, agreements, and resolutions, such as “the Convention on the Elimination of all Forms of Discrimination against Women”, “The Beijing Platform for Action”, and “Security Council Resolution 1325.”³²¹

The member states are bound to address the crimes that occur on the basis of gender and to legislate to eradicate violence against women. Each country has to take necessary protective measures and institutional reforms. It is also required to ensure prompt application of such laws and measures, assign resources to programs fighting violence, and eliminate practices rooted in discriminatory approaches towards women and girls. To augment protection for women and assure them access to justice, “ESCWA” has been established to work with member states and other stakeholders.³²²

3.1.9. Inter-American Convention on the Prevention of Violence against Women, 1994

This convention is also called " the Convention of *Belém do Pará*". The member states of the “Organization of American States (OAS)” adopted this international accord in 1994 to fight violence against women. This accord defines violence against women as "any act or

³²¹ The Declaration on the Elimination of Violence against Women, 1993.

³²² The Declaration on the Elimination of Violence against Women, 1993, Art. 2.

conduct, based on gender that results in physical, sexual or psychological harm or death to women, whether happening in public or private sphere of life".³²³

Article two of the convention explains the scope of violence that violence against women includes physical, sexual, and psychological violence, rape, battery or sexual abuse either happens within the family or domestic unit or any other interpersonal relationship. It further describes that it counts no matter whether or not the culprit lives in a common dwelling or has some separate place of residence. Likewise, if an act of violence occurs in the community and by any person and that particular person commits rape, sexual abuse, torture, trafficking in persons, forced prostitution, kidnapping, and sexual harassment in the workplace, as well as in educational institutions, health facilities or any other place, it will be treated on the same grounds and same status by the state and its law enforcement agencies.

This document has declared each woman entitled to practice her civil, political, economic, social and cultural rights. In case of any violation, the victim woman can seek full protection of those rights as exemplified in local and international mechanisms on human rights. The States Parties are bound to prohibit all types of violence against women. Women must be free from all forms of discrimination and the right of women be valued and educated free of labeled patterns of behavior and social and cultural practices based on notions of subservience and subordination.³²⁴

³²³ Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women 1994, <https://vawnet.org/material/inter-american-convention-prevention-punishment-and-eradication-violence-against-women>. Last Accessed on 12-10-23.

³²⁴ Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women 1994, Article, 4-19.

It has been ratified by most OAS member states and is taken as a binding treaty while Canada and the United States neither signed nor ratified it. However, now it has become an essential document of the regional pledge to contest violence against women in the Americas. The Convention prescribes certain international canons for the stoppage of violence against women, abolition of violence, and punishment of the culprits.³²⁵

3.1.10. The Beijing Declaration and Platform for Action, 1995

In 1995, “The Beijing Declaration and Platform for Action 1995” for the advancement of the status of modern women was adopted. More than forty thousand government representatives, experts, and social activists met at the “Fourth World Conference on Women,” in 1995 and adopted this declaration unanimously. It is an idealistic schedule for the empowerment of women to investigate the condition of women worldwide. It also aims to support and examine the efforts of every state in promoting the advancement and empowerment of women.³²⁶

This declaration expresses its pledge on behalf of the international community to accomplish gender equality and to deliver enhanced chances for women. The “platform of action” responds to the collective effort of women globally who have strived hard to attain ‘gender equality’ and to secure women’s rights. It also addresses the prevailing disparities in the fields of civil, political, social, economic, and cultural.

³²⁵ Ibid.

³²⁶ Beijing Declaration and Platform for Action, 1995, <https://archive.unescwa.org/our-work/beijing-declaration-and-platform-action>. Last Accessed on 5-11-23.

There are twelve targets of the “Platform of Action” which includes the protection of fundamental rights of women as human beings; straitening the relationship between women and the environment; ending violence against women; eradication of poverty women; protecting the girl’s child; empowerment of the women economically; guaranteeing education and professional training of women; participation of the women in the development of the economy of their country; making women strong and confident by creating in their decision making power; promotion of women strength and capacity and their achievements through media; and training of women to protect themselves in case of armed conflicts.³²⁷ Until now, five reviews have been conducted by this forum such as in 2000; 2005; 2010; 2015, and 2020. Each review shows a conclusive document in which states pledge to carry on their efforts toward accomplishing global obligations connecting to the rights of women and girls. The outcome document further outlines priority actions for the coming five years.³²⁸

3.1.10. Declaration on the Elimination of Violence against Women in the South Asian Nations (ASEAN), 2004

In June 2004, in Jakarta, the ten member states of Asia adopted and signed “The Declaration on the Elimination of Violence against Women in the South Asian Nations (ASEAN) 2004.” It is a political declaration and endorses the assurance of ten signatory countries to eradicate violence against women, in line with “CEDAW”, and the Beijing

³²⁷ Beijing Declaration and Platform for Action, 1995.

³²⁸ Beijing Declaration and Platform for Action, 1995.

Declaration and Platform for Action 1995,” through further regional and mutual collaboration.³²⁹

In this declaration, each state acknowledged that the issue of “violence against women” is grave and both disrupts and spoils the fundamental human rights of women, restricts their fundamental liberties, confines their access to and control of resources and limits their actions, and is a great hinder in the full progress of the potential of women.³³⁰

Therefore, for the elimination of “violence against women” and for monitoring their improvement all Asian states will coordinate among themselves and will try to promote regional cooperation and collaboration. It reaffirms that all the states will encourage better regional and mutual collaboration in the efficient research, data collection, analysis, and dissemination of data, and other relevant information regarding the scope, nature, and concerns of “violence against women and girls,” on the one hand and about the effect and efficiency of state’s strategies and plans for contesting “violence against women.”

It is intended to promote an integrated and holistic approach to eliminate violence against women by formulating mechanisms focusing on the four areas of concerns of violence against women, namely, providing services to fulfill the needs of survivors, formulating and taking appropriate responses to offenders, and perpetrators, understanding the nature and causes of violence against women and changing societal attitudes and behavior.

³²⁹ The ASEAN Secretariat, *Declaration on the Elimination of Violence against Women in the Association of Southeast Asian Nations* (Jakarta: The ASEAN Secretariat, 2004). <https://asean.org/declaration-on-the-elimination-of-violence-against-women-in-the-asean-region>. Last Accessed on 20-10-23.

³³⁰ Ibid, 23.

This draft also encourages gender mainstreaming to eliminate all forms of violence against women through policies and programs as well as systems, procedures, and processes. To enact and, where necessary, reinforce or amend domestic legislation to prevent violence against women, to enhance the protection, healing, recovery, and reintegration of victims/survivors, including measures to investigate, prosecute, punish, and where appropriate rehabilitate perpetrators, and prevent re-victimization of women and girls subjected to any form of violence, whether in the home, the workplace, the community or society or in custody.

It emphasizes the proper legislation to take all necessary measures to eliminate all forms of discrimination against women to empower women and strengthen their economic independence and to protect and promote the full enjoyment of all human rights and fundamental freedoms in order to allow women and girls to protect themselves against violence.³³¹

To intensify efforts to develop and/or improve existing legislative, educational, and social measures and support services aimed at the prevention of violence against women, including adoption and monitoring the implementation of laws, the dissemination of information, active involvement with community-based players, and the training of legal, judicial, enforcement officers, social workers and health personnel. To strengthen collaboration between and among countries, through bilateral, regional and international cooperation for resource mobilization and technical exchange programs, including sharing

³³¹ The ASEAN Secretariat, *Declaration on the Elimination of Violence against Women in the Association of Southeast Asian Nations* (Jakarta: The ASEAN Secretariat, 2004), 17.

of best practices and experience in raising awareness, and developing advocacy programs on preventing and tackling violence against women.³³²

To support initiatives undertaken by women's organizations and non-governmental and community-based organizations on the elimination of violence against women and to establish and strengthen networking as well as collaborative relationships with these organizations, and with public and private sector institutions.³³³

3.1.11. Istanbul Convention 2011-2014

The Istanbul Convention was adopted by the European Union on behalf of the “Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210)” and opened for signature by the member states to all those who participated in its embellishment and for compliance by other non-member States on 11th May 2011. The Convention got into force on August 1st, 2014.³³⁴

It is the most inclusive and far-reaching accord to combat violence against women worldwide. It is an advanced draft based on all earlier values and positive steps taken by international organizations for the protection of women from gender-based violence. It also represents modern human rights philosophy, which has extended to distinguish that speaking about violence against women is a state responsibility. The “Istanbul Convention” provides the first legally binding international definition of domestic violence which it sets out to cover all acts of physical, sexual, psychological or economic violence that happen within the family

³³² Ibid.

³³³ Ibid.

³³⁴ Istanbul Convention 2014, https://www.coe.int/en/web/conventions/full-list?module=treaty_detail&treatynum=210. Last Accessed on 8-11-23.

or local unit or between previous or present partners or spouses, whether or not the culprit shares or has shared the same residence with victim.”³³⁵

The “Preamble of the Istanbul Convention” clearly states that the member States of the Council of Europe acknowledged the apprehension of de jure and de facto equality between women and men and it is a key element in the prevention of violence against women. This document explains the roots of violence against women found in the exhibition of historically unequal distribution of power and relations between women and men, which have led to domination over, and discrimination against, women by men. It also caused the deterrence of the full development of women. It explains that violence against women is one of the critical social apparatuses by which women are forced into a secondary position compared with men. Women and girls are often exposed to serious forms of violence such as domestic violence, sexual harassment, rape, forced marriage, crimes committed in the name of so-called honor, and genital mutilation. The structural nature of violence against women in fact a gender-based violence, that establishes a serious violation of the human rights of women. It is also a major obstacle to the achievement of parity between women and men. It is evident that women and girls are exposed to a higher risk of gender-based violence than men and most common of which is domestic violence which affects women extremely.³³⁶

The Istanbul Convention highlights that violence against women utterly disturbs and damages the enjoyment of lives of women and they are unable to avail their human rights, in particular their fundamental rights to life, security, freedom, dignity and physical and emotional integrity, and that it therefore, cannot be ignored by governments. Similarly,

³³⁵ Ibid, Art 3 (b).

³³⁶ Istanbul Convention, 2014, Articles 4-8.

disabled women, and girls are often in a greater danger of suffering violence, injury, abuse, neglect or negligent treatment, maltreatment, or exploitation, both within and outside the home. All this is an entirely gendered phenomenon. However, the issue of violence against men and boys is also noticeable because men and boys may also be victims of domestic violence, and this violence should also be spoken.³³⁷

The declaration makes it clear that the member states are responsible for legislating to promote gender parity, and to protect women from violence. Parties have the primary responsibility to ensure effective practice and implementation of such laws. The member countries are also duty-bound to enact laws to ban all practices of violence against women on the basis of their gender. Law enforcement agencies and tribunals are also responsible for supporting, protecting, and providing speedy justice to the victims of violence particularly women as without a solid legal groundwork proper legislation, and enforcement of these legislations rights of women could not be protected.³³⁸ According to the “Explanatory Report to the Istanbul Convention”, there is a link between reaching gender equality and the abolition of violence against women. Hence, a multiplicity of actions should be taken by the states for the abolition of violence against women within the wider context of contesting discernment against women and completing gender equality in society by way of effective and sound legislation.³³⁹

³³⁷ The Council of Europe, *Explanatory Report on Preventing and Combating Violence against Women and Domestic Violence* (Istanbul: The Council of Europe, 2011), Para. 7-21. <https://rm.coe.int/168044e7c0>. Last Accessed on 8-11-23.

³³⁸ The Council of Europe, *Explanatory Report on Preventing and Combating Violence against Women and Domestic Violence* (Istanbul: The Council of Europe, 2011), Para. 7-21

³³⁹ *ibid*, 12.

3.2. Legislative Measures to Combat Gender-Based Violence in Pakistan

To combat GBV and to protect women and transgender, the government of Pakistan has adopted many policies at the provincial levels. In 2012, Punjab adopted a youth policy and included a section to promote girls under the age of eighteen. The youth Policy aims to cultivate an environment conducive to the development of young people through training, access to credit and financial services, mentoring, and awareness of market prospects. It also promotes entrepreneurialism. Its strategies include eradicating gender-based adolescent behavior, making campuses safe and free of violence, allocating fifteen percent of public sector positions to women, educating students about reproductive rights, and depicting boys and girls equally in textbooks and public messages.³⁴⁰

Likewise, women's skill development is prioritized in 'the Punjab Growth Strategy Plan 2015' and in the 'Women Development Policy 2018' to assist women gaining entry to the labor market. This policy focuses on providing young women with access to high-quality education, training, and skill development, as well as incentives for choosing science and non-traditional subjects, computer literacy, and the mechanical industry, all within the context of ending gender discrimination. It suggests that girls from underprivileged districts in South Punjab should receive special consideration when developing their abilities.³⁴¹

Sindh province adopted a 'Youth Policy 2018' and a 'Population Policy 2016' that addresses young women. It seeks to establish a policy environment that promotes the social, economic, and political empowerment of young people, as well as their rights, responsibilities, and entitlements. Its goals include addressing issues related to gender

³⁴⁰ Punjab Youth Policy, 2015. <https://peri.punjab.gov.pk/system/files/Policy>. Assessed on May 21, 2023.

³⁴¹ Punjab Government, *Female Labor Force Participation Rate in Punjab*, 2021, <https://peri.punjab.gov.pk/system/files/Policy%20brief-%20Female%20Labour%20Force%20Participation-2021.pdf>. Assessed on May 25, 2023.

equality, diversity, and the exclusion of at-risk youth. Promotion of gender equality, participation of young women in cross-sectoral plans, and the development of youth leadership opportunities are key factors. Access to family planning services for young married women (15–24 years old) and reproductive health are given high priority in it.³⁴²

Khyber Pakhtunkhwa possesses ‘Population Policy 2015’, and ‘Youth Policy 2016-17.’ The 2015 population policy of KPK aims to expedite investments in female education and empowerment in order to support the attainment of population sector objectives. The KPK Youth Policy created to combine the three pillars of youth development political, social, and economic empowerment, and to foster a safe and encouraging environment in which young people can realize their maximum potential. The primary goals of the Policy are to ensure that adolescents have access to the resources and services necessary for their holistic development, education, protection from health and substance risks, and protection of their right to a high standard of living.

The ‘Women Empowerment Policy KPK, 2017,’ seeks to empower women in all spheres of life, including social, cultural, political, economic, and personal, so they can realize their full potential and actively contribute to the province's development. A comprehensive policy that addresses every aspect of women's existence must include strategies for female youth.³⁴³

The ‘Baluchistan Youth Policy (BYP) 2015’ was drafted as required by the 18th Constitutional Amendment, but it is still a draft. The gaps in the draught policy have not been

³⁴² Government of Sind, Women Empowerment Policy, 2015; Population Policy 2016, and Youth Policy, 2018. <https://peri.sind.gov.pk/system/files/Policy.2018.pdf>, Last Assessed on May 25, 2023.

³⁴³ KPK Women Empowerment Policy Framework, *Provincial Status on the Status of Women in KPK* (Peshawar: Social Welfare, Special Education & Women Department, 2017). <https://kpcsw.gov.pk/wp-content/uploads/2017/11/Women-Empowerment-Policy-Framework.pdf>, Assessed on August 12, 2023.

filled, there is presently no official youth policy statement, and no development initiatives have been established. Due to a lack of funds, the department only offers exposure visits to adolescents.³⁴⁴

The only-for-women rural region program met a need, but it was not necessarily part of a well-thought-out strategy to increase the influence of young women in the nation's politics, commerce, and culture. The inclusion of female adolescents in economic policies is largely symbolic; rather, they are addressed through specialized initiatives and programs launched by the federal or provincial governments, which frequently focus on microcredit or training today. Finally, it is encouraging to see that the obstacles and challenges preventing the elimination of gender-based discrimination are being addressed.³⁴⁵

There are variations in the laws that protect and advance women across the country, such as those governing the marriage age (Sindh is the only province to have raised the age of marriage for young women to eighteen years) and local government (the number of seats reserved for women in local government and the election process vary by each province).

The Constitution of Pakistan provides for inexpensive and speedy justice as a fundamental right to a fair prosecution as well as equality before the law.³⁴⁶ Section 340 of the Criminal Procedure Code stipulates that “the State will pay for an accused's legal representation”. In addition, “section 161-A of the Criminal Procedure Code” grants victims of sexual abuse free legal counsel. After registering the case, the police must notify the victim of this right and provide her with a list of attorneys maintained by the provincial bar councils

³⁴⁴ Baluchistan Youth Policy, *Environment Sports and Youth Affairs Department*, 2015. <https://studylib.net/doc/7096539/balochistan-youth-policy-2015>, Assessed on May 13, 2023.

³⁴⁵ Baluchistan Youth Policy 2015, rule 45.

³⁴⁶ The Constitution of the Islamic Republic of Pakistan (The Official Gazette of Pakistan, April 12, 1973), Articles 25 & 37(d).

for this purpose. Under the “Sindh Domestic Violence (Prevention and Protection) Act 2013”, “the Baluchistan Domestic Violence (Prevention and Protection) Act 2014”, “the Punjab Protection of Women Against Violence Act 2016”, and the “Khyber Pakhtunkhwa Domestic Violence (Prevention and Protection) Act 2021”, it is the responsibility of a protection officer and secretary of the district protection committee (as applicable) to provide legal aid to an aggrieved person or complainant.

The “Legal Practitioners and Bar Council Act of 1973” provides free legal aid to women and suppressed people. The “1999 Pakistan Bar Council Free Legal Aid Committee Rules” established free legal aid committees through federal, provincial, and district legal aid committees. Among those who qualify are the underprivileged, impoverished, orphaned, destitute, and deserving who are eligible for Zakat (an annual Muslim payment based on income and defined property) but cannot afford legal services. Eligible cases include those involving succession certificates, eviction, unlawful imprisonment, and family law.³⁴⁷

Despite the above-mentioned legislation difficulties of victims of GBV could not be reduced which led the state to take special measures to remove the legal obstacles that women and girls face on a daily basis due to social and structural, problems.

“Pakistan Human Rights Commission”, in its Report 2018 highlighted the independent list of at least 845 cases of sexual assault against women. There were no comparable statistics, but the Commission had previously stated that violence against women was grossly underreported, particularly in rural areas where victims were discouraged from coming forward due to poverty and stigma.³⁴⁸

³⁴⁷ The Legal Practitioners and Bar Council Act of 1973, section 45.

³⁴⁸ Farzana Bari, *Women in Pakistan* (USA: The University of California, 2000), 24.

The Government continues to work towards achieving its particular gender equality objectives while placing great focus on initiatives to foster a more gender-equal society. In order to create a stronger society where the legal system and other players share responsibility for making societies safer and more secure, the government is implementing extensive and long-term actions.³⁴⁹

To improve miserable conditions of women and children certain legislative measures have been taken by the parliament of Pakistan in accordance with international law and CEDAW. Following are the laws related to the protection of women and transgender:

3.2.1. The Acid Control and Acid Crime Prevention Act of 2011

This law was enacted to deter and punish individuals who cast acid on women. In addition to receiving a life sentence, perpetrators are fined 500,000 rupees under Section 336-B of the Pakistan Penal Code. The purpose of this law is to deter and punish those who hurl acid at women. In accordance with Section 336-B of the Penal Code, perpetrators are sentenced to a 500,000 rupees fine and life in prison. There were more than 3,400 instances of acid combustion between 1999 and 2019. Chemical burns are among the most agonizing injuries because they feel similar to being scalded with scalding water and cause excruciating pain that extends into the bones, teeth, and eyes.³⁵⁰

3.2.2. The Prevention of Anti-Women Practices Act of 2011

This law prohibits a number of oppressive and discriminatory practices against women in Pakistan. The following customary practices are illegal as mentioned in this act. Under

³⁴⁹ Ayesha Khan, *Women's Movement in Pakistan* (UK: Bloomsbury Academic, 2019), 31.

³⁵⁰ Training Manual Influencer-Legal, *Women Protection Laws in Pakistan* (Lahore: Idara e Taleem o Agahi, 2015), https://itacec.org/creating_spaces/document/Laws_for_Women_Protection_in_Pakistan.pdf, Last Assessed on 15 August 2023; Staff Reporter, "Man Sent to Jail for 14 years in Acid-Throwing Case," *Dawn*, March 22, 2019. <https://www.dawn.com/news/1471060>. Assessed on: 4, August 2023.

section 310-A of the Pakistan Penal Code, giving a woman in marriage for *Badl-i-Sulh* is punishable by imprisonment for three to seven years and a fine of Rs. 500,000. Under section 498-A of the Pakistan Penal Code, depriving a woman of her inheritance through fraudulent or unlawful means is punishable by imprisonment for five to ten years and a fine of one million rupees. Under section 498-B of the Pakistan Penal Code, coerced marriages are punishable by 3 to 10 years in prison and a fine of Rs. 500,000.³⁵¹ According to section 310A of the Pakistan Penal Code, it is punishable by 3–7 years in prison and a fine of Rs. 500,000 to give a girl in marriage for *Badl-i-Sulh*.³⁵²

Likewise, the ‘Right to Ownership of Women Act 2011\’, guarantees women's asset ownership, especially their inheritance rights. However, the majority of women give up their shares or are denied inheritance rights due to the "cultural code of honor" that upholds the patriarchal value system. Despite legislation supporting women's property ownership in Pakistan, such as the Right to Ownership Women Act of 2011, social norms have not changed significantly.³⁵³

3.2.4. Protection against Harassment of Women at the Workplace Act, 2010

The purpose of this Act was to establish measures aimed at mitigating instances of harassment targeting women in the workplace and promoting the active reporting of such occurrences. These objectives were to be achieved by establishing an Ombudsperson's office and Inquiry Committees. It aims to address the issue of workplace harassment against women

³⁵¹ The Prevention of Anti-Women Practices Act of 2011. <https://wdd.punjab.gov.pk/system/files>. Last Assessed on May 15, 2023

³⁵² Pakistan Penal Code (Act No. XLV of 1860), (The Official Gazette of Pakistan, Extraordinary Part I, October 6, 1860), section 498-B.

³⁵³ Right to Ownership Women Act of 2011. <https://hrqp-web.org/hrqpweb/wp-content/uploads/2020/09/2023-LWC04-Criminal-Laws-Amendment-Act-2023.pdf>, Assessed on October,12, 2023; John Simister, *Gender Based Violence: Causes and Remedies* (New York: Nova Science Publisher, 2012).

and promote the reporting of such events through the Ombudsperson's office and Inquiry Committees.

The Act mandates that all Provincial and District Government bodies and authorities, including educational institutions and medical facilities, establish inquiry committees for workplace harassment and post the Code of Conduct for the Protection of Women from Harassment at the Workplace.³⁵⁴

A complainant may submit a complaint to either the Ombudsperson or the Inquiry Committee. Within three days of receiving a complaint, the inquiry committee notifies the accused party that he has been charged with harassment. If the accused According to the Act, the Ombudsperson possesses the authority of a Civil Court and may convene the accused, examine him under oath, receive testimony on affidavits, and enter office premises for inspection or investigation. According to section 4 of the Act, the Inquiry Committee or the Ombudsperson may rule on the case and punish the accused for harassment.³⁵⁵

3.2.5 The Acid Control and Prevention Act, 2010

Acid spells on women due to any issue of personal enmity or revenge is one of the worst forms of violence and when a woman is attacked through acid, the acid melts the flesh and bone of the victim which can totally extinguish facial features like loss of the nose, lips and eyes. It also leaves eternal physical and psychological wounds that can affect the victim socially and economically.³⁵⁶ In Pakistan, the issue of acid spells is a burning issue and it has

³⁵⁴ The Punjab Protection against Harassment of Women at the Workplace (Amendment) Act, 2014. <https://wdd.punjab.gov.pk/system/files>. Last Assessed on May 15, 2023.

³⁵⁵ Government of Punjab. "Harassment of Women (Amended Law)," Women Development Department, 2011, <https://wdd.punjab.gov.pk/system/files/Harassment%20of%20Women%20>, Last Assessed on March 12, 2023.

³⁵⁶ Von E. Werlhof, "Scarred for life: The Impact of the Acid Control And Acid Crime Prevention Act of 2010 on Addressing Violence Against Women In Pakistan," *International Review of Law* 3 (2014): 21. <http://dx.doi.org/10.5339/irl.2013.dv.3>. Last Assessed on October 13, 2023.

long lasting effects on the victim. However, the government of Pakistan officially acknowledged the severity of the issue of acid spell late in 2009 and to curb the issue of acid spell, efforts were made for the proper legislation and “Acid Control and Acid Crime Prevention Act of 2010” was drafted which was passed by the National Assembly and the Senate in December 2011. The President of Pakistan approved the Act and thus, the act became the part of criminal law. It is also called criminal law Second Amendment) Act, 2011. In this way, the government recognized the crime of acid attacks as a separate crime in 2011.³⁵⁷

Section two of the Act provides definitions of the related terms such as acid attack, victim, government, etc. In this act, the “Acid and Burn Victim” is used for a person or individual who has been endangered by an acid attack or burn attack who has either stayed alive as a result thereof or is departed”. The term “acid attack” leads to an act or omission, caused by destructive material/acid to be frightened or managed in any form on the object with the objective that such individual is likely to cause to the other individual perpetual or restricted injury/wound or distortion or mutilation to any part of his/her body or any other organ which may cause death or sever damage of such victim’. The term “corrosive substance” is used meaning to any material such as acid, sulphuric acid, and poison including similar content that may be utilized to destroy, damage, or disfiguration any individual or disjoint any organ of the victim. The same section also explains the phrase “burn attack that is used the meaning of an act or omission produced by fire and any other hot matters or related material thrown towards any targeted person with the intent that such act or omission, may result in enduring or partially impairment or abnormality or disfiguration to any part of the

³⁵⁷ Von E. Werlhof, “Scarred for life: The Impact of the Acid Control and Acid Crime Prevention Act of 2010 on Addressing Violence Against Women In Pakistan,” *International Review of Law* 3 (2014): 21.

body or organ of such victim or cause death through burn.³⁵⁸ This act explains that whoever commits or tries to perform an offence of acid or burn attack and that the victim dies that in such case, the culprit will be punished with life imprisonment amounts to rigorous imprisonment for life. However, if the victim survives then the accused will be punished with imprisonment not less than seven years.³⁵⁹

The victim is also entitled to seek compensation and the court at any stage may direct the government representative to provide interim relief to the victim to bear the expenditures of the case, loss of his earnings, and loss that occurred due to injuries or disability. Section fourteen of the act describes the procedure of investigation that the investigatory process must be accomplished within fourteen days after registration of the First Information Report by a police officer not under the rank of Inspector/SHO. It also establishes a system of accountability that in case of failure of completion of investigation and inquiry within a maximum time of sixty days, then such failure will be mentioned and will be made part of the annual assessment report of the residing and in charge of the inquiry team. In addition to the normal proceedings, this act also establishes an "Acid and Burn Crime Monitoring Board" consisted of different members from various departments keeping in view that about 33% should be women representation from different departments.³⁶⁰

³⁵⁸ Ibid.

³⁵⁹ Von E. Werlhof, "Scarred for life: The Impact of the Acid Control and Acid Crime Prevention Act of 2010 on Addressing Violence against Women In Pakistan," *International Review of Law* 3 (2014): 21.

³⁶⁰ Ibid, Sections 14-33.

3.2.6 The National Commission on the Status of Women Act, 2012

To control the increasing crime rate against women, the “National Commission on the Status of Women Act” was passed by the parliament in 2012. It is a short act comprises only three sections which authorize the government to establish a “National Commission on the Status of Women”. The Commission is responsible to collect data and information regarding the crimes against women, girls and children. It also duty bound to explore the causes behind the increasing crime rate against women. It is also responsible to monitor the condition of the women and girls who are deprived of their basic rights. The commission has to coordinate with the international bodies and working groups who are working for the protection of rights of women and for elimination of gender-based violence throughout the country. To achieve its goals, the commission is bound to comply the international commitments made by the government on the issues of women.³⁶¹

Under the Act 2012, the Government is motivated to prepare an annual report of the “Commission” and to place it before the Parliament for review. Unfortunately, the report could not be furnished by the government even after 3 years of the establishment of the Commission. Therefore, to enhance the role of Parliament and to make the recommendations of the “National Commission” productive and more effective, the parliament amended the act in 2016.³⁶² Under this amendment, now the government become bound to prepare a report every year to present it before the Parliament. Likewise, the act 2012 did not make it obligatory on the government to explain before the Parliament the steps and actions that have been/ are being taken by the government on the report and recommendations provided by the

³⁶¹ National Commission on the Status of Women Act, 2012

³⁶² Ibid.

Commission. Thus, through the amendments, the government is obliged to furnish “a biannual report of the Commission” before the parliament which will be discussed and debated by the members of the Parliament and related committees. Moreover, the government has to attach an explanatory memo regarding the actions taken thereon by the government.³⁶³

3.2.7 The National Commission for Human Rights Act, 2012

The act passed by the parliament of Pakistan for the foundation of a “National Commission for Human Rights” in 2012. It has thirty-four sections. The primary objective of the mentioned act was to speed up the process of the culmination of gender-based violence by setting up a “National Commission for Human Rights”. It also aims promotion and protection of human rights as provided for in the “Constitution of the Islamic Republic of Pakistan”. It also intends to abide by the several worldwide UN conventions and treaties to which Pakistan is a state party and is obliged to legislate in the light of the universal provisions of human rights.³⁶⁴

Section two of the act explains human rights as the rights to the protection of life, protection of the dignity of human beings, freedom of movement, and freedom of association. It also emphasizes the importance of the protection of the rights of women and girls. Section nine of the act describes the tasks of the established commission that it may initiate *suo-moto* action on any issue pertinent to gender-based violence or danger to the fundamental rights of an individual. A petition may also be placed before the commission by a person who is victim

³⁶³ The National Commission on the Status of Women (Amended) Act 2016, national-commission-on-the-status-of-women-bill-2012. Last Accessed on 23-11-23.

³⁶⁴ The National Commission on Human Rights Act 2012.

of violence. The commission has jurisdiction to interfere in any happening relating to any charge of destruction of human rights pending before a court. It is also authorized to suggest making new laws to improve the condition of women and girls. It can recommend change in the current body of law and adopt reformed administrative methods for effective execution of the new laws and of improved legislations. On the recommendation of the government, the Commission may look at any law and submit its opinions along with its observations on the consequences of the same legislation. The commission can analyze the causes that create hurdles in the way of the full exercise of fundamental human rights including acts of terrorism.³⁶⁵

Under this act, the commission has the authority to nominate any officer to visit any jail, place of custody, or any other body under the control of the government or its agencies, where trial prisoners, detainees, or other persons are kept. It has the power to evaluate the safety measures delivered by the government or under the Constitution or any other law enforcement agency for the protection of human rights. Among others, the commission may arrange to conduct research on different issues of women and individuals and may consult international bodies to make recommendations for the betterment of the victim and common man. The commission is also responsible for encouraging research in the arena of human rights and preserving databases on the complaints on the issues of gender-based violence and the harms of human rights norms. It is also obliged to create awareness about human rights to enhance the learning capacity of different segments of humanity and to promote consciousness of the precautions accessible for the protection of fundamental rights through

³⁶⁵ The National Commission on Human Rights Act 2012, section 6-11.

awareness spreading campaigns, conferences, social media, and schemes of studies at each level of education.³⁶⁶

The commission is responsible for developing a “national plan of action” for the advancement and defense of human rights and to provide a data-based independent reports to the government on the current situation of human rights in Pakistan for making it a part of internal reports. Section twenty-one is also very important as it describes that to achieve the objectives of the act and to fulfill the determinations of speedy trial of offenses against the violation of rights of people and of women, the Federal Government may, in consultation with Chief Justice of Islamabad High Court, authorize a “Court of Sessions” to be the Human Rights Court for that District to proceed with the crimes of human rights violations and shall publish it by notification in the official Gazette of Pakistan.³⁶⁷

3.2.8 The Punjab Fair Representation of Women Act of 2014

The ‘Punjab Fair Representation of Women Act 2014’ is a legislative measure aimed at promoting gender equality and ensuring adequate representation of women in various sectors within the Punjab region. This Act has amended the Statutes of 66 public bodies, to increase the representation of women to a minimum of 33% in each body. This legislation was historic and the first of its kind to increase the number of women in positions of authority within the public sector.³⁶⁸

³⁶⁶The National Commission on Human Rights Act 2012, section, 12-18.

³⁶⁷ Ibid, section 21.

³⁶⁸ The Punjab Fair Representation of Women Act of 2014 & The Punjab Land Revenue Act 2015.

3.2.9 Muslim Family Laws (Amendment) Act 2015

In 2015, the Punjab Provincial Assembly revised the Muslim Family Laws Ordinance (MFLO) of 1961 to include significant provisions for the protection of women. This legislation has been enacted to ensure expeditious disposal of family cases especially related to women's personal property, her maintenance, and dower. Women can now retain up to fifty percent of their dower, which they were previously obligated to return in the event of a *khula* (divorce by Judicial Order) application. Family Courts can now hear cases involving personal property, the wife's and child's possessions, and other matters arising from the *Nikahnama*. Family courts have been granted the authority to issue temporary maintenance orders and obtain proof of the husband's income and assets from his employer.³⁶⁹

Marriages that are not solemnized by a licensed *nikah* Registrar are punishable by up to three months in detention and a fine of up to Rs. 1,000. Marriages must now be registered by licensed *nikah* Registrars. *Nikah* Registrars are required to accurately complete all columns of the *nikahnama*. Failure to complete all columns will result in a fine of Rs. 25,000 and one month of imprisonment.³⁷⁰

If a descendant's son or daughter dies prior to the opening of succession, their surviving children inherit their parent's share. If a married man desires a divorce, he must receive approval from the Arbitration Council, which is led by the union council's chairman. A marriage cannot be registered without permission and is punishable by a fine of Rs. 500,000 and up to one year in prison, as well as the payment of the entire dower (if it was not delivered at the time of *nikah*) to the existing wife or wives.³⁷¹

³⁶⁹ Punjab Muslim Family Laws (Amendment) Act 2015.

³⁷⁰ Ibid.

³⁷¹ The Punjab Fair Representation of Women Act of 2014.

If a husband fails to provide for his wife or wives, they may file a claim with the Chairman of the Union Council, who will determine the appropriate amount of maintenance to be paid to the spouses and issue a certificate delineating the amount owed and the monthly due date. If a father neglects his children, the Chairman of the Union Council may also issue maintenance certificates.

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3.2.10 The Punjab Marriage Restraint (Amendment) Act of 2015

This law prohibits the marriage of minor girls. The parents or guardians of either party assist or plan the union of a minor (someone under 18) or a child, they will be held accountable. Parents and/or guardians who violate this law are subject to up to six months in prison and a Rs. 50,000 fine. Any adult who marries a female under the age of 16 is subjected to up to six months of imprisonment and a Rs. 50,000 fine. A *Nikah* Registrar who solemnizes or conducts a marriage between two children or a marriage between an adult and a female child will face the same punishment. Police/Union Council/Judicial Magistrate are able to receive complaints regarding marriages between minors.³⁷³ A complainant who wishes to report a case of child marriage is required to submit a grievance with the Union Council. After obtaining a report from the Chairman of the Union Council, the Family Court will punish the offender according to the above sanctions. The court may prohibit any party from solemnizing, arranging, or organizing a child marriage through an injunction (a court order prohibiting child marriage). Included are the betrothed, his parents or legal guardians, the *nikah* registrars, and every other participant.³⁷⁴

³⁷² The Punjab Fair Representation of Women Act of 2014.

³⁷³ The Punjab Muslim Marriage Restraint Act, 2015.

³⁷⁴ The Punjab Marriage Restraint (Amendment) Act of 2015.

3.2.11 The Punjab Land Revenue Amendment Act of 2015

The Punjab Land Revenue Amendment Act of 2015 is a legislative measure that introduced changes to the existing land revenue laws in the Punjab region. This legislation has amended Section 141 of the Punjab Land Revenue Act of 1967 to ensure that women are not discriminated against during the litigation process. Instead of requiring a party to register a civil action, the Revenue Officer is required to decide the question of the division of the property. This will end the practice of compelling women to relinquish their land ownership in favour of male progeny. In order to ensure that women receive their fair portion of inheritance, property distribution has been made obligatory following the approval of inheritance mutation. The revenue officer must determine the matter of the inheritance within six months. The mutation registration fee for the transmission of inherited property to women has been eliminated.³⁷⁵

3.2.12 Punjab Family Courts (Amendment) Act, 2015

This law was enacted to expedite the resolution of family cases, particularly those involving the personal property, maintenance, and dower of women. Women can now retain up to fifty percent of their dower, which they were previously obligated to return in the event of a khula (divorce by Judicial Order) application.

Family Courts can now hear cases involving personal property, the wife's and child's possessions, and other matters arising from the Nakahama. Family courts have been granted the authority to issue temporary maintenance orders and obtain proof of the husband's income and assets from his employer. Women are no longer required to return up to 50% of their dower in the event of a khula (divorce by judicial order) as was previously the case. Family

³⁷⁵ The Punjab Land Revenue Amendment Act, 2015.

courts now have the authority to make interim maintenance orders and request documentation of income and assets from the husband's employer, as well as deal with personal property disputes, possessions of the wife and child, and other Nikahnama-related issues.³⁷⁶

3.2.13 Women's Development Policy, 2016

The objective of the Punjab Women's Development Policy is to provide a structure for women's empowerment that promotes inclusive governance and development in Punjab. The purpose of this publication is to aid all interested parties and government agencies in their efforts to eliminate gender discrimination. Under the direction of the women's development department, the province's first women's development policy was devised, which was a difficult undertaking. This policy would promote gender equality across the province.³⁷⁷

3.2.14 The Criminal Law (Amendment) (Offence of Rape) Act, 2016

Through this Act Sections 376, 376A, 53A, 154, 161A, 164A, and 164B of Cr.P.C have been amended in order to deter rape. Rape, gang rape, the rape of minors, and the rape of people with disabilities are all crimes punishable by life in prison and a fine. Government employees who use their position to perpetrate rape (including rape in custody) face life in prison and a fine. A maximum of three years in jail and a fine may be imposed on anybody who prints or publishes the identity of a person who has allegedly been the victim of rape, gang rape, or outrageous modesty of a woman.³⁷⁸

The Provincial Bar Council should provide survivors of rape with legal assistance (as necessary). A rape trial must be concluded within three months, failing which the Chief Justice of the High Court will be notified and given the necessary instructions. All

³⁷⁶ Family Courts Amendment Act, 2016.

³⁷⁷ The Punjab Commission on the Status of Women, 2019.

³⁷⁸ The Criminal Law (Amendment) (Offence of Rape) Act, 2016.

proceedings under the Act shall be conducted behind closed doors, i.e. in secret, and shall not be open to the public.³⁷⁹

3.2.15 The Criminal Law/Pretext of Honor Act 2016

This regulation is intended to deter and sanction those who have committed honor killings against women. The killing of a woman in the cause of honor is referred to as "Fasad-fil-Arz" and is punishable by death or life in prison. Even if the accused is pardoned by the Wali or other family members of the victim for the murder of a woman committed for the sake of honor, the court will still sentence the accused to life in prison.³⁸⁰

This law is intended to deter and punish individuals who have murdered women for the sake of honor. The term "Fasad-fil-Arz" refers to the honor-based murder of women, which carries a death sentence or a life sentence in prison. In the event that a woman is murdered for reasons of honor, the Wali or other family members of the victim may grant the offender a pardon, but the court will still sentence them to life in jail.³⁸¹

3.2.16 The Prevention of Electronic Crimes Act, 2016

This act penalizes various categories of electronic crimes against women. According to Section 22 of the aforementioned Act, anyone who creates, distributes, or transmits pornographic material depicting young girls engaging in sexually explicit behaviour confronts up to seven years in prison and a fine of up to five million rupees. This Act imposes penalties for a variety of electronic offenses committed against women. According to Section 22 of the aforementioned Act, anyone who produces, distributes, or transmits pornographic material

³⁷⁹ Ali Shekhani, "Shaping Justice and Tracing the Evolution of Rape Laws in Pakistan," *Dawn*, September 25, 2023.

³⁸⁰ The Criminal Law (Amendment) (Pretext of Honour) Act, 2016.

³⁸¹ National HRCP Legislation Watch Cell, *Report on Criminal Laws Amendment Act* (Islamabad: HRCP, 2023), 55.

depicting young females engaging in sexually explicit behaviour faces a maximum penalty of seven years in prison and a fine of up to five million rupees.³⁸²

3.2.17 The Punjab Protection of Women against Violence Act, 2016

The Punjab Protection of Women against Violence Act was enacted with the objective of safeguarding women from various forms of abuse perpetrated by their spouses, brothers, adopted children, relatives, and domestic employers. These forms of abuse encompass domestic, sexual, psychological, and economic violence, as well as stalking and cybercrimes. The primary objective of this legislation is to provide protection for women against many forms of abuse, including domestic violence, sexual assault, psychological manipulation, financial exploitation, stalking, and cybercrimes. These offenses are perpetrated by individuals within their immediate familial circle, including as husbands, siblings, adopted children, relatives, and domestic employers.³⁸³

The District Women Protection Officer, Women Protection Officers, and District Women Protection Committees are authorized to investigate allegations of violence, remove victims from their homes, keep track of violent incidents, develop plans to protect victims, oversee the operation of the shelter and protection centre, and establish and oversee the district's protection system.³⁸⁴

3.2.18 Punjab Women Protection Authority Act 2017

The Act provides a comprehensive framework for the safeguarding, support, and reintegration of women who have experienced acts of violence. The establishment of this Authority was primarily aimed at facilitating, ensuring, and overseeing the implementation

³⁸² The Punjab Protection of Women against Violence Act, 2016.

³⁸³ Ibid.

³⁸⁴ The Punjab Protection of Women Against Violence Act, 2016. .

of institutional measures mandated by the Punjab Protection of Women against Violence Act 2016. These measures include the establishment of District Women Protection Committees, Violence against Women Centres, and the appointment of Women Protection Officers. Furthermore, the Act establishes a formal process for regularly educating public personnel on matters related to women's issues.³⁸⁵

3.2.19 Zainab Alert Response and Recovery Act 2020

The establishment of the Zainab Alert and Response Agency was prompted by the tragic incident involving the abduction, sexual assault, and homicide of a seven-year-old girl named Zainab in the Kasur region in January 2018. This agency was created with the objective of effectively addressing cases of missing and abducted children and facilitating their recovery.³⁸⁶ The “Act Zainab Alert, Response and Recovery Act 2020” was passed by the parliament of Pakistan in 2020 to overcome the issues of kidnapping, and abuse of minors. The contains 26 sections and the scope of the act is extended to the whole of Pakistan to cover issues of minor abuse and rape in any region all over the state. The introductory part of the cat explains the duties of the government to ensure the protection of the rights of women, particularly minors and children, and to provide them safety from all forms of violence, abuse, neglect, abduction, or exploitation. It also reaffirms the age of maturity the eighteen years, as mentioned in the various national and international legislations, pacts, treaties and mechanisms, relating to the rights of women and children, including, but not limited to, the United Nations Convention on the Rights of the Child ratified by Pakistan on 12th November,

³⁸⁵ The Punjab Protection of Women Against Violence Act , 2017.

³⁸⁶ Zainab Alert and Recovery Act, 2018.

1990. In its preamble, the act highlights the issue of abuse of minors and declares it a matter of national apprehension that teenagers under the age of maturity (eighteen years), are abducted, suffered severe violence, abuse, trafficking, rape and even death. Therefore, it is crucial and obligatory to develop a system with respect to introduce a policy of warning and awareness about the sensitivity of the issue among the people, as well as to take steps to respond and to recover missing and abducted children by way of speedy actions. All this should be done as precautions to avoid happening of dreadful incidents such as that of a “seven-year old Zainab, resident of district Kasur” suffered, who was abducted, raped and murdered in January, 2019.³⁸⁷

In this act a new and peculiar insertion has been made by adding the word "ZARRA" which means “Zainab Alert, Response and Recovery Agency”, formed under this Act of missing and abducted minors, male, and female. It defines a missing child as a child about whom a complaint is launched with the police or in respect of whom information is given to any “ZARRA” office or any other relevant authority assigned under this Act will be considered as missing because his location is not known to his parents or legal guardians. It also includes an escaped child irrespective of the circumstances and reasons of his/her being missing. It describes that if someone by will or force, threat, violence, coercion, or by any fraudulent means persuades any minor under eighteen years of age to move from one place to another it will be considered abduction and kidnapping as well-defined in the “Pakistan Penal Code 1860”. Likewise, if someone has kept a minor in his protection with or without seeking permission from his guardians and parents, it will be an illegal custody and the person

³⁸⁷ Zainab Alert and Recovery Act, 2018. <https://hrqp-web.org/hrqpweb/wp-content/uploads/2020/09/2023-LWC04-Criminal-Laws-Amendment-Act-2023.pdf>, Assessed on October, 12, 2023

shall be liable under this act. The “ZARRA” agency will accomplish its tasks under the administration of the “Director General” of Pakistan. It is responsible to initiate “Zainab alerts”, regarding the collection of data about the abducted and abused minor, male or female that may help in the identification of the kidnapped child, and this information will be spread among the public at large.³⁸⁸

For this purpose, the agency with the help of Pakistan Telecommunication Authority and “Pakistan Electronic Media Regulatory Authority will disseminate “Zainab alert” through SMSs, MMSs for its broadcasting and tickers and pronouncement on different channels such as television, radio, and social media. It will also arrange posters and will fix them on appropriate websites or online, print media, or any other available medium to report the case of abduction and kidnapping of a minor. All relevant offices and law enforcement agencies to whom these alerts shall be issued will take all necessary action for the recovery of the child on an urgent basis. The police station where a case of a missing or abducted child is reported shall, instantly within two hours after lodging the complaint inform the “ZARRA” about the missing adolescent occurrence and keep providing the latest position of the case and will provide it all available detailed information daily. The data of kidnapped or missing children will also be shared on an online database, maintained by the “ZARRA”. The police officer shall ensure that the required information will be part of the complaint. On recovery of the missing child, the medical team will examine minutely all the physical conditions of the missing or abducted child. The abductor will be punished under “sections 292-A--B, 323,

³⁸⁸Zainab Alert and Recovery Act, 2018.

328-A, 361, 362. 364, 364, 365, 366-A, 369, 369-A, 372, 373, 375, 377, and section 374 of the “Pakistan Penal Code”.

3.2.20 The Anti-Rape (Investigation and Trial) Act, 2020

This act was first issued as an ordinance by the president of Pakistan which was later on passed by the Parliament and titled “the Anti-Rape (Investigation and Trial) Ordinance 2020.” It has thirty one sections and is applicable all over Pakistan. The purpose of this legislation is to guarantee prompt resolution of rape and sexual abuse offenses targeting women and children. It aims to achieve this by establishing specialized investigation teams and courts that facilitate efficient procedures, expedited trials, access to evidence, and other relevant matters associated with or arising from such cases.³⁸⁹ In this act, section three is very important which describes the establishment of a special court to deal with the cases of rape, its trial, and inquiry. After consulting the “Chief Justice of Pakistan”, the President, will order to establish “Special Courts” throughout the country, in appropriate numbers as he thinks appropriate in light of the burden of cases upon the ordinary courts. The judge of the “Special Court” shall have equal authority and power to the “Court of Sessions”. The other important element of the act is that under section four it has established different “Anti-Rape Crisis Cells” in different “public hospitals with adequate medical facilities” at different districts and divisions throughout the country on the advice of the “Prime Minister of Pakistan”. At each

³⁸⁹ The Anti-Rape (Investigation and Trial) Act, 2020

district and division, the relevant “Commissioner or Deputy Commissioner” will supervise “The Anti-Rape Crisis Cells”.

After receiving the application from any person whether orally or in writing, or after getting information regarding the occurrence of rape in any area, the cell immediately arranges the registration of the first information report to the police station and will visit that specific place of rape happening and will collect all relevant evidence and as soon as possible. The cell will manage a “medico-legal examination” within six hours from the time of receiving of information and news of the crime. It will also ensure “forensic examination’ of the collected evidences and information and will perform all necessary tasks for timely and speedy trial. Section twelve offers an in-camera proceeding of the trial of the culprit. However, on its own or on the application of either party, the court may allow and consider any specific individual to attend the court proceedings or keep on staying in the court during trial.³⁹⁰

In the whole proceeding, the process of verifications of evidence, information, and examination of sufferers, suspects, and spectators will be video-recorded, will be in writing, and will be kept safe and preserved with caution.

Section fifteen allows the “Ministry of Law and Justice” to establish a “Special Committee”, that should be consist of suitable members and in such numbers as seems appropriate on the honorary basis. The committee will include members from different departments of the government at federal and provincial levels medical experts, members of

³⁹⁰ Zainab Alert and Recovery Act 2018, Section 12.

Parliament, retired judges, serving or retired public officers, members from some well-known “nongovernmental organizations” etc.³⁹¹

In its schedules, this act makes it clear that the crimes under sections “34, 365, 365A, 368, 369, 369A, 498A, 498C and 511 of the “Pakistan Penal Code, 1860” and crimes cited in this act are cognizable and triable as crimes.

3.3 Special Laws in Favor of Transgender Community

The constitution of Pakistan as supreme law of the land has certain articles that protect rights of every citizen including transgender such as “no person shall be deprived of life or liberty save in accordance with law”, here the word ‘person’ includes transgender as well. Likewise, it ensures dignity of every man and, privacy of home. It also states that no one shall be subjected to torture for the purpose of extracting evidence. All citizens including transgender are equal before the law and are entitled to equal protection of law and that there shall be no discrimination on the basis of sex”. The constitution also ensures equality among all “for appointment in the service of Pakistan and that in respect of any such appointment discrimination on the basis of race, religion, caste, sex, residence or place of birth is prohibited.”³⁹²

Article 377 of the Pakistan Penal Code 1860, which also made "obscene acts and songs" illegal, criminalized homosexual relationships because the subcontinent was under British control. The enactment of this particular provision within the 377 Penal Code elicited a profound reaction, as it resulted in the transgender community's withdrawal from public life

³⁹¹ Zainab Alert and Recovery Act 2018, Section 15.

³⁹² The Constitution of the Islamic Republic of Pakistan (The Official Gazette of Pakistan, April 12, 1973), article 9, 14 (i) (ii), 25 & 27.

and subsequent exposure to societal stigmatization and discrimination. The problem was exacerbated when further comprehensive legislation was enacted, incorporating "hijras" into the 377 Penal Code.

To ensure that transgender individuals are not subject to discrimination, the government has adopted certain measures in collaboration with PMDC, to evaluate medical curricula and enhance research for physicians and nursing personnel in order to address the unique health concerns of transgender individuals. To make it easier for transgender individuals to receive care by establishing a safe and welcoming environment for them in hospitals and other healthcare facilities; To ensure that transgender individuals have access to all necessary medical and psychological gender correction treatment.³⁹³

The Supreme Courts of Pakistan has made an effort to go beyond the conventional gender binary by recognizing their distinct gender identification as the "third sex." In 2009, when the Supreme Court mandated the addition of a third gender category to national identification cards, members of the historically oppressed group expected their situation to improve. The Supreme Court ruling, one of the most significant turning points in the transgender community's history, made it easier for them to find employment in government agencies such as the social welfare department and led to their appointment to teams responsible for polio vaccination, revenue collection, and local market rate checklists. Despite these advancements, the third-gender minority in Pakistan continues to face numerous obstacles.³⁹⁴

³⁹³ Pakistan Medical and Dental Council, *A Report on Health Policy in favour of Transgender* (Islamabad: PMDC, 2017), 23.

³⁹⁴ PLD 2009 SC 3467.

In 2012, in a case, '*Dr. Muhammad Aslam Khaki v. S.S.P. (Operations) Rawalpindi*', the Chief Justice of Pakistan issued a landmark ruling in which transgender community in Pakistan first time got recognition legally as a member of society under the title "third sex". It was anticipated that the legislative protections would progressively dispel the gender prejudices that have historically served to marginalize Pakistan's transgender minority. Transgender people are entitled to their fair share of property as specified by the law of inheritance without prejudice. The portion of transgender people would be calculated based on the gender stated on their CNIC.³⁹⁵

The 'Transgender Rights Protection Act, 2018' defines a transgender person as "someone who is intersex with a combination of male and female genital characteristics or congenital ambiguity; or born with ambiguous genitalia". A transgender man, transgender woman, *Khawaja Sara*, or any other individual whose gender identity or gender expression deviates from social norms and cultural expectations based on the sex they were assigned at birth. Eunuch is assigned male at birth, but is castrated or endures genital excision. No transgender person shall be denied the right to vote in elections for national, provincial, or local offices, so long as their access to polling locations is determined by the gender listed on their CNIC. Candidates for public office who are transgender must not face discrimination based on their sex, gender identity, or gender expression. No transgender person may be excluded from public spaces, entertainment facilities, or places of worship solely on the basis of his or her sexual orientation, gender identity, or gender expression. The government must ensure that transgender individuals have access to public accommodations. It is a violation of the law to prohibit transgender persons from using public facilities and public spaces. No

³⁹⁵ The Transgender Rights Protection Act, 2018.

transgender person shall be denied the right to purchase, sell, rent, or lease real estate, a home, or a tenancy on the basis of sex, gender identity, or gender expression. Any transgender person must not be subjected to discrimination based on his or her sex, gender identity, or gender expression when registering for a rental, sublease, or tenancy.³⁹⁶

The issue of inheritance of a transgender person will be decided in light of his/her physical affinity towards any gender, male or female. The part of inheritance for transsexual males will be assigned to men and the share of transsexual females will be allocated to women. The individuals who exhibit ambiguous features, such as being difficult to categories at birth, or who exhibit both masculine and female characteristics will be examined by medical board. In the case of a transgender individual reaching the age of majority, their inheritance will be distributed to the male gender. Once they reached the age of majority. A transgender person's inheritance will go to women if they identify as female. If the individual does not identify as either a man or a woman, then the inheritance share will be calculated as the mean of the two separate distributions for men and women. A medical officer will determine a minor's gender depending on whether they exhibit more masculine or feminine characteristics.³⁹⁷ This Act makes the government bound to establish 'Protection Centres' and 'Safe Houses' to ensure the rescue, protection, and rehabilitation of transgender persons in addition to providing medical facilities, psychological care, counseling, and adult education to them".³⁹⁸

Later on, the Act 2018 became a matter of debate on the issue of defining gender identity by way of 'self-perceived identification' by the person concerned which led legality

³⁹⁶ Transgender Rights Protection Act 2018, section 2-3.

³⁹⁷ *ibid*, section, 7-10.

³⁹⁸ *ibid*, section 6.

of homosexual marriage and made the issue of gender identification secondary that is against the clear message of the Qur'an and Sunnah (pbuh).³⁹⁹

In 2021, the “Transgender Person (Amendment) Act 2021” was passed through which certain landmark amendments were brought in the ‘Act 2018’. It contains only 6 sections. The wording of ‘section 2, sub-section (1) clause (n) of the ‘Act 2018’ was about the definition of transgender particularly, about an eunuch who experienced genital removal or castration or whose gender identity is different from the set social and cultural prospects of the gender at the time of their birth, declared omitted.⁴⁰⁰ In the same manner, section 3 of the Act 2018 was also amended and the words “per her/his self-perceived identity” used in different clauses of the mentioned section have been replaced with the words “per the advice of medical board”. The ‘Act 2021’ also inserted a new subsection 3-A that recommends formation of a “Gender Re-assignment of a Medical Board” to investigate the issue and to decide finally, gender tendency in a transgender person, male or female. Another addition in the act is section 12-A which prohibits surgery on the basis of desire of a transgender or psychological disorder or due to any emotional disease.”⁴⁰¹

Critical Analysis

Despite these legal instruments, the majority of legislation both international and national—focuses on gender discrimination broadly and not GBV specifically. This results in a gap between legal commitments and the lived realities of women who suffer violence.

CEDAW required interpretive recommendations (GR 19 & 35) to address GBV, indicating a lack of initial clarity. Consequently, state parties like Pakistan can comply with

³⁹⁹ Transgender Person (Amendment) Act, 2021.

⁴⁰⁰ *ibid*, section 2.

⁴⁰¹ *ibid*, section 12-A.

reporting obligations without addressing violence in a tangible way. This delayed and indirect approach weakens accountability mechanisms.

In Pakistan, legislative fragmentation hinders effective protection. The Anti-Rape Act of 2021, while promising, suffers from poor implementation due to inadequate forensic labs, lack of training for police, and weak victim protection systems (HRCP, 2022). Domestic violence laws, though comprehensive on paper, are under-enforced due to cultural norms and institutional apathy. For instance, police often treat domestic violence as a private matter, discouraging formal complaints.

The Ghag Act (2013) and Child Marriage Restraint Acts target harmful practices but face implementation failure in tribal and rural areas, where customary laws dominate. Informal justice systems (jirgas and panchayats) often override statutory law, reflecting a disconnect between legal frameworks and local realities (UNFPA Pakistan, 2020).

Overall, both international and domestic legal frameworks need to move beyond general anti-discrimination rhetoric and enact clear, enforceable protections against GBV, supported by institutional reform, education, and victim-centered approaches.

Loopholes in Gender Discrimination Laws In Pakistan

While Pakistan has enacted several laws aimed at curbing gender discrimination—such as the *Protection Against Harassment of Women at the Workplace Act (2010)*, the *Punjab Protection of Women Against Violence Act (2016)*, and constitutional provisions under Article 25 ensuring equality—there remain significant loopholes that undermine their effectiveness. One of the core issues is the limited scope and inconsistent implementation of these laws. For instance, anti-harassment legislation largely focuses on formal workplaces, leaving out vast sectors of the economy such as informal domestic work, agriculture, and home-based industries

where a large number of women are employed and frequently subjected to abuse. Additionally, many laws lack clear definitions of terms like "gender discrimination" or "hostile work environment," making it difficult for victims to build a strong legal case. Another major flaw is the absence of legal protection for gender minorities, particularly transgender and non-binary individuals, despite the passage of the *Transgender Persons (Protection of Rights) Act (2018)*. Implementation of this law has been weak, and social and institutional resistance continues to prevent transgender individuals from accessing equal opportunities in education, employment, and public services.

Moreover, enforcement mechanisms are often ineffective or under-resourced. Police officers and judicial staff are frequently untrained in gender sensitivity, leading to victim-blaming attitudes and poor handling of cases. Women who report discrimination or harassment often face secondary trauma due to institutional apathy, delayed investigations, or hostile cross-examinations in court. Furthermore, legal remedies are costly and time-consuming, discouraging victims from pursuing justice. There is also minimal monitoring and accountability of employers or public institutions in enforcing gender equality policies, which results in widespread non-compliance. In some cases, cultural and religious interpretations are misused to override legal protections, especially in family law matters such as inheritance, divorce, and child custody, where women's rights are often compromised. These loopholes collectively create an environment where gender discrimination persists despite the presence of legal protections, highlighting the urgent need for legal reform, gender-sensitive training, and stronger institutional accountability.

Conclusion

Chapter three ends with the conclusion that there are a lot of legislations made by the United Nations Organization to combat gender-based violence. Likewise, the Pakistani government has made many laws for the protection of the rights of women, children, and transgender. For transgender persons, the Pakistani government has enacted a wonderful law that was amended and improved as per the rules natural biological structure of a person and the rules of Islam. However, the issue of gender-based violence could not be resolved. The crucial reason is that in Pakistan, law enforcement agencies are less concerned with their duties and are reluctant to take strong actions against the cases of women and other segments of society. There are different legislations in favour of women and transgender. After women, the transgender community is the second most miserable segment of society that is facing a lot of problems for its survival. Apparently, existing laws seem ineffective. However, the Supreme Court ruling became a turning point in favor of this community. This ruling has made it easier for transgender to be treated equally and to get employment in government agencies under special quotas.

CHAPTER FOUR

DEVELOPMENT OF GENDER-BASED VIOLENCE COURTS

Introduction

This chapter provides a detailed examination of the establishment and development of gender-based violence (GBV) courts in Pakistan, which were created to specifically handle cases involving violence against women and other gender-related offenses. The introduction of these specialized courts represents a significant step towards addressing the longstanding issue of gender-based violence within the country's judicial system. These courts aim to offer a more victim-sensitive approach, ensuring that survivors of GBV receive justice in a timely and dignified manner. The chapter focuses on answering the third research question, which seeks to understand the legal foundation upon which these courts were established, the objectives they aim to achieve, their jurisdiction, and the range of functions they perform in the context of combating gender-based violence.

In addition to discussing the structure and operational framework of GBV courts, this chapter evaluates their performance by drawing upon relevant legislative enactments, judicial decisions, and case law. It highlights the role of these courts in providing expedited trials, reducing procedural delays, and creating a more survivor-friendly environment within the justice system. The chapter further illustrates how the courts have functioned in practice by analyzing notable cases that have passed through them, showcasing both their successes and challenges. This evaluation not only offers insight into the effectiveness of the GBV courts but also sheds light on areas that require further improvement to ensure that survivors of gender-based violence can access justice without fear or intimidation.

4.1. Definition and Development of Gender-Based Violence Courts

The effectiveness of the judicial system in rendering justice for victims of violence is a crucial component of the state's commitment to ending violence against women.

Many nations such as Australia, the United Kingdom, Malaysia, and India have extensively acknowledged the significance of special courts to deal with the GBV. These courts have increased victim and survivor access to justice while also increasing conviction rates like 65% of all tried cases in South Africa and 78% in Spain, which has increased deterrence against comparable crimes. By strictly enforcing special protection measures, these courts have also substantially bolstered public faith in the ability of state institutions to administer justice.⁴⁰²

⁴⁰² John Zorza, *Violence against women* (Princeton: Civic Research Institute, 2004) 32; Geraldine Terry, *Gender-Based Violence* (Nairobi: Oxfam, 2007), 79.

4.2 A Global Overview of Gender-Based Violence Court

In 1993, Chile was the first ever country to establish a specialized court exclusively dedicated for the purpose of adjudicating GBV cases. This court was structured in the city of Vina del Mar and is commonly known as “Tribunal de Familia de Vina del Mar.”⁴⁰³ The primary objective for the establishment of said GBV court was catering to the necessities and fears of GBV sufferers and to make access to justice easy and accessible for them. The creation of the GBV Court in Chile, proved to be a significant initiative of the Government to curb an alarming ratio of GBV cases and provide an accessible redressal within the justice system.⁴⁰⁴ Afterward, various other states, following the footsteps of Chile, also formed GBV courts to entertain GBV-related matters which are discussed as follows:

4.2.1. Australia

In 1999, South Australia established the first dedicated GBV court at Elizabeth. Domestic abuse, molestation, harassment, and other kinds of GBVs are all effectively covered by Australia's extensive legal framework.⁴⁰⁵ Federal and territorial laws play a vital role in deterring and prosecuting these kinds of crimes. Several Australian jurisdictions formed GBV courts dedicatedly for handling domestic abuse. These courts provided a well-tailored method for resolving domestic and gender targeted violence matters.⁴⁰⁶

Support programmes have been established in Australia for GBV sufferers. These services include legal aid, counselling, and shelters for victims of domestic abuse. In order to

⁴⁰³ Soledad Larrain, *Country's Assessment on Violence against Women in Chile* (Santiago: United Nations Human Rights Council, 2009), 6.

⁴⁰⁴ Ibid.

⁴⁰⁵ Australian Law Reform Commission, “Just Partners: Family Violence, Specialist Courts and the Idea of Integration,” Paper Presented at Annual Conference, Canberra, May 22, 2008.

⁴⁰⁶ Micheal King and Becky Batagol, “Enforcer, manager or leader? The judicial role in family violence courts,” *International Journal of Law and Psychiatry* 33 (2010): 406.

inaugurate public attention regarding GBV and to encourage reporting, a number of community awareness initiatives and campaigns are carried out therein.⁴⁰⁷ These initiatives also aim to combat the cultural beliefs and practices that fuel violence.⁴⁰⁸

A coordinated strategy for preventing and encountering gender-based violence has been outlined in “Australia's National Plan to Reduce Violence against Women and their Children”. The community, non-governmental organizations, and government agencies work together on this strategy.⁴⁰⁹ In order to improve the protection of survivors, certain Australian jurisdictions have put in place technology-based programs. One such project is the deployment of electronic monitoring devices, which follow the activities of offenders and send out real-time warnings to them.⁴¹⁰

Judges, public prosecutors, advocates, and police officers are among the legal professionals who receive training on how to tackle situations pertaining to gender-based violence with empathy and compassion.⁴¹¹ Understanding the power and control dynamics present in said situations is part of this training.

The remarkable precedent encapsulating the most highlighted GBV case in Australia is *Queen v Kilic (2016)*.⁴¹² The crux of the case is that the victim’s wife was twelve weeks pregnant when the accused husband set her on fire, seriously injuring her. She decided to abort her pregnancy after the incident because her injuries were incurable. The GBV court imposed a 15-

⁴⁰⁷ Robyn Lea Holder, “The Emperor's New Clothes: Court and Justice Initiatives to Address Family Violence,” *Journal of Judicial Administration* 16 (2006): 30.

⁴⁰⁸ Ibid.

⁴⁰⁹ National Plan to Reduce Violence against Women and their Children in Australia (A 12-year Strategy Endorsed by Commonwealth States), 2022.

⁴¹⁰ Ibid.

⁴¹¹ Micheal King and Becky Batagol, “Enforcer, manager or leader? The judicial role in family violence courts,” *International Journal of Law and Psychiatry* 33 (2010): 404.

⁴¹² *Queen v Kilic*, (2016) HCA 48

year prison sentence on the accused. Following the accused's appeal, the Court of Appeal reduced the defendant's punishment to ten years and six months imprisonment, finding that this was "manifestly excessive" in comparison to prior cases of serious fire injury.⁴¹³ The High Court of Australia ruled that the appellate court erred in reducing the sentence and hence maintained the punishment of appellant/convicted as awarded by GBV Court.

4.2.2. Malaysia

Malaysia's first GBV Court was formed in 1999 in Kuala Lumpur. Malaysia has enacted laws, such as the "Domestic abuse Act of 1994"⁴¹⁴ and "Sexual Offences against Children Act of 2017,"⁴¹⁵ to combat various kinds of GBV abuse. Basic purpose of these laws is to shield people from sexual offences and domestic abuse. GBV Courts were founded in Malaysia with the purpose of handling cases pertaining to domestic and gender based violence and offering a more targeted approach to treat such situations.⁴¹⁶

Legal aid services are provided by Malaysian justice system to victims of gender-based abuse. Support services are provided to offer help and protection, such as counselling and victim shelters.⁴¹⁷ There have been campaigns to break down social norms that support violence, increase reporting, and upgrade public awareness of gender-based violence.⁴¹⁸ Collaborations between NGOs, community organizations, and government agencies are common in these programmes.

⁴¹³ *Queen v Kilic*, (2016) HCA 48.

⁴¹⁴ Domestic Abuse Act (Act No. 521 of 1994), (The Official Gazette of Malaysia, Extraordinary Part II, July 7, 1994).

⁴¹⁵ Sexual Offences against Children Act (Act No. 792 of 2017), (The Official Gazette of Malaysia, Extraordinary Part I, July 10, 2017).

⁴¹⁶ Nazli Mahdzir, "Domestic Violence Court: A New Model to Combat Domestic Violence against Women in Malaysia," *UUM Journal of Legal Studies* 7 (2016): 95.

⁴¹⁷ Sajaratulnisah Othman, "Domestic Violence Management in Malaysia: A Survey on the Primary Health Care Providers", *Asia Pacific Family Medicine* 7 (2008):2

⁴¹⁸ Ibid.

Judges and prosecutors are among the legal professionals who receive training in handling instances involving gender-based violence. A survivor-centric approach, awareness of power dynamics, and sensitivity to the needs of survivors are a few examples of this subject that may be covered under such training.⁴¹⁹ In order to make it easier for GBV victims to report incidents, hotlines, and sophisticated reporting systems have been set up. These services connect survivors with appropriate support services and offer them urgent assistance and guidance.⁴²⁰ Malaysia has looked into using technology to combat gender-based violence. Examples of such programs include online and mobile platforms that offer reporting tools, information, and support.

One of the landmark cases adjudicated by Malaysian GBV courts is “*Lee Lai Ching v Lim Hooi Teik* (2017),”⁴²¹ in this case, a mother claimed that it was in the child's best interest to find out who his biological father was, and she applied to the GBV Court to force the defendant to take a DNA test in order to establish paternity. The GBV Court reasoned that when necessary, courts have used international conventions and treaties, to which Malaysia is a signatory to settle disputes.⁴²² Paternity tests have been mandated in Canada, France, Germany, China, the United Kingdom, and the United States (US), according to the GBV Court. The GBV Court determined that Article 7 of the CRC guarantees a child's right to know and receive care from his or her parents⁴²³ and was applicable in this instance since it complied with the Federal Constitution, national legislation, and national policies of the Malaysian government.

⁴¹⁹ Abdulfatai O. Sambo and Abdulkadir B. Abdulkadir, “Legal Approach To Domestic Violence In Malaysia And Nigeria: An Expository Study of The Experience In Selected Jurisdictions,” *LNS* 1 (2012): 15.

⁴²⁰ Ibid.

⁴²¹ *Lee Lai Ching v Lim Hooi Teik*, (2017) 10 MLJ 331.

⁴²² Ibid.

⁴²³ Convention on the Rights of Children 1989, Art.7.

4.2.3. United Kingdom

Leeds became home to the first specialized GBV Court in Wales and England in 1999. The UK possesses a strong legal system that tackles gender-based violence. Notable laws include the “Domestic Abuse Act, 2021”, which enhances victim safeguards and establishes a legal definition of domestic abuse.⁴²⁴ The UK has Family Courts and dedicated domestic/gender violence courts that deal with matters involving domestic abuse.⁴²⁵ These courts are intended to give survivors a more concentrated and encouraging setting.⁴²⁶

For victims of gender-based violence, the UK provides a variety of support services, such as hotlines, shelters, and counselling.⁴²⁷ Groups like Refuge and Women's Aid strive to support and help sufferers of domestic abuse. Judges and prosecutors are among the legal professionals who receive training in handling instances involving gender-based violence. A survivor-centered approach in court proceedings, trauma-informed practices, and an awareness of the dynamics of power and control are a few such examples.⁴²⁸

National Action Plans have been created by the UK government to reduce violence against women and transgender. These plans stress a coordinated response from all sectors and include efforts for prevention, protection, and care for survivors. In order to raise public awareness of gender-based violence and to promote reporting, the UK runs campaigns and community awareness programs. The goal of these efforts is to question cultural norms that support violence. Technology-based solutions to improve survivor support have been

⁴²⁴ Domestic Abuse Act, 2021.

⁴²⁵ Mandy Burton and Amanda L Robinson, “Enhancing Safety and Justice: The Role of Specialist Domestic Violence Courts in England and Wales,” *Fordham Law Review* 3 (2006):32.

⁴²⁶ Ibid.

⁴²⁷ Domestic Abuse Commissioner, *The Family Court and Domestic Abuse: Achieving Cultural Change* (London: Parliament of United Kingdom, 2023), 66.

⁴²⁸ Ibid.

investigated in the UK. This covers the provision of information, support, and reporting channels through the use of helplines, mobile apps, and internet platforms.⁴²⁹ In the UK, survivors of gender-based violence can access legal aid assistance as well. This guarantees that people will be able to obtain legal counsel and assistance during the legal process.

One of the remarkable cases decided by the GBV court is “*The State of New South Wales v Amery (2006)*”.⁴³⁰ In this case, “New South Wales Department of Education and Training's policy” and practices limited the temporary teachers' pay scales at level 8, so excluding them from the highest level of compensation. Thirteen female temporary teachers filed a lawsuit, claiming that there was a gender gap/discrimination between temporary and permanent teachers and that only permanent personnel were eligible for the highest pay rates. Out of the thirteen female teachers, eleven accepted temporary jobs instead of permanent ones because of their family obligations, and the other two applied for permanent jobs but were limited in their areas of work due to family matters. The GBV court reasoned that while it would be challenging to develop and implement the second option, paying extra awards to people who had family responsibilities, making extra awards to women alone would be discriminatory against men.⁴³¹ The court concluded that there was no indirect discrimination as a result.

3.2.4. Bangladesh

Bangladesh, like a lot of other nations, has realized that gender-based violence must be addressed through an effective legal system. In order to define and punish particular the GBV-related offences, legislative amendments were put into place, which laid the groundwork for the

⁴²⁹ Domestic Abuse Commissioner, *The Family Court and Domestic Abuse: Achieving Cultural Change* (London: Parliament of United Kingdom, 2023), 66.

⁴³⁰ *The State of New South Wales v Amery*, (2006) HCA 14.

⁴³¹ Ibid.

operation of specialized courts.⁴³² Bangladesh started the process of establishing specialized GBV courts in 2009, in accordance with international initiatives. These courts are intended to entertain gender-based assault claims with an emphasis on efficiency and sensitivity.⁴³³

To adjudicate GBV cases, judges, prosecutors, and court employees in these specialized GBV courts usually receive special training. This training program covers issues including cultural sensitivity, legal knowledge, and the psychological effects of gender-based violence.⁴³⁴ In Bangladesh, GBV courts frequently incorporate victim support services into their daily operations. To help survivors through the legal process, this involves offering them counseling, legal aid, and other forms of support.⁴³⁵

One of the most important aspects of the GBV court in Bangladesh is the judicial process that guarantees the safety and protection of survivors. Efforts are made to avoid intimidation or retaliation, and procedures are put in place to protect survivors' and witnesses' security and privacy.⁴³⁶

In Bangladesh, GBV courts usually cooperate with social services, law enforcement, and other pertinent organizations. The goal of this unified approach is to expedite the legal procedure and offer survivors all-encompassing help. In Bangladesh, initiatives are undertaken to increase public knowledge of the existence and functions of GBV courts. Campaigns for public education aim to teach the public on the legal options open to survivors and to promote the reporting of incidents of gender-based violence. Monitoring and assessment of GBV courts' efficacy are

⁴³² Dr. Zakia Afrin, "Combating Domestic Violence in Bangladesh: Law, Policy and Other Relevant Considerations," *Annual Survey of International and Comparative Law* 22 (2017): 9.

⁴³³ Ibid.

⁴³⁴ Jamila A Chaudhry, "Unveiling the True Extent of Family Violence in Bangladesh: A Retrospect," *Pakistan Journal of Women's Studies: Alam-e-Niswan* 19 (2012): 135.

⁴³⁵ Ibid.

⁴³⁶ Noor Muhammad Sarkar and Sultana Yasmin, "Domestic Violence in Bangladesh: Analyzing from the Contemporary Peace & Conflict Perspectives," *Peace and Security Review* 5 (2013): 74.

common practices.⁴³⁷ This entails evaluating case results, gauging survivors' contentment with the legal system, and pinpointing areas in need of development.

A remarkable GBV case law decided by the Bangladeshi GBV Court is “*Bangladesh National Women’s Lawyers Association v Government of Bangladesh and others (2011)*.”⁴³⁸ In this case, the Bangladesh “National Women's Lawyers Association (BNWLA)” brought a lawsuit before the GBV Court of Bangladesh under Article 102 of the Constitution of Bangladesh to address the abuse and exploitation of young girls in Bangladesh who work as domestic servants. The BNWLA said that girl child domestic workers are denied an education, subjected to physical and psychological abuse, and exploited economically; all in violation of their basic constitutional rights. It included numerous accounts of severe mistreatment experienced by juvenile domestic servants to bolster these claims. The GBV Court examined Bangladesh's existing legal framework in resolving this matter, including the “Bangladesh Labor Act, 2006”, which does not provide labor rights to "domestic workers," including minors, and is not adequately implemented or enforced. The National Elimination of Child Labor Policy 2010 must be implemented, the “Bangladesh Labor Act, 2006” must be applied to domestic workers, and children under the age of 12 cannot work in any capacity, including domestic settings.⁴³⁹ The GBV Court ordered the government of Bangladesh to take immediate action to strengthen and safeguard of fundamental rights of child domestic labores. Furthermore, the GBV Court directed the government to enforce mandatory health examinations, keep track of and prosecute cases of violence against child domestic workers, establish a registry of domestic workers and their

⁴³⁷ Noor Muhammad Sarkar and Sultana Yasmin, “Domestic Violence in Bangladesh: Analyzing from the Contemporary Peace & Conflict Perspectives,” *Peace and Security Review* 5 (2013): 74.

⁴³⁸ *Bangladesh National Women’s Lawyers Association v Government of Bangladesh and others*, Writ Petition No. 8769 of 2010.

⁴³⁹ The Bangladesh Labor Act (Act No. XLII of 2006), (The Official Gazette of Bangladesh, Extraordinary Part I, October 11, 2006).

locations in order to prevent human trafficking; and fortify the laws pertaining to child domestic workers.⁴⁴⁰

4.2.5. India

The “Protection of Women from Domestic Violence Act, 2005,”⁴⁴¹ the “Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013,”⁴⁴² and amendments to the Indian Penal Code, 1860 to address crimes like rape and dowry harassment are just a few of the laws that India has put in place to address gender-based violence.⁴⁴³ West Bengal state hosted India's first GBV court, which opened its doors in 2013 to tackle crimes against women. These courts, led by two female judges, are the first in a planned series and also have all women staff including judges, lawyers, and court employees.⁴⁴⁴ The goal of GBV courts is to provide survivors of gender-based violence with a more effective and considerate legal process while also accelerating trial times.

These special courts' judges and staff members are well-trained to handle cases related to GBV sensitively. The psychological repercussions of such brutality, cultural sensitivity, and the subtleties of the pertinent legal rules are all covered in this training session.⁴⁴⁵ A lot of work has been done by incorporating victim support programs within the court system. For helping

⁴⁴⁰ *Bangladesh National Women's Lawyers Association v Government of Bangladesh and others*, Writ Petition No. 8769 of 2010.

⁴⁴¹ Protection of Women from Domestic Violence Act (Act No. 43 of 2005), (The Official Gazette of India, Extraordinary Part II, September 13, 2005).

⁴⁴² Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act (Act No. 14 of 2013), (The Official Gazette of India, Extraordinary Part II, April 22, 2013).

⁴⁴³ The Indian Penal Code (Act No. 45 of 1860), (The Official Gazette of India, Extraordinary Part I, June 10, 1860).

⁴⁴⁴ Preeti Krishnan and Mangala Subramaniam, “Gender, Domestic Violence, and Patterns of Conviction: Analysis of India's Supreme Court Rulings,” *Contemporary Perspectives in Family Research* 9 (2015): 45.

⁴⁴⁵ Dr Surepalli Prashanth, “Domestic Violence against Women: Judicial Approach of Indian GBV Courts,” *International Journal of Law Management and Humanities* 5 (2021): 1291.

survivors to tackle aftermath probabilities of GBV and navigating legal system, this involves offering them counselling, legal aid, and other forms of support.

Survivor protection measures are frequently incorporated into GBV courts and legal procedures. This could entail protecting the privacy of witnesses and survivors as well as taking precautions against intimidation or reprisal. In order to effectively combat GBV, cooperation between judiciary, law enforcement, and social services is essential.⁴⁴⁶ The goal of this unified approach is to expedite the legal procedure and offer survivors all-encompassing help.⁴⁴⁷

Public knowledge of the legal protections and resources available to victims of gender-based violence is working to increase. Campaigns for public education aim to educate the public about legal options and reporting procedures. It is necessary to monitor and assess how well specialized GBV courts and legislative measures are working to combat gender-based violence. This entails evaluating case results, gauging survivor satisfaction, and pinpointing areas where the judicial system needs to be improved.⁴⁴⁸

The prominent Indian Case law dealing with gender based violence includes “*Mackinnon Mackenzie and Co. Ltd v. Audrey D’Costa and Another (1987)*,”⁴⁴⁹ in this case, while interpreting national law, the Supreme Court of India took into account European jurisprudential practice in the same sector as well as Convention No. 100 of the International Labor Organization. It was discovered that Ms. D’Costa had been paid significantly less than her male coworkers who had done work of equal importance. The absence of a man in the same position within the company did not matter because the equal compensation principle stipulated that workers who performed

⁴⁴⁶ Dr Surepalli Prashanth, “Domestic Violence against Women: Judicial Approach of Indian GBV Courts,” *International Journal of Law Management and Humanities* 5 (2021): 1291.

⁴⁴⁷ Ibid.

⁴⁴⁸ Preeti Krishna and Mangala Subramaniam, “Gender, Domestic Violence, and Patterns of Conviction: Analysis of India’s Supreme Court Rulings,” *Contemporary Perspectives in Family Research* 9 (2015): 47.

⁴⁴⁹ *Mackinnon Mackenzie and Co. Ltd v. Audrey D’Costa and Another*, (1987) 2 SCC 469.

similar jobs as well as those who performed different work that was deemed to be equally valuable should receive the same compensation. The Supreme Court ruled, "It is necessary to set out the relevant legal provisions governing the case before dealing with the contentions of the parties."⁴⁵⁰ The Indian Constitution states in Article 39(d) that the State shall, among other things, focus its policy on ensuring that men and women receive equal compensation for equal effort.⁴⁵¹

4.3 Gender-based Violence Courts in Pakistan

While the establishment of Gender-Based Violence (GBV) courts in Pakistan represents a significant step towards improving access to justice for survivors, their effectiveness has faced considerable criticism. One of the primary concerns is that these specialized courts often operate within the same broader judicial system that is deeply influenced by patriarchal norms and biases against women. Judges, prosecutors, and law enforcement officials frequently exhibit discriminatory attitudes, which can undermine the objectives of these courts. Survivors often face hostile cross-examinations, victim-blaming, and a lack of sensitivity from court staff, which discourages many women from pursuing legal action. Despite the formal structure of GBV courts, the deeply rooted cultural and institutional barriers continue to erode their impact.

Another notable criticism is the inconsistent implementation and accessibility of GBV courts across the country. While urban centers may benefit from relatively better-functioning specialized courts, rural and remote areas often lack these facilities altogether. This creates a

⁴⁵⁰ *Mackinnon Mackenzie and Co. Ltd v. Audrey D'Costa and Another*, (1987) 2 SCC 469.

⁴⁵¹ The Constitution of India (The Official Gazette of India, January 26, 1950).

significant disparity in access to justice, leaving a large segment of vulnerable women without proper legal recourse. Moreover, procedural delays and adjournments remain a persistent problem even in these special courts, defeating their very purpose of providing expedited justice. Survivors frequently endure lengthy trials, during which they remain exposed to threats, pressure, and intimidation from perpetrators and their families, leading many to abandon their cases.

Lastly, the effectiveness of GBV courts is further compromised by weaknesses in the overall legal and law enforcement systems. Police investigations into GBV cases are often inadequate, with officers either unwilling or unequipped to collect proper evidence. Corruption, political influence, and out-of-court settlements further obstruct the judicial process. Even when convictions occur, lenient sentences and the frequent use of forgiveness laws (Qisas and Diyat) enable perpetrators to escape meaningful punishment. Critics argue that without comprehensive reforms addressing these systemic flaws, GBV courts will remain limited in their capacity to deliver justice and reduce gender-based violence in Pakistan.

The gender-based violence courts are the courts in which legal principles extracted from international law and domestic law are applied in gender-based violence cases to cope with gender-based violence crimes in society. The establishment of Special Courts for Gender Based Violence (GBV) has been authorized according to Section 3 of the Anti-Rape (Investigation and Trial) Ordinance, 2020. The first court of this kind in Pakistan was opened in Lahore by the Lahore High Court's Chief Justice Syed Mansoor Ali Shah in the Lahore Judicial Complex. The Chief Justice of Pakistan made an announcement regarding the establishment of over 1,000 specialized courts aimed at addressing the issue of violence against women in the country.

The specialist District and Sessions Court in a specific province or region is designated as a Gender-Based Violence (GBV) Court. Upon receipt of the Challan charge sheet, the court is vested with the jurisdiction to implement the precise measures defined in the General Protections Orders.⁴⁵²

This development highlights the recognition of the urgent attention required for addressing gender-based violence and provides legal safeguards for these existing courts. The implementation of special procedures at ‘gender-based violence courts’, aims to lessen the obstacles and difficulties victims encounter in their pursuit of justice.⁴⁵³

In accordance with the ‘Practice Note for the Model Gender-Based Violence Court’, as approved by the Lahore High Court, it is imperative for a court to consider protective orders while issuing summonses to victims or witnesses. The presiding court may potentially issue a direction inquiring about the necessity of police security. The process server is advised to promptly contact the appropriate superintendent of the police cell and is further directed to provide the court with any updates regarding the arrangements made. In order for the protection orders to be effectively enforced, it is imperative that the superintendent of the police cell ensures their enforcement.⁴⁵⁴

This initiative is a response to the persistent problem of violence against women in Pakistan, which encompasses a wide range of offenses such as rape, acid attacks, sexual assault, kidnappings, and so-called honour killings. Activists have long criticized the criminal justice system in Pakistan for its perceived negligence in effectively addressing this issue, as

⁴⁵² Anti-Rape (Investigation and Trial) Ordinance, 2020, section, 3; John Zorza, *Violence against women* (Princeton: Civic Research Institute, 2004), 32.

⁴⁵³ Ibid.

⁴⁵⁴ The Government of Punjab, *Practice Note for the Model Gender-Based Violence Court*, 23 <https://pcsw.punjab.gov.pk/system/files/>. Last accessed on 23-10-23.

the country witnesses thousands of cases of violence against women each year. The constant harassment of the accused, along with improper interrogation by trial defence attorneys, and societal shame in our culture. Gender-based violence courts fundamentally strive to remove the difficulties these victims and survivors experience.⁴⁵⁵

The organization of the Gender-Based Violence Court strictly adheres to the policies and procedures enumerated in “The Salman Akram Raja v. Government of Punjab”, decision, the Criminal Procedure Code (CrPC), the Pakistan Penal Code (PPC), and the provisions of the Qanun e-Shahadat Order (QSO).⁴⁵⁶ The Gender-Based Violence Court employs proper court procedures, efficient case management, and a conducive environment. These courts are presided over by specialized judges who are sensitive to gender issues and have a thorough comprehension of the various laws and the human rights of women. Additionally, the “Gender-Based Violence Courts” employ specialized prosecutors. These difficulties reflect not just the legal obstacles that women and girls face on a daily basis but also the social, structural, and systemic problems they face.

4.3.1. Objectives of Gender-Based Violence Courts

The primary purpose of gender-based violence courts is to facilitate the gender-sensitive prioritization and disposition of cases involving gender-based violence offenses. The implementation of special procedures, of GBV (gender-based violence) courts, aims to lessen the obstacles and difficulties victims encounter in their pursuit of justice.

These courts operate with the following objectives in mind: shortening trial times; establishing a safe environment and space for victims and survivors through the

⁴⁵⁵ Zeeshan Ahmad, “Court to deal with gender-based violence cases,” *Sharp Pakistan*, October 27, 2017. <https://sharp-pakistan.org/court-deal-gender-based-violence-cases-opens-lahore/>, Assessed on 12-10- 2023.

⁴⁵⁶ Salman Akram Raja v. Government of Punjab, 2013 SCMR 203.

implementation of special protection measures; enhancing victims' and survivors' interactions with the criminal justice system through the adoption of victim-centric approaches and the elimination of insensitive treatment; and adopting a coordinated and integrated approach among various CJS actors to work towards increasing victim satisfaction with the system.⁴⁵⁷

When a victim or vulnerable evidence against the accused is presented in court, the GBV court must take extra precautions to conceal the victim from the accused's direct view and increase the victim's confidence to testify freely. If the victim is unable to answer a query, the court may approach him or her in a cordial and pleasant manner. If the court instructs the court council to draft the question(s), the victim may be questioned. Taking into account the victim's and witness' circumstances, the court may decide to continue the victim's testimony later or at a later time if the victim feels apprehensive, hesitant, or ill during the examination. During cross-examination, the victim is shielded from all scandalous or obscene inquiries. Police provide comprehensive protection for the victim/witness and their families. If the victim or other witnesses have been coerced into saying something they shouldn't have, the GBV court magistrate has the authority to order the police to investigate.⁴⁵⁸

4.3.2 Jurisdiction of Gender-Based Violence Courts

In accordance with “subsection (1) of section 3 of the Anti-Rape Act of 2021”, the Federal Government shall establish as many special tribunals as it deems necessary to try the specified offenses, in consultation with the “Chief Justice of the High Court” in question. The Federal Government shall appoint as a judge of the Special Court any person who is or has been a Session Judge or Additional Session Judge, or who has been an advocate of the high

⁴⁵⁷ Practice Note for the Model Gender-Based Violence Court, 21.

⁴⁵⁸ Ibid.

court for not less than ten years, and who is not older than sixty-eight at the time of appointment, in consultation with the Chief Justice of the High Court Concerned.⁴⁵⁹

However, gender-based violence courts, juvenile courts, and child protection courts that have already been designated shall be deemed to remain in effect. In addition, when more than one special court is designated or established in a jurisdiction, the relevant courts of session will assign the case.⁴⁶⁰ In accordance with section 3(4) of the Anti-Rap Act of 2021, a judge of the special court must have the same authority as that granted to courts of session under the code.

A judge of the Special Court shall be appointed for a term of three years under such terms and circumstances as may be specified by the federal government. Disciplinary actions against a judge of a special court shall be conducted in the same manner and under the same legal requirements and standards as for a DSJ. The “Chief Justice of the relevant High Court” may, during the tenure of a judge of a special court, transfer the judge to another special court within the same province for documented reasons. The trial of scheduled offenses will often take place in the special court of territorial jurisdiction where the offenses are committed, according to section 3(9) of the Anti-Rape Act of 2021.⁴⁶¹ It was the requirement by the above-mentioned act that such courts must be established in all the provinces of Pakistan but at this moment these are in Punjab only.

4.4 Functions of Gender-Based Violence Courts

The function of these courts is to reduce trial lengths, create a safe environment for victims and survivors through the implementation of special protection measures, improve

⁴⁵⁹ The Anti-Rape Act 2021, s.3.

⁴⁶⁰Xari Jalil. “Anti-Rape Act: The Road to Implementation,” *Voicepk.net*, 2023. <https://voicepk.net/2023/04/anti-rape-act-the-road-to-implementation/>, Assessed on May 14, 2023.

⁴⁶¹ Anti-Rape Act of 2021, Section 3.

victims' and survivors' interactions with the GBV courts through the adoption of a victim-centered approach, and resolve any gender-based violence-related issues.⁴⁶²

When a case is brought to a “Gender-Based Violence Court”, it is standard procedure for the prosecutor to speak with the victim and explain court procedures, including the various ways their evidence may be presented. During this discussion, the victim is apprised of the potential defense strategy, and the prosecutor determines the most effective way to introduce the victim's testimony. To ensure a smooth procedure throughout the trial, any attorney representing the victim should discuss any special witness requirements, such as translators, communication assistants, and communication aids. Prosecutors should also consider whether the witness requires counseling, protective orders, or other assistance in order to feel safe. The witness may refuse to testify if she is not assured of her safety. In this situation, the prosecution must have the skills necessary to successfully cross-examine a hostile/adversarial witness.⁴⁶³

If the woman's information pertains to a punishable offense, the authorities must register all cases. This information must be included in the case record if a woman was injured by a corrosive substance (PPC Section 336B), had her modesty violated (PPC Section 354), was exposed in public (PPC Section 354A), was raped (PPC Section 376), or was subjected to sexual harassment (PPC Section 509) in the presence of a witness.

A female police officer, a family member, or another individual with her permission must be present. If a woman reporting any of the above crimes is disturbed, the case must be documented in the presence of a female police officer, a member of the victim's family, or

⁴⁶² Samya Burney, *Crime or Custom: Violence against Women in Pakistan* (USA: Human Rights Watch, 1999) 21.

⁴⁶³ Practice Note for the Model Gender-Based Violence Court, 23.

another person approved by the victim. Throughout the trial process, prosecutors must ensure that defense attorneys and the courtroom adhere to the Guidelines and Practice Notes. Any inappropriate queries for the witness should be objected to. Lastly, if the prosecution is successful, the prosecutor will also play a role in the sentencing process by assisting the court in determining the appropriate punishment based on the facts and circumstances.⁴⁶⁴ The following are the functional attributes of GBV courts in their special character:

4.4.1 Safe Environment for the Victims

The court proceedings must be held in such a space that victims are better able to communicate with the court. Gender-based violence courts are helpful in this regard, according to Section 8(1) of the Anti-Rape Act of 2021, a victim and witness protection system may be formed in addition to current laws as per the rules issued by the Ministry of Law and Justice. Remotely recording testimonies using contemporary technology and audio-visual connections for video conferences in case of the possibility of any kind of harm to the lives of victims and witnesses.⁴⁶⁵

For the purpose of identifying the victims, the interview of the victim should be frequently conducted by a victim advocate. A victim assistance worker typically conducts an interview with the victim, as does an emergency department medical professional. The questionnaire is set up such that the offender can complete it. Interviews with offenders and victims as well as a probation officer or other court official's study of police reports. A criminal justice expert submits comments following interviews with the victim, potential offender, and others; assessments of criminal histories; and examinations of police reports.

⁴⁶⁴ Practice Note for the Model Gender-Based Violence Court, 33.

⁴⁶⁵ Samya Burney, *Crime or Custom: Violence against Women in Pakistan* (USA: Human Rights Watch, 1999), 34.

4.4.2 Women Police Stations & Women Police Officers

Section 13 of the Punjab Protection of Women against Violence Act of 2016 permits the establishment of one-stop centres, although there is currently only one in Multan and each district of Punjab and KPK. Several of the amenities outlined in Section 13 on Understanding and Interacting with Victims during the Criminal Process are absent from this facility. It does have a police station, two public prosecutors designated to cases involving women in need of legal assistance, a psychologist, mediation and counselling resources, and initial medical assessment services.⁴⁶⁶ According to civil society organizations, there are not enough competent medico-legal officers, and those who are already in place are not properly prepared to handle rape cases.⁴⁶⁷

The government has established a total of 20 "Women Police Stations." These specialized police stations, staffed only by female officers, have been strategically distributed across various cities within Pakistan. In the meantime, 696 police stations in Punjab have been outfitted with women's support offices and complaint cells to facilitate the visitation of female victims. In contrast, the province of Punjab had only three female police stations in Lahore, Rawalpindi, and Faisalabad.⁴⁶⁸

However, it is a matter of great concern that there are few female police officers. Despite the 10% quota, women comprised less than 2% of the police force in 2020, and they are inadequately resourced. Not only should there be female officers at the support desks, but

⁴⁶⁶Punjab Commission on the Status of Women, *Special Mechanisms to Address Violence against Women in Punjab: A Study of Model Gender-Based Violence Court in Lahore and Violence against Women Centre in Multan* (Lahore: Punjab Commission on the Status of Women, 2019), 45.

⁴⁶⁷The Punjab Protection of Women against Violence Act of 2016, Section 3.

⁴⁶⁸ Government of Pakistan, *Periodic Report to the UN Committee on the Elimination of Discrimination against Women* (Islamabad: Government of Pakistan, 2018), 66.

female officers should also investigate offenses. Research indicates that female police officers are typically more optimistic than their male counterparts.⁴⁶⁹

4.4.3 Medical Examination of the Victim

This specifies medical examination requirements, including the following rules:

- Female victims must be accompanied by a female police officer or family member whenever possible.
- The medical evaluation should be promptly conducted.
- A licensed medical professional, especially a female licensed medical professional in rape cases or where the victim is a female, must examine the victim.
- Unless an adult victim or the victim's guardian refuses, a medical examination is required.

Wherever possible and with the victim's consent, DNA samples must be taken in accordance with Section 164B Cr.P.C. A magistrate's approval is not necessary under Section 164A Cr.P.C for the victim's medical examination. Nevertheless, it should be noted that the Standard Operating Procedures (SOPs) implemented by the police in Punjab, as of 10th November 2020, impose limitations on conducting medical examinations in the absence of a judicial warrant. This particular restriction has the potential to result in delays, particularly in situations where prompt action is crucial. Furthermore, it is worth noting that the Police Rules of 1934, specifically under rule 25-22, inaccurately stipulate the requirement of a written order from a magistrate. As per standard operating procedures (SOPs), it is imperative to collect all pertinent evidence in the event that a case is reported for medical assessment within

⁴⁶⁹ Hirschel, J. David, and D. J. Dawson, "Synthesis of Research for Law Enforcement Officials," *NCJ* 2(2000):44.

a 96-hour timeframe subsequent to the claimed criminal incident. Beyond this specified period, it is permissible to solely collect clothing or other non-anatomical components.⁴⁷⁰

The “UNCHR Reports” have brought attention to a range of concerns about medical examinations in Pakistan.

- Sexual assault victims are unaware that they shouldn't wash their bodies or change their clothes before a doctor's appointment
- The timing and integrity of DNA evidence collection for DNA testing are impacted by delays in victims' medical examinations.
- Improper gathering and storage of documentary evidence.
- A lack of legal professionals' and judges' familiarity with DNA evidence.⁴⁷¹
- A lack of adequate medical staff training or supplies.
- The absence of a comprehensive victim services center ("one-stop shop") that would make medical assessment easier.⁴⁷²

4.4.4 Independent Support Advisors

In order to reduce the risk of duress, victimization, or any other adversity suffered or likely to be suffered by the victim, an independent support advisor shall accompany the victim during Court proceedings, as determined by the anti-rape crisis cell. In accordance with “subsection 10(2) of the Anti-Rape Act of 2021,” the Special Committee is required to compile a list of independent assistance advisers at the district or tehsil level in consultation with the Ministry of Human Rights. The special committee is required, in conjunction with

⁴⁷⁰ Police Rules of 1934, Rule 25.22.

⁴⁷¹N. Rasool and M. Rasool. “DNA Evidence in Sexual Assault Cases in Pakistan,” *Medicine, Science and the Law* 6 (2020): 270–277.

⁴⁷²Qudsia Hassan et.al, “Medico-Legal Assessment of Sexual Assault Victims In Lahore.” *JPMA* 57 (2007): 539-42.

the Ministry of Human Rights, to enlist a civil society or non-governmental organization, whose members or nominations may be independent, for the purposes of subsection (2).⁴⁷³

4.4.5 Female Support Officer

The Gender-Based Violence Court procedure requires a "Female Support Officer," a court employee with specialized training, to greet the victim and accompany her to a reception area before escorting her into the courtroom. If a female support officer is unavailable, a court employee or security agent can transport the victim to a secure location. Courtroom Layout and Design Judges and attorneys incorrectly perceive the courtroom as a familiar workplace. The environments are solemn, formal, and official. The judge and counsel speak an unusually technical legal jargon and wear formal attire. A counsel, a police officer, the defendant, and a witness are present.

4.4.6 Modes of Rectification

The "Gender-Based Violence Court" is designed to address the complex issues of the society. In the majority of District and Sessions Courts today, a table for attorneys is positioned directly in front of the judge's bench and is flanked on either end by the dock and the witness box. Everyone must stand except for the judge. The Updated Practice Note describes both the basic setup and the necessary procedures. There are two methods for a victim to testify in the "Gender Based Violence Court", which is one of its defining characteristics. • The first is in the trial courtroom, where a modified screen next to the witness box prevents the victim from having to face the accused when giving testimony. The second method is through a television interface, in which the victim testifies outside the courtroom and is seen and heard on a screen within the courtroom. The placement of a bar table for

⁴⁷³ The Anti-Rape Act 2021, section 10(1).

attorneys away from the judge's bench and the witness exemplifies the preferable layout of a “Gender-Based Violence Court”. In front of the witness box is either a solid screen or a screen with a curtain. The defendant, the attorneys, and the witnesses are situated in court. Everyone has access to water and tissue. Additional modifications, such as those for persons with disabilities, may be made by the court. If the victim is required to testify in front of the jury, he or she must enter the courtroom without the defendant and take a seat behind a partition before the defendant. The accused should not be visible to the victim.⁴⁷⁴

4.4.7 Implementation of Special Protection Measure

In accordance with “section 4(1) of the Anti-Rape Act of 2021”, the Secretary of the Ministry of Law and Justice shall establish or designate as many anti-rape crisis cells as he deems necessary in public hospitals with adequate medical facilities in relation to Schedule II offenses, in consultation with the Chief Secretary of the Province or the Chief Commissioner of the ICT. The anti-rape crisis cells must be resolved by the concerned commissioner or deputy commissioner of the area, as determined by the secretary of the Ministry of Law and Justice in consultation with the provincial chief secretary or the chief commissioner of ICT, as applicable. At least one member of the anti-rape crisis cell shall preferably be female.

As soon as the Anti-Rap Crisis Cell receives information from any source, on its own initiative or upon application by any person, orally or in writing, of an offense enumerated in Schedule II, it must ensure a proper medico-legal examination; Securing, collecting, and compiling any evidence that may be expendable. Conducting a forensic analysis or

⁴⁷⁴ GBV Practice Rules, 45.

examination; having the authorities file a first information report (FIR); carrying out any additional procedures deemed appropriate.

The steps outlined in subsection (1) of the Anti-Rap Act of 2021 may be taken in any order, but they must all be completed as quickly as feasible. In accordance with section 5(3) of the Anti-Rap Act of 2021, the official in charge of a police station must promptly report to the Anti-Rap Crisis Cell any information regarding the commission of an offense listed in Schedule II. The Secretary of the Ministry of Law and Justice, upon the recommendations of the Special Committee, issues guidelines for the Anti-Rape Crisis Cells to effectively carry out their powers, duties, and functions in consultation with the Chief Secretary of the Province or the Chief Commissioner ICT, as the case may be from time to time. The prosecutor general and special prosecutor are responsible for handling general offenses related to rape. The appointment of the prosecutor general and special prosecutors is subject to the rules outlined in the notification of rules of the Ministry of Law and Justice.⁴⁷⁵

The implementation of restraining and protection orders plays a pivotal role in effectively curbing acts of violence and alleviating the apprehension experienced by victims when reporting incidents of gender-based violence (GBV). The facilitation and practical implementation of orders necessitate a confluence of legislative measures. As a result of police reluctance to take action and limited resources, implementation is sometimes the most challenging aspect. According to studies, victims fear eviction and punishment at the hands of the perpetrator or his family. Women who are victims are compelled to abandon their homes and enter shelters far too frequently. The criteria for issuing protection orders, the manner in which they are to be served by the police, and the most secure method for victims

⁴⁷⁵ The Anti-Rape Act 2021, Section, 7(i), (ii).

to remain in their homes should all be outlined in laws governing protection orders. Protection orders may be issued by courts, law enforcement, and other agencies. Before protection orders can be issued without delay, the police must promptly respond to the crime, collaborate with other authorities, and determine how to effectively protect the victim and prevent further violence.⁴⁷⁶

4.4.8 Duties of a Judge

The primary responsibility of the judge is to ensure that both the defendant and the victim receive a fair trial. The position entails ensuring that every witness in a case involving Gender-Based Violence is able to give their best testimony, as failing to do so would defeat the purpose of a fair trial. In addition, the court should not disregard the fact that the police and prosecution have carried out their responsibilities. If the obligations to conduct a comprehensive investigation have not been met, the court may issue the necessary instructions or notify the appropriate authority of any deficiencies. This may constitute violations of Sections 166(2) and 186(2) of the Pakistan Penal Code. As noted in the Updated Practice Note, the court may also use its authority under Section 540 of the Code of Criminal Procedure and Article 161 of the Qanoon-e-Shahadat Order to call witnesses, recall them for further questioning, require the production of documents, and pose questions. This in no way implies that the Gender Based Violence Court is an investigative court; rather, it enables the court to have all legally accessible evidence before it. This procedure does not alter the burden of proof, which benefits both the accused and the victim.⁴⁷⁷

⁴⁷⁶ The Anti-Rape Act 2021, Section, 7(i), (ii).

⁴⁷⁷ Practice Note for the Model Gender-Based Violence Court, 34.

4.4.9 Order of Protection

Legal protection orders for victims of domestic violence are now implemented in four provinces. The Islamabad Capital Territory does not have a distinct statute of its own. The legislative enactments known as the Sindh Domestic Violence (Prevention and Protection) Act of 2013,⁴⁷⁸ the Baluchistan Domestic Violence (Prevention and Protection) Act of 2014,⁴⁷⁹ the Punjab Protection of Women against Violence Act of 2016,⁴⁸⁰ and the Khyber Pakhtunkhwa Domestic Violence (Prevention and Protection) Act of 2021⁴⁸¹ comprise the statutes enacted between 2013 and 2021. They each offer victims similar safeguards, yet they also differ significantly.

4.4.10 Protection of the Victims and Witness

Section 11 of the “Federal Prevention of Trafficking in Persons Act, 2018” delineates the protective measures that the government may employ to safeguard the physical well-being of those affected by trafficking, including both victims and witnesses. Section 12 furnishes instances of potential safeguards. The act of issuing court orders is not explicitly referenced, nevertheless, there are provisions that facilitate specific acts, such as the implementation of camera hearings and the admission of evidence through the use of screens or video links. The provision pertaining to the compensation of victims is specifically delineated in Section 13.⁴⁸²

A victim and witness protection system may be formed in addition to current laws as per the rules issued by the Ministry of Law and Justice. To fulfil the purposes of this act and without limiting the preceding, this system shall consist of the following: -

⁴⁷⁸The Sindh Domestic Violence (Prevention and Protection) Act of 2013.

⁴⁷⁹ The Baluchistan Domestic Violence (Prevention and Protection) Act of 2014.

⁴⁸⁰The Punjab Protection of Women Against Violence Act of 2016.

⁴⁸¹The Khyber Pakhtunkhwa Domestic Violence (Prevention and Protection) Act of 2021.

⁴⁸² Federal Prevention of Trafficking in Persons Act, 2018, S.11, 12, 13.

Identity concealment is required for enhanced safety precautions for witnesses and victims. Remotely recording testimonies using contemporary technology and audio-visual connections for video conferences and that witnesses and victims are relocated are also required.

Providing adequate financial support, and compensation for the legitimate heirs of under-protection witnesses and victims. Safe residences, *darul amans*, and so forth. Additional actions that may be incidental or necessary and any other additional institutions with comprehensive facilities are required. In conclusion, there is much room for improvement in medical examination procedures. If there are deficiencies in court cases, it should be noted in the verdict. Likewise, prosecutors who are hindered by a delayed or inadequate medical examination should file a formal complaint with the appropriate authority.⁴⁸³

4.4.11 In-Camera Hearing

According to the Guidelines, the tribunal must be closed to the public during proceedings involving gender-based violence. Despite the fact that Section 352 of the Criminal Procedure Code states that courts must be open to the public, a judge may decide to seal a court to the public or to a specific individual. The trial for violations of Sections 354A, 376, 376A, 377, and 377B must be conducted in camera, per Section 352(2) of the Criminal Procedure Code; however, a judge may authorize the presence of a specific individual. A trial held in secret cannot be printed or published without the court's permission, per section 352(4) of the Criminal Code. Installing and Utilizing the E-Courtroom and the optimal configuration for the majority of witnesses is the use of video facilities, which allow victim testimony to be

⁴⁸³ The Punjab Protection of Women against Violence Act of 2016, Section 3; Anti-Rape Act of 2021, Section 8.

delivered from outside the trial court and viewed and heard on a screen in the trial court. This might be a small but comfortable space. A female support officer should sit next to the victim. Young witnesses can be comforted with toys or other appropriate items. If the accused must be removed from the courtroom, he or she can view and hear proceedings from the e-courtroom. Other regulations also allow the utilization of screens or video links here. The government may adopt measures for the protection of victims and witnesses in cases involving the public stripping of a woman (Section 354A PPC), rape (Section 376 PPC), disclosure of a victim's identity (Section 376A PPC), unnatural sexual act, sodomy (Section 377 PPC), and sexual abuse (Section 377B) in accordance with Section 352(3) of the Criminal Procedure Code.⁴⁸⁴

4.4.12 Reduction of Trial Length

Probation or another court official completes the form based on the criminal history and interview of the offender. Predicts recidivism using only information that front-line police personnel may easily get. The evaluator should draw on as many data sources as they can, such as victim and offender interviews, extra criminal court records, and readily available standardized tests. In order to reduce the risk of duress, victimization, or any other adversity suffered or likely to be suffered by the victim, an independent support advisor shall accompany the victim during Court proceedings, as determined by the anti-rape crisis cell. The special committee is required, in conjunction with the Ministry of Human Rights, to enlist a civil society or non-governmental organization, whose members or nominations may be independent, for the purposes of subsection two.⁴⁸⁵

⁴⁸⁴ Prevention of Trafficking in Persons Act 2018, section 12.

⁴⁸⁵ Anti-Rape Act 2021, section 10(1)

However, a bitter fact is that still Pakistan has the lowest gender parity ranking in South Asia, coming in at 151st out of 153 nations. Pakistan has deteriorated in each of the categories used to measure the gender gap globally over the past ten years. Therefore, access to justice is distant. Women continue to be denied their rightful share of inheritance and have little influence on decision-making on a cultural level. In spite of recent legislation changes that address gender-based violence GBV (Gender-Based Violence) there are still many obstacles standing in the way of women receiving justice. The majority of women are uninformed of their rights, and those who frequently encounter resistance from their families or lack support while using the legal system. Many victims have significant barriers to legal access without familial and financial support.⁴⁸⁶

4.4.13 Policy of Cross-Examination

The court may not query the victim of a sexual offense about their sexual behavior with the accused or any other person in the past; unless the court determines that the victim's response is relevant to the case.

In order to prevent harassing interrogating tactics by the defense counsel of victims, the Guidelines and the Updated Practice Note require cross-examination questions to be in writing or as the court deems appropriate. The adjudicator will then ask an understandable series of questions to a witness. The judge may provide guidelines on how to implement this and suggests a course of action. In a similar vein, there are restrictions on an accused person's ability to interrogate a victim. Under Section 12 of the Punjab Witness Protection Act, 2018, an accused charged with a sexual offense is not permitted to cross-examine a witness in person without the court's express permission. Permission cannot be granted when the court

⁴⁸⁶ Zarizana Abdul Aziz and Maria Cecilia T. Sicangco, *Court Companion on GBV Cases*, 22.

determines that cross-examination is likely to affect the voluntariness or quality of evidence"

The judge should also pay close attention to the witnesses to determine if they appear to comprehend what is being asked. If there is any ambiguity, the court may

- (i) Ask the witness if the question should be repeated or
- (ii) request that the witness restate the question they believed to have been asked.

This approach is particularly effective when interacting with a child or disabled person. The procedures detailed in the Guidelines and Practice Notes do not prevent defense attorneys from effectively presenting their case and questioning the victims; rather, they regulate the wording of those questions to prevent re-traumatizing the victims. Attorneys must prepare for this prior to their court appearance. Depending on the specifics of a case, modifications may be made to this procedure in order to provide both the accused and the victim with overall justice.⁴⁸⁷

However, despite the repeal of "Article 151 of the Qanoon-e-Shahadat Order", the judges have allowed character assassination of the victim. This is illegal and should not be permitted.

In the case "*Atif Zareef v. The State*", the Supreme Court of Pakistan issued a stern warning against the "twin myths," or the erroneous belief that a victim's prior sexual experience has any bearing on whether they consented or are worthy of belief. The disputed fact is whether or not the defendant committed a rape against her," the court emphasized. Even though the victim may have already lost her chastity, no one has the right to raped her. In a criminal case involving rape, the perpetrator, and not the victim, is on trial. Even if the courts determine that the accusation of rape against the defendant is unproven, they should

⁴⁸⁷ Guidelines and the Updated Practice Note 2021, 21.

stop referring to the alleged rape victims as "non-virgins," "woman of easy virtue," "woman of loose moral character," and other excruciatingly intrusive and insensitive terms. Such statements are prohibited and illegal.⁴⁸⁸

4.4.14 Content of the Question

The court has the authority to prohibit any questions or queries that it deems to be "indecent or scandalous." According to Article 148 Qanoon-e-Shahadat Order, the court may disallow any inquiries that seem "intended to insult or annoy" or otherwise seem "needlessly offensive." Similar evidentiary standards that occasionally forbid "improper" queries are present in several common law systems. The term "improper" refers to language that is not appropriate or that is deceptive, irritating, harassing, intimidating, unpleasant, oppressive, or repeated (for instance, Section 26 of the Australian Evidence Act of 1995).⁴⁸⁹ Inquiries may include inquiries that are deceptive, perplexing, or annoying, including inquiries that contain many inquiries and inquiries that the witness may interpret in numerous ways. When a lawyer repeatedly asks the same question in marginally different ways to trick or wear out a witness and achieve the desired response that is an example of harassment questioning. In addition, it is against the law to ask "insulting" or "needlessly offensive" questions that reveal the interrogator's lack of knowledge of sexual assault victims, such as "Are you seriously suggesting that my client raped you when you had no injuries?"⁴⁹⁰

Furthermore, the "Punjab Witness Protection Act, 2018, Section 12(3)" clearly prohibits queries concerning the victim's sexual behavior with the accused or another person on any previous occasion, unless such information is pertinent to the case. The court should

⁴⁸⁸ *Atif Zareef v. The State*, PLD 2019 SC 545.

⁴⁸⁹ Australian Evidence Act 1995, s.26.

⁴⁹⁰ Qanoon-e-Shahadat Order 1984, Article 148.

prohibit menacing, hostile, irate, or audible questioning. A judge should prohibit menacing gestures, hostile eye contact, and "rapid-fire" questions. The court must understand the impact of this conduct on a specific witness as well as the larger context of the interrogation. One query that is insensitive or disrespectful could make a witness uncomfortable for the duration of their testimony.⁴⁹¹

4.4.15 Implementation of Fundamental Rights

It is the duty of the court to make sure that the fundamental rights of victims of gender-based violence are also protected. All human beings are equal. They all have dignity and self-respect. When a person faces gender discrimination, violence, and torture his or her basic fundamental rights are breached. This is also a function of Gender-based violence court to make sure that the rights of victims are safeguarded.⁴⁹²

4.4.16 Judgment writing

A decision should be simple to read and written in normal language. Unless absolutely required, legal language should be avoided. Complex sentences are preferable to short sentences. Every judge has their own writing style, and verdicts should be conveyed in a style that suits the judge; but, when selecting words, the judge should be mindful of the impact of the ruling on the people involved. Intemperate language, personal opinions, flashy flourishes, and hyperbole should be avoided. Furthermore, as former Supreme Court Chief Justice Muhammad Munir stated in *Muhammad Sharif v. The State*, a judge should not assume the role of an advisor or a theologian.

Not necessarily in this order, the following components are typically present in well-constructed judgments: Introduction Summary of the facts, Clear statement of the factual

⁴⁹¹ Punjab Witness Protection Act 2018, Section 12(3).

⁴⁹² Roger Matthews, *Informal Justice* (UK: Sage Publications, 1988), 32.

issues requiring consideration or determination. Evidence proving each factual issue, Rationale, and conclusions on the facts. Applicable law, Application of the law to the facts of the case, and conclusion.

4.4.17 Sentences, Compensation and Pardon

A court dealing with an offender for his offense must consider the purposes of sentencing, which are the:

- (a) Punishment of offenders;
- (b) Reduction of crime, including deterrence;
- (c) Reform and rehabilitation of offenders;
- (d) Protection of the public; and
- (e) Restitution by offenders to those harmed by their offenses.

Punishment must conform to international norms and be proportional to the gravity of the offense. Some punishments are augmented due to aggravating factors such as the severity of the violence, the relationship between the perpetrators and the victims (*loco parentis*, spouse), the mental capacity of the victims (minors), and the recidivism of the perpetrators. Still, the gravity of the crime must be evaluated with nuance, as the severity of the victim's injuries may not always accurately reflect the gravity of the crime.⁴⁹³

Politicians respond to public outcry against “GBV, and VAW and VAT by increasing the sentence for a crime or instituting mandatory minimum sentences, such as for rape and other sexual offenses. As an illustration, consider the response to the highway gang rape. Politicians advocated for the execution or chemical or surgical castration of offenders.⁴⁹⁴

⁴⁹³ The Punjab Sentencing Act 2019, section 37.

⁴⁹⁴ Faizullah Jan and Tasleem Malik, "Theater of Public Punishment in Pakistan: A Discourse Analysis of Demand for Public Hanging." *SAGE* 12 (2020):43.

The difficulty in sentencing such repeat offenders is that there is often a tendency to "decriminalize" the offense. For instance, when determining the severity of injuries caused by crimes such as domestic violence and sexual harassment, it is crucial to consider the repetitive nature of such violence, as individual acts may not appear to have caused severe harm.⁴⁹⁵ Failure to hold perpetrators accountable conveys a negative message to society that violence against women and trafficking is tolerated. The purpose of the court is to offer effective legal remedies to anyone whose rights or liberties have been violated. Both criminal and civil remedies should be included in effective judicial remedies. When no effective remedy is available, it is always possible to rely on the constitutional jurisdiction of the court. At the outset, it is pertinent to note an observation made by the Sindh High Court: domestic violence,' which targets the most vulnerable members of society, i.e. women, the elderly, and transgender people, has been increasing disproportionately. When no effective local remedy is available, the aggrieved typically resort to constitutional jurisdiction.⁴⁹⁶

Punishing the perpetrator alone is insufficient to ensure the victim's ability to restore her life. In addition to ensuring that the perpetrator is incapable of committing further crimes against the victim or society, the state must also ensure that the victim is secure, protected from further violence, and able to rebuild her life. The obligation of the State to provide effective judicial remedies enables citizens to hold States and their organs accountable. It is essential to keep in mind that the State has this obligation, as prospective violations may result not only from its breach, but also from a duty-bearer's failure to act (omission).⁴⁹⁷

⁴⁹⁵Muhammad Fahad Anwar et.al, "Castigation and the Punjab Sentencing Act, 2019: An Overview of Criminal Law and Convictions in Punjab, Pakistan." *Journal of Law & Social Studies* 2 (2019): 104-112.

⁴⁹⁶*Mst. Hina v. Province of Sindh through Secretary Home Department Sindh at Karachi and 4 Others*, PLD 2019 Sindh 363

⁴⁹⁷ Z. Abdul Aziz and J. Moussa, *Due Diligence Framework: State Accountability Framework for Eliminating Violence against Women* (Lahore: Penang, 2013), 65.

Increases in the punishment for crimes are not likely to prevent all future crimes; rather, they are more likely to prolong the court process, increase victim pressure to withdraw cases, and cause prosecutors and judges to decriminalize offenses. Although incarceration appears to be the most common form of punishment, victims may not always seek or prefer it, particularly in cases of domestic violence. Women may be dissuaded from reporting domestic violence if their partners, who may be the primary breadwinners, lose their jobs as a result of incarceration. Where the law permits, perpetrators can continue working to pay victims compensation and/or maintenance; however, this option should only be utilized if the protection of the victims can be guaranteed. Regardless of whether the law provides for broad consequences, due diligence in punishment focuses on perpetrator accountability. States should ensure that punishment is predicated on the inexcusability or unjustifiability of VAW.⁴⁹⁸

⁴⁹⁸Abigail Cope Saguy, *Defining sexual harassment in France and the United States: 1975–1998* (New Jersey: Princeton University, 2000), 121.

4.5 Problems Faced By GBV Courts in Pakistan

Despite being a progressive step toward ensuring justice for survivors of gender-based violence, GBV courts in Pakistan face several structural, procedural, and cultural challenges that limit their effectiveness. One of the foremost issues is the lack of adequate infrastructure and resources. Many GBV courts operate without dedicated spaces, female staff, separate waiting rooms, or facilities that ensure privacy and safety for survivors—essential elements for trauma-sensitive adjudication. Furthermore, shortage of trained judges and prosecutors specialized in gender-sensitive legal procedures often results in insensitive cross-examinations, delays, and improper handling of cases. Limited forensic and investigative capacity—such as delayed medical reports, poor evidence collection, and inadequate crime scene analysis—seriously undermines the quality of evidence presented, often leading to acquittals even in strong cases.

Another significant challenge is cultural and institutional bias. Victims frequently encounter hostile attitudes from police officers, lawyers, and even court staff, who may question their credibility or pressure them into reconciliation or withdrawal of cases. This is exacerbated by social stigma, which discourages many survivors from coming forward in the first place. Moreover, there is a lack of coordination between various agencies involved in the legal process, including the police, medico-legal officers, shelter homes, and judicial authorities, which results in fragmented case management and procedural delays. Data collection and case tracking systems are weak or nonexistent, making it difficult to evaluate performance or hold stakeholders accountable. Lastly, the conviction rate in GBV cases remains extremely low, partly due to procedural lapses and partly because many survivors either do not report crimes or withdraw due to threats, financial pressures, or lack of trust in the justice system. These challenges point to the

urgent need for systemic reforms, including infrastructure upgrades, gender-sensitization training, better victim support services, and stronger inter-agency coordination.

Conclusion

The gender-based violence courts have been established to overcome the issue of violence against women and transgender. These courts are developed due to a long term and continues criticism of the criminal justice system of Pakistan particularly in the case of women and transgender. It is acknowledged that the primary victims of gender-based violence are predominantly women, who frequently refrain from reporting instances of violence perpetrated against them due to concerns of retaliation, embarrassment, shame, societal stigma, and damage to their reputation. The court dedicated to addressing “GBV” operates according to special procedures such as the victim is accompanied by a "female support officer" who guides her to a secure location in order to prevent any interaction with the accused, his family, or the general public. The victim has the ability to document her evidence from the electronic courtroom, if the victim desires to provide evidence in a court of law, a screen facility is made available to them to mitigate direct interaction with the offender. The comprehensive examination and cross-examination of the victim's evidence are conducted within a single day. The victim is afforded comprehensive protection from scandalous and obscene inquiries during the process of cross-examination.

CHAPTER FIVE

IMPORTANT JUDGMENTS RELATED TO GBV CASES IN PAKISTAN

Introduction

This chapter provides a comprehensive and critical analysis of key cases adjudicated by the Gender-Based Violence (GBV) Courts and the Supreme Court of Pakistan, focusing on their approaches, interpretations, and effectiveness in addressing gender-based violence (GBV). It fulfills the requirement of Research Question Four, which seeks to evaluate the judicial performance and procedural practices adopted in cases concerning GBV. The chapter devolves into landmark judgments and notable case law, shedding light on how these courts have handled issues such as domestic violence, sexual assault, honor crimes, and harassment against women and transgender community. Several representative cases are examined to illustrate the procedures followed, evidentiary standards applied, and the overall conduct of trial proceedings in specialized GBV courts. This evaluation also assesses the challenges faced by the judiciary, such as delays, victim intimidation, and gaps in legal enforcement, offering insight into whether the judicial system has succeeded in providing timely and fair justice to victims of GBV. Ultimately, the chapter aims to critically evaluate the role of GBV courts in combating gender-based violence and ensuring the protection of women's rights within the broader context of Pakistan's legal system.

5.1 The Role of the Judiciary in Resolving Transgender-Based Violence in Pakistan

Transgender individuals in Pakistan have long faced systemic discrimination, social exclusion, and violence. Despite legal recognition of their rights, violence against the transgender community remains rampant. The judiciary plays a critical role in addressing these issues and ensuring the protection of transgender persons through legal interpretation, enforcement of rights, and holding perpetrators accountable.⁴⁹⁹ However, the effectiveness of the judiciary in resolving transgender-based violence in Pakistan has been met with both praise and criticism, reflecting both progressive judicial interventions and institutional shortcomings.⁵⁰⁰

5.1.1 Progressive Role of the Judiciary

The judiciary in Pakistan has made notable contributions toward recognizing and safeguarding transgender rights. In the landmark case of *Dr. Muhammad Aslam Khaki v. S.S.P. Rawalpindi* (2009), the Supreme Court of Pakistan directed the government to recognize transgender individuals as a distinct gender and ensure their fundamental rights under the Constitution of Pakistan, 1973. This judgment was a turning point, as it paved the way for the Transgender Persons (Protection of Rights) Act, of 2018, which legally acknowledged transgender individuals and prohibited discrimination against them.⁵⁰¹

The judiciary has also played an active role in ensuring the implementation of this law. High courts in various provinces have issued directives to law enforcement agencies to protect transgender individuals and investigate incidents of violence against them. Courts have upheld their rights to employment, inheritance, and protection from police harassment, fostering a legal

⁴⁹⁹ Mir, Rabbia, and Talat Anwar. "Nexus between Social Exclusion and Poverty in Pakistan; A Case Study of Transgender Community."

⁵⁰⁰ Berg, Laurie, and Jenni Millbank. "Developing a jurisprudence of transgender particular social group." In *Fleeing homophobia*, pp. 121-153. Routledge, 2013.

⁵⁰¹ Berg, Laurie, and Jenni Millbank. "Developing a jurisprudence of transgender particular social group." In *Fleeing homophobia*, pp. 121-153. Routledge, 2013.

environment that supports transgender individuals.

5.1.2 Limitations and Criticisms of Judicial Interventions

Despite these advancements, the judiciary's role in combating transgender-based violence has often been inadequate and inconsistent. Delays in the judicial process, lack of sensitivity among judicial officers, and misapplication of the law contribute to the denial of timely justice to transgender victims. Transgender individuals frequently face hostile environments in courts, leading to intimidation and secondary victimization. In many cases, violence against transgender persons is underreported, and perpetrators exploit gaps in the justice system to escape accountability.⁵⁰²

Moreover, judicial reliance on societal norms often compromises impartiality. Some judges reflect conservative mindsets, resulting in biased interpretations of transgender rights. This is particularly evident in cases involving sexual violence or murder, where transgender individuals are often blamed or not taken seriously.

5.1.3 Challenges in Implementation and Access to Justice

A major challenge is the weak enforcement of court decisions. While progressive judgments exist on paper, their translation into action remains limited. Police authorities often ignore court orders or fail to provide adequate protection to transgender persons. Corruption, societal stigma, and lack of awareness further impede transgender individuals from seeking justice. Legal aid and support services tailored to transgender victims of violence remain scarce, preventing many from accessing courts. Additionally, the implementation of the Transgender Act, of 2018, faces opposition from certain conservative and religious factions, who question the legitimacy of

⁵⁰² Ali, Fatima Zahid, Kevin Smets, and Benjamin De Cleen. "Pakistani transgender activists on Instagram: The politics of postcolonial language appropriation and abrogation." *International Journal of Media & Cultural Politics* 20, no. 1 (2024): 91-113.

transgender identities. This has put pressure on the judiciary, leading to hesitation in issuing bold rulings in favor of transgender individuals.⁵⁰³

While the judiciary in Pakistan has taken important steps to secure the rights of transgender persons, its role in effectively addressing violence against them remains limited by institutional inefficiencies, societal pressures, and a lack of capacity building. Judicial sensitivity training, dedicated gender-based violence courts with transgender-inclusive approaches, fast-track mechanisms, and stronger enforcement of protective laws are crucial to ensure timely justice. Coordination between courts, law enforcement, and social welfare bodies is vital to safeguard transgender individuals and strengthen their trust in the judicial system. Without continued judicial activism and systemic reforms, transgender individuals in Pakistan will remain vulnerable to violence and discrimination, undermining their fundamental rights.

5.2 Cases Adjudicated by Gender-Based Violence Courts

Some of the significant cases entertained by the GBV courts regarding gender-based violence are analysed below which demonstrate the difficulty of seeking judicial relief therein that ultimately compels the aggrieved to file appeals in the higher forums i.e. apex court.

5.2.1 Khurshid Bibi v Babu Muhammad Amin (1967)

The brief facts of this case reveal that the petitioner (Khurshid Bibi) brought a lawsuit for the dissolution of marriage through khula before the GBV Court. By virtue of this petition, she went to exercise her statutory right to seek judicial separation on the grounds of her husband's second marriage without her prior consent. She asserted before the GBV court of law that she is empowered by virtue of section 2(ii-A) of the Dissolution of Muslim Marriage

⁵⁰³ Dutta, Aniruddha, Adnan Hossain, and Claire Pamment. "Representing the Hijras of South Asia: Toward Transregional and Global Flows." In *Mapping LGBTQ Spaces and Places: A Changing World*, pp. 85-103. Cham: Springer International Publishing, 2022.

Act, 1939 to seek termination of marriage if her husband solemnizes another marriage without the prior permission of the Chairman Arbitration Council and existing wife.⁵⁰⁴ The GBV court held that permission of the husband is a necessary element for seeking khula, hence, khula remains ineffective if it is non-assented by the husband like in this case. The GBV court declined the petition being meritless and held that the second marriage of the husband is not an appropriate ground to seek khula as no violence was involved herein, therefore, the GBV court lacks jurisdiction to entertain it. Khusheed Bibi (petitioner) rebutted the ruling of the GBV court by asserting that the second marriage of a husband is itself torture and mental agony for an existing wife and the law provides a remedy for it.

The dismissal of the petition by the GBV court forced Khursheed Bibi to approach the High Court for redress but it also upheld the decision of the GBV Court. Hence, she knocked on the door of justice by filing an appeal to the Supreme Court. Khursheed Bibi was finally administered justice by the Supreme Court and its decision became remarkable in the history of Pakistan which is still practiced by the lower judiciary and is often quoted in golden words:

“Khula is an unrestricted and inherent right of a Muslim wife where she cannot live with her husband within the limits ordained by Allah due to any reason and if she is forced to stay in this unwanted matrimonial relationship, it would be synonymous to violence and cruelty against her.”⁵⁰⁵

5.2.2. Mst. Sarwar Naqvi v Ghulam Ali (1990)

The facts of the case revolve around the tale of an illiterate village woman who are not only assaulted but also deprived of her essential religious share. Mst. Sarwar Naqvi stated that she is an only sister of Ghulam Ali (respondent) and claimed a share in her father's estate from

⁵⁰⁴ Dissolution of Muslim Marriage Act, (VIII of 1939), (The official Gazette of Pakistan, Extraordinary Part I, March 17, 1939), Section 2 (ii-A).

⁵⁰⁵ *Khurshid Bibi v Babu Muhammad Amin*, PLD 1967 SC 97.

her brother according to the set fractional proportion mentioned in Holy Quran. But he not also insulted her and dragged her out of the home. Petitioner again requested him to handover her due share upon which respondent said that we have already given you massive dowry articles on your wedding so you are not entitled to any share in the property. Respondent (Ghulam Ali), also allegedly threatened the petitioner with dire consequences if she did not comply. These circumstances compelled Mst.Sarwar approached a local NGO (Aurat Foundation) working to protect the interests of victimized women to seek remedy as she was an illiterate woman living in a village. Hereupon, the director of the NGO, assisted her in instituting a petition before GBV Court, Peshawar to seek justice.

In GBV Court, the respondent (Ghulam Ali) took a defensive plea that the entire estate of the deceased father was gifted to him during his lifetime, and also the petitioner received the dowry articles worth 1 million rupees from their father so she is no longer entitled to her share in property. Mst. Sarwar Naqvi (respondent) succeeded in establishing that the gift deed presented by the respondent was illegal and fabricated. Therefore, the GBV court decided in favour of the petitioner (Mst. Sarwar). Ghulam Ali instituted an appeal before the Supreme Court of Pakistan against the decision of the GBV Court.

The Honourable Supreme Court of Pakistan also accepted and upheld the decision of GBV court being devoid of any error and irregularity. The apex court declared that it is an un-Islamic customary practice of relinquishing inheritance rights by women in favour of their male relatives⁵⁰⁶. It was held that dowry articles presented to a bride at the time of marriage are considered to be gift, which are not mandatory to be given to her, whereas, giving share in the property of a deceased is a right of legal heir and it should necessarily be provided accordingly.

⁵⁰⁶ *Mst. Sarwar Naqvi v Ghulam Ali*, PLD 1990 SC 1.

Supreme Court also discouraged and denounced the male legal heirs to opt such illegal and fraudulent tactics to deprive female legal heirs from getting their religious share in property of deceased and considered it as a discrimination, emotional exploitation and violence against them.⁵⁰⁷

5.2.3. Shiren Munir v Government of Punjab (1990)

The brief facts of this case demonstrated that the plaintiff brought a claim before a GBV Court against a public sector medical college in Rawalpindi which declined to give her admission despite her clearing the entrance exam and scoring the required marks necessary for the admission.⁵⁰⁸ The counsel representing the Government of Punjab on behalf of said medical college took a defense that out of a total of 858 open merit seats in public sector medical colleges, 677 seats are reserved for men. The counsel for the petitioner student argued before the court that the selection procedure and division of seats for men and women in educational institutions violated women's fundamental rights guaranteed under article 22 (3)(b) of the Constitution of Pakistan, 1973 which states that:

“No citizen shall be deprived be get admission in educational institutions on the basis of religion, race, birthplace, caste, and sex.”⁵⁰⁹

The GBV court, while interpreting the above-mentioned constitutional provision, favoured female students and held that the only criteria that can be set by the government to give admission to any student in an educational institution is merit and whoever succeeds in achieving such merit shall necessarily be granted admission irrespective of discrimination including

⁵⁰⁷ *Mst. Sarwar Naqvi v Ghulam Ali*, PLD 1990 SC 1.

⁵⁰⁸ *Shiren Munir v Government of Punjab*, PLD 1990 Lahore 295.

⁵⁰⁹ The Constitution of the Islamic Republic of Pakistan (The Official Gazette of Pakistan, April 12, 1973), Art. 22(3)(b).

gender-based differentiation which shall not be tolerable in any case.⁵¹⁰ Therefore, the respondent was directed by the GBV court to enroll the petitioner in medical college forthwith.

5.2.4. Sabeeha Begum v Fahimuddin (1991)

The plaintiff in this case, Sabeeha Begum, filed a complaint against her husband for violating the principle of polygamy as mentioned in section 6 of the Muslim Family Law Ordinance, 1961 in GBV Court as it caused extreme mental pressure and torture which made her depression patient. She asserted that section 6 of MFLO, 1961 empowers the existing wife to hold her husband accountable for the immediate payment of deferred dower amount and request his judicial penalty if he solemnizes another marriage without the approval of the existing wife⁵¹¹. The counsel representing the husband called an act of polygamy a religious right and said that no one could hinder him from doing so. The GBV court turned down the complaint of the petitioner by exercising judicial discretion and stating that Section 6 MFLO, 1961 is against the injunctions of Islam as there is no evidence of “Sahabi” women seeking divorce upon another marriage of husband while considering it violent. The GBV Court considered it unlawful tool to black husbands and seek divorce as it is the most disliked thing in the eyes of Allah so it should not be sought without any reasonable ground. The petitioner, therefore, filed an appeal before the Supreme Court.

The Honourable Supreme Court of Pakistan, in its ruling, affirmed that an existing wife fully possesses the locus standi to lodge a complaint for an act of polygamy committed by her

⁵¹⁰ *Shiren Munir v Government of Punjab*, PLD 1990 SC 295

⁵¹¹ Muslim Family Law Ordinance, (VIII of 189), (The official Gazette of Pakistan, Extraordinary Part I, March 2, 1961), Section 6.

husband and demand the immediate payment of the dower amount otherwise it is considered as violence and infringement of wife's matrimonial rights.⁵¹²

5.2.5. Inquilabi Labour Party vs Government of Pakistan and Others (1993)

A member of the Inquilabi Labour Party (Benazir Bhutto), now known as Pakistan Peoples' Party, filed a lawsuit before the GBV Court against the Government of Pakistan for not allowing her to contest the election as a prime minister of Pakistan due to being a female candidate. She asserted that it amounts to gender-based violence against her womanhood for the rights and positions that have been permitted to her by Islam and also by the constitution of Pakistan. The Counsel for Benazir Bhutto contended that section 25 of the Constitution of Pakistan guarantees that there shall be no discrimination on the basis of gender with respect to education, employment, and opportunities⁵¹³. It was further asserted that even the father of the nation Quaid e Azam said that "*women are the integral part of any nation and no nation can rise without women empowerment.*" GBV court failed to redress the complaint of the petitioner which made her approach the Supreme Court to seek relief and justice.

Afterward, the Inquilabi Labour Party filed an appeal before the Supreme Court of Pakistan, under its constitutional jurisdiction, against the Government of Pakistan and Pakistan Peoples' Party for allowing Benazir Bhutto to contest for the seat of Prime Minister⁵¹⁴. The counsel for Inquilabi Labour Party argued that Pakistan being an Islamic state should not permit

⁵¹² *Sabeeha Begum v Fahimuddin*, PLD 1991 SC 1074.

⁵¹³ The Constitution of the Islamic Republic of Pakistan, (The Official Gazette of Pakistan, April 12, 1973), Art. 25.

⁵¹⁴ *Inquilabi Labour Party v Government of Pakistan and others*, NLR 1993 SCJ 397.

for a thing that is debatable. As some religious clerics are of opinion that women are unable to serve as the head of an Islamic state, chief minister, or member of the Provincial or National Assembly. The Supreme Court of Pakistan, in its findings, held that there is no constitutional obstacle preventing women from holding public offices and positions if she fulfils the merit and has absolute eligibility like all other competitors and contestants⁵¹⁵. Therefore, the argument of respondent i.e. Government of Pakistan is irrelevant and immaterial that women cannot hold a key position having religious and cultural impediments.

5.2.6 Abdul Zahir v The State (2000)

The brief account of the case revolves around the fact that a complainant, being the father of the deceased daughter, lodged an FIR against his son-in-law that Abdul Zahir (accused) brutally murdered his daughter in the name of honour with a deadly weapon. The complainant's father asserted before the GBV Court that her deceased daughter worked really hard as a labour and domestic helper in various households to raise her children. Accused, even being a father, had a duty to bear the household expenses but he remained house-ridden and forced her to do work outside. Not only this, the accused was an alcoholic person and every time when her daughter brought her salary home, he used to snatch it and whenever she resisted, he used to beat her severely with sticks. On the day of this unfortunate incident, the complainant's daughter refused to give her accused husband money upon which he became furious and took her life with a hatchet. However, on the other side, the accused had a different version of arguments and pleaded before the GBV court that he saw his wife having illicit relationships with her maternal cousin and this killing was the result of sudden provocation and was not intentional⁵¹⁶.

⁵¹⁵ *Inquilabi Labour Party v Government of Pakistan and others*, NLR 1993 SCJ 397.

⁵¹⁶ *Abdul Zahir v The State*, 2000 SCMR 406.

The GBV court, while discarding the accused plea, held that women are equal citizens with equal rights to have the protection of life as that of men. So there can be no leniency for such heinous offences and awarded death sentence to the accused. The accused challenged this decision and filed an appeal before SC. The Supreme Court held that admitting such pleas is equivalent to encouraging honour killings and giving such criminals the benefit of mitigating circumstances and promoting the practice of violence against women⁵¹⁷. Hence, the death sentence of the accused was confirmed.

5.2.7. Hafiz Abdul Waheed VS Asma Jahangir (2004)

The brief facts of the case are that a college girl namely, Saima Waheed, secretly married her teacher without the knowledge and consent of her parents. When her parents came to know about this, they forced her to dissolve this marriage immediately, or else they would kill her. This made her run away from her parental house and take refuge in an NGO seeking protection for her life. Resultantly, a lawyer namely, Asma Jahangir who was affiliated with the said NGO, provided the petitioner with legal aid and decided to plead her case free of cost as an advocate before GBV Court. On the other hand, the petitioner's father, Hafiz Abdul Waheed, brought a counterclaim and filed an FIR against said NGO for abducting her daughter. Her father asserted that the marriage solemnized by her daughter is void ab initio because he did not assent to this being the legal guardian of Saima Waheed which is a necessary ingredient for a valid marriage in Islamic law⁵¹⁸. An advocate for the petitioner, Saima Waheed, contended that Islam equally gives respect to the opinion and choices of women as that of men and there are various examples from the life of the Holy Prophet (S.A.W) where he dissolved marriages on the request of women who were married by their guardians without their consent. Therefore, the choices of Wali cannot

⁵¹⁷ *Abdul Zahir v The State*, 2000 SCMR 406.

⁵¹⁸ *Hafiz Abdul Waheed v Asma Jahangir*, PLD 2004 SC 219.

be imposed upon the bride with force. Similarly, it is unislamic and unethical for a Wali to compel a bride to annul her happy marriage.

The GBV Court declined the version of respondent father and decided in favour of petitioner Saima Waheed. Therefore, father of petitioner, Hafiz Abdul Waheed approached SC to file an appeal. The Supreme Court of Pakistan, while declining the plea of the petitioner, ruled in its esteemed judgment that an adult woman possesses a complete legal capacity to ink a marriage contract independently while exercising her free will even without the consent of her legal guardian under Hanafi School of Law which is mostly practiced in Pakistan.⁵¹⁹ The only thing required for a valid marriage, under the Hanafi School of Law, is the offer and acceptance of contracting parties. This judgment proved to be an empowering tool for adult women of Pakistan in succeeding years to lawfully choose a life partner (husband) for themselves and not to sustain the mental torture and forcibility of parents anymore.

5.2.8 Rafique Bibi VS Muhammad Sharif and others (2006)

In this case, Rafique Bibi filed a criminal complaint in the GBV court against her brothers/respondents that they fraudulently engineered the land revenue records and transferred the land mutations in their own names thus depriving the petitioner of her legal share in the estate of her deceased father.⁵²⁰ The counsel for Rafique Bibi asserted that she being an uneducated and simple lady was unaware of the mala-fide intentions of her brother. They took signatures from her on a blank paper while stating that it was just for some good purpose related to the well-being of the village. The petitioner, blindly trusted her brothers and could not assess their evil plots. Later on, she came to know that they collectively engineered the revenue records to make their sister (petitioner) deprived of her due share. When she shouted for this distrust and

⁵¹⁹ *Hafiz Abdul Waheed v Asma Jahangir*, PLD 2004 SC 219.

⁵²⁰ *Rafique Bibi v Muhammad Sharif and others*, 2006 SCMR 512.

deception, respondents began to beat her and gave life threats if she did not withdraw the petition filed before GBV Court. However, the GBV dismissed the application of petitioner upon the basis of insufficient evidence and declared it meritless.

Rafique Bibi, being aggrieved by the order of the GBV court, appealed before the Supreme Court of Pakistan. The SC in a commendable decision, criticized the previous practice of manipulating revenue records, which resulted in the unjust deprivation of a woman's rightful portion in immovable property through inheritance. The court placed significant emphasis on safeguarding women's rights, specifically in relation to their ownership of landed property as women possessed the legal entitlement to seek recourse through the judicial system in order to assert their rightful claims⁵²¹.

5.2.9 Salman Akram Raja VS Government of Punjab (2013)

The brief facts of this case are that a girl named Ayesha was subjected to a gang rape and then her FIR was not registered by the respective police station, Salman Akram Raja VS Government of Punjab (2013) resultantly, she committed suicide. The father of the victim girl filed a criminal complaint before GBV court against the concerned police officials who failed to perform their professional duty and became a reason for the mental breakdown and suicide of the victim. The GBV court rejected the complaint of the petitioner having so many doubts, lacunas, insufficient evidence, and lack of credible witnesses. Consequently, the petitioner, filed an appeal before Supreme Court to seek justice for his victimized daughter.

The Supreme Court provided a detailed guideline to curb such rape and violence cases immediately by extending an easy-to-approach justice policies for effected women⁵²². The guidelines to tackle violence and rape cases against women provided by Supreme Court, by

⁵²¹ *Rafique Bibi v Muhammad Sharif and others*, 2006 SCMR 512.

⁵²² *Salman Akram Raja v Government of Punjab*, 2013 SCMR 203.

virtue of this remarkable judgment, included the statements of rape victims to be recorded and documented by female Magistrates. Rape is to be considered as an offense against the entire society therefore the cases are to be registered against the State. The State shall bear the burden of expense of legal proceedings out of national exchequer and will compulsorily pursue the case even if the parties had an out-of-court compromise⁵²³. Also, the strict measures to be adopted for the identity protection of victim and witness. For this purpose, modern devices could be used to record testimonies to minimize accused-victim-witness confrontation.

5.2.10 Dr. Muhammad Aslam Khaki VS S.S.P Operations Rawalpindi (2013)

The petitioner stated that he filed multiple applications and complaints before the GBV Courts regarding the discriminatory behavior and practices adopted by the public institutions of Rawalpindi for the transgender community with respect to entrance tests in educational institutions, jobs in public and private sectors, even they are humiliated in public places like shopping malls and parks. However, the petitioner contended that these petitions remained useless and no directions were made by GBV courts to the concerned departments. These circumstances compelled petitioner to approach Supreme court.

This case was filed by an Islamic Scholar, Dr. Muhammad Aslam khaki on the behalf of transgender community before the Supreme Court of Pakistan under its constitutional jurisdiction. The constitutional jurisdiction of SC under article 184(3) of Constitution of Pakistan 1973 empowers it to entertain a petition that pertains to infringement of a fundamental right guaranteed under constitution and a large segment of the society is effected by its violation⁵²⁴. As transgender community of Pakistan also comprise of a major section therefore SC granted a

⁵²³ *Salman Akram Raja v Government of Punjab*, 2013 SCMR 203.

⁵²⁴ The Constitution of the Islamic Republic of Pakistan (The Official Gazette of Pakistan, April 12, 1973), Article 184(3).

leave to file a petition. The counsel representing the transgender community argued that even eunuchs are the equal citizens of Pakistan and constitution of Pakistan entails that there shall be no discrimination in terms of acquiring property, inheritance share, education, profession, religion, opportunities, voting rights on the basis of caste, religion, sex and birth place.⁵²⁵ But still they have been continuously deprived of their fundamental and constitutional rights that ultimately results in legal and social insecurities, violence and attack.

The Supreme Court of Pakistan duly acknowledged and considered the social status and inequities faced by the transgender population. The Supreme Court has issued an order mandating that both the Federal and Provincial Governments take necessary measures to ensure that all the rights that have been enshrined in the Constitution of Pakistan and are enjoyed by other citizens should be enjoyed by transgender(s) too and facilitation desks to be constructed for them forthwith.⁵²⁶

5.2.11 Mst. Rukkiya Iqbal v Faisal Hayat (2017)

The brief facts of the case revolve around a severe domestic violence case incurred in the outskirts of Karachi on February 23, 2019. The victim namely, Mst. Rukkiya Iqbal was brought to the DHQ hospital in a serious condition and the father of the victim went to the local police station to lodge an FIR against the accused husband. Faisal Hayat, an accused, allegedly beat her wife with sticks and eventually evicted her from her matrimonial home⁵²⁷. However, the police officer refused to file an FIR and turned down their request. This compelled the victim to file a criminal complaint before the GBV court and nominated police officials also refused to perform their official duty i.e. to lodge an FIR of a cognizable offence.

⁵²⁵ *Dr. Muhammad Aslam Khaki v S.S.P Operations Rawalpindi*, 2013 PLD 188.

⁵²⁶ *Ibid.*

⁵²⁷ *Ms. Rukkiya Iqbal v Faisal Hayat*, Criminal Petition No. 457 of 2017.

The GBV Karachi court, after recording evidence and perusal of the record, held that the accused was found guilty of causing "hurt and physical abuse" to a victim under section 337-L of the Pakistan Penal Code.⁵²⁸ The accused is also guilty of inflicting "emotional, psychological, and verbal" abuse on the victim. The court declared that domestic violence is a grave human rights violation, if the offenders of such crimes are spared, it is equivalent to the encouragement of crimes against the weakest classes of society and their abandonment; also if stringent punishments are not awarded to such abusers, the purpose of relevant enactment protecting victim's rights is failed⁵²⁹. Resultantly, the court sentenced 6 months imprisonment along with the payment of Rs.45,000/- daman (fine penalty) to the victim.

5.2.12 Imran Ali v The State (2018)

In this case, a 6 years old girl namely Zainab, hailing from Kasur, was raped followed by her murder by an accused, Imran. The entire social media and print media of Pakistan played a vital role in highlighting this incident and making it the most high-ended case. Initially, the advocates associated with NGO's and civil society, collectively instituted a suit before the GBV court to seek justice for the helpless young children, being weak and suppressed sections of the society. During this time period, child rape cases were at their peak where dozens of cases were reported on a daily basis within the vicinity of Punjab. Zainab's rape and consequent murder put a full stop to the tolerance of the parents and members of civil society and decided not to be mute anymore. Importantly, these rapists belonged to widespread network of mafia with influential people having their back whose pressure and power not only effected the independent judicial mind of the judges but also many of the judges in GBV courts refused to entertain Zainab's case.

⁵²⁸ The Pakistan Penal Code (Act No. XLV of 1898), (The Official Gazette of Pakistan, Extraordinary Part VI, October 6, 1860), section 337(L).

⁵²⁹ *Ms. Rukkiya Iqbal v Faisal Hayat*, Criminal Petition No. 457 of 2017.

People from all around Pakistan including members of civil society, for the first time following this incident, came on the roads and recorded their protest against child rape and sodomy and insisted for the public hanging of such abusers. This situation of the country forced the Supreme Court to take immediate action on it otherwise it would result in anarchy and chaos in the society.

The honourable Supreme Court held that the right to a dignified life is a right of every citizen as guaranteed by Article 10 of the Constitution of Pakistan.⁵³⁰ The offences against children especially rape and sodomy shall not be tolerable by the law keepers and therefore awarded the death penalty to Imran Ali.⁵³¹ This punishment was conferred under Section 376(1) of PPC.⁵³²

5.2.13 Mian Asia v Federation of Pakistan through Secretary Finance (2018)

In this case, NADRA, the national identity card issuing authority, declined to renew the CNIC to an applicant who happened to be a transgender. This compelled the transgender petitioner to lodge a complaint before the GBV court. The counsel representing on behalf of NADRA argued before the court that the application was declined by NADRA due to a lack of knowledge and records regarding the petitioner's parentage and the absence of the name of his/her spiritual mentor.⁵³³ On the other hand, the counsel representing Mian Asia (petitioner) asserted that gender identity is a fundamental concept in human existence, encompassing an individual's inherent perception of his/her own gender as either male, female, or transgender.⁵³⁴ Every individual

⁵³⁰ The Constitution of the Islamic Republic of Pakistan (The Official Gazette of Pakistan, April 12, 1973), Article 10.

⁵³¹ *Imran Ali v The State*, 2018 SCMR 1378.

⁵³² The Pakistan Penal Code (Act No. XLV of 1898), (The Official Gazette of Pakistan, Extraordinary Part VI, October 6, 1860), section 376(1).

⁵³³ *Mian Asia v Federation of Pakistan through Secretary Finance*, PLD 2018 LHC 201.

⁵³⁴ *Ibid.*

possesses the inherent entitlement to freely exercise their universally recognized human rights, without any limitations imposed on the basis of their gender identity, and to receive equal treatment under the law in all jurisdictions.

The Supreme Court, in its observation and obiter dicta, emphasized the necessity for a shift in societal attitudes, wherein individuals with diverse gender identities comprehend and assert their entitlement to comprehensive legal rights across all domains of existence. Supreme Court held that, we being the protectors of constitution are bound to follow its provisions in letter and spirit. The transgender community is the equal citizen of Pakistan and by dint of article 25 of Constitution of Pakistan, there is a guarantee to every citizen that there shall be no discrimination in any field of life on the basis of gender.⁵³⁵ Consequently, SC directed NADRA to immediately renew the CNIC of the petitioner and to act likewise for the succeeding cases.

5.2.14 Mst Hina VS Province of Sindh (2019)

Another domestic violence incident was reported to Malir Police Station, Karachi, where a wife named Hina, lodged an FIR against her abusive husband under the Sindh Domestic Violence (Prevention and Protection) Act, 2013. She alleged that her husband not only used to beat her at home on petty issues but also created a fuss at her workplace, causing threats and chaos there too⁵³⁶. Mst. Hina (petitioner) approached a Bint -e-Fatima Foundation to seek the help of their legal team. She also alleged that she was not maintained by her husband and in order to bear her children's expenses she used to work in a local biscuit factory, even there she was not safe. She told the legal team that she did not want to dissolve the marriage because of her children's future that's why she had been sustaining so much violence. But now her tolerance

⁵³⁵ The Constitution of the Islamic Republic of Pakistan (The Official Gazette of Pakistan, April 12, 1973), Article 25.

⁵³⁶ *Mst Hina v Province of Sindh*, PLD 2019 Sind 363.

level has crossed limits and even children want to end this unpeaceful environment at home. These circumstances led to the filing of a petition before the GBV Court with the help of the legal team of the Bint-e-Fatima Foundation.

The GBV court in Karachi, initially, heard the arguments but dismissed the petition without stating reasonable grounds. Then petitioner approached the High Court. A Karachi high court entertained this case at length and issued a restraining order to the accused husband, prohibiting him from physically assaulting his wife in the future and also restraining him from approaching her place of employment. Alongside, the court also directed the concerned SHO of the relevant Police Station to provide security for the petitioner and procure a security bond of Rs 100,000/- from the accused in order to prevent the commission of domestic violence under section 11(4) of Sindh Domestic Violence (Prevention and Protection) Act, 2013.⁵³⁷

5.2.15 Ghulam Mustafa v Judge GBV/Family Court (2021)

A strange case was brought up by an aggrieved husband before GBV court contending therein that since his wife possesses objectionable gender characteristics that are not similar to that of females and in this way his Nikkah is invalid therefore, prayed before the court to dissolve his marriage.⁵³⁸ Petitioner, further argued that as the Nikkah is void ab initio hence, she is not entitled to any sort of maintenance, dower, and other marriage benefits. During the case proceedings, the husband filed an application seeking a medical examination of his wife to determine her gender characteristics. The respondent wife, refused to allow her medical examination contending that she has a constitutional right to dignity and privacy under article 14

⁵³⁷ Sindh Domestic Violence (Prevention and Protection) Act, (Sindh Act No. XX of 2013), (The Official Gazette of Pakistan, Extraordinary Part I, March 8, 2013), Section 11(4).

⁵³⁸ *Ghulam Mustafa v Judge Family Court*, 2021 CLC 204.

(1) of Constitution of Pakistan, 1973.⁵³⁹ The GBV court declined the petition of husband and favoured respondent wife under article 14 (1) of Constitution of Pakistan, 1973 for having her right to dignity and privacy.

The petitioner husband, then approached, Lahore High Court to file an appeal therein. The High Court, in its rightly framed judgment, held that if a party refused to comply with a directive to undergo a medical examination, the court could not compel that party and could only draw conclusions from the facts and circumstances of the case.⁵⁴⁰ Also, the marriage was presumed to be valid because the petitioner had been married to the respondent's wife for eight months and had not yet filed for divorce. The Petitioner could have requested a medical examination of the respondent only after recording evidence and presenting evidence to persuade the Court that such an order was absolutely necessary; therefore, the Petitioner's request at this time is irrelevant, and therefore petition was dismissed.

5.2.16 Faiz Ullah v The State (2021)

The brief facts of the case are that the complainant filed a criminal complaint before the GBV court as the police officials refused to register the case due to pressure from the influential tribes' men. According to the prosecution, the defendant shot and injured a transgender individual badly, who was taken to the hospital in a critical condition. The Public prosecutor argued before the GBV court that the accused side was giving life threats and forcing them to withdraw the case and else they would face the consequences. The prosecution side also argued that the opponents were offering them a heavy amount if the charges were withdrawn. It was further argued that violence against any class is not tolerable in whatsoever case but transgender

⁵³⁹ The Constitution of the Islamic Republic of Pakistan (The Official Gazette of Pakistan, April 12, 1973), Article 14(1).

⁵⁴⁰ *Ghulam Mustafa v Judge Family Court*, 2021 CLC 204.

community belongs to a more “suppressed” class and requires more kind and gentle treatment by other citizens. On the contrary, they are not even considered citizens, though the constitution has directed the state institutions to make stringent legislations and reforms for the social and economic welfare of the transgender community for their betterment and to curb violence against them.

The GBV court of law, after perusal of the evidence and record, held that taking someone’s precious life (culpable homicide) is not a smaller thing. This is not a private wrong that could be compensated by offering a compensation amount or damages. It is an offense against a state as the Islamic Republic of Pakistan has guaranteed its citizens through constitutional provisions that every citizen has a right to life and protection of dignity.⁵⁴¹ The murderers could not escape from the execution of penal law by opting for such tactics, he has to face the due punishment even if the victim compromises with him. Once the non-compoundable case is registered, it becomes the concern of the pillars of the state to do justice at any cost.⁵⁴² The accused was convicted for capital punishment.

5.2.17 Uzma Naveed Chaudhary v Federation of Pakistan (2022)

The facts of the case reveal that a public institution and public TV channel in Pakistan was brought to light as a female employee of PTV collectively approached GBV court and knocked on the door of justice. They asserted during proceedings that they repeatedly filed a complaint to the administration regarding the sexual harassment and related behavior of the higher ups of the institution with the female subordinates but they remained mute and refused to take an appropriate action.⁵⁴³ This compelled them to approach the GBV court to seek justice and

⁵⁴¹ *Faiz Ullah v The State*, PLD 2021 Lahore 1091.

⁵⁴² *Ibid.*

⁵⁴³ *Uzma Naveed Chaudhary v Federation of Pakistan*, 2022 PLD 783.

restraining order against the offending officials. The counsel representing the female employees of PTV stated that the younger and new comer employees are often subjected to harassment of sexual nature while offering them a handsome salary packages and quick promotion opportunities by their bosses. If some lady flatly refuses to do, she is threatened for expelling from the job. Some of these female employees reported that they are only hope and breadwinner for their families and could not afford such termination and violence at workplace which could not provide them healthy working environment.

Because of the sensitivity of the matter, it had been transferred to the Lahore High Court by GBV court. After perusal of evidence, LHC, directed the Federal ombudsperson and chairperson of the relevant institution to make a report regarding the unprofessional conduct and submit it before the court forthwith.⁵⁴⁴ The court, also demanded fifty lac rupees per victim as compensation amount and the amount will be deducted from the arrears of his pension money. Hence, this case clearly shows that women are equally powerful and have the right to work peacefully and play their roles in their respective professions comfortably.

5.2.18 Tayyaba Bibi v The State and 2 others (2022)

The Tayyaba Bibi's also received much limelight as that of Zainab's rape case. This is because of social media that trends to viral videos and exposes the faces of black sheep hidden in glass houses. This was also a violence and assault case of a domestic helper, Tayyaba Bibi, who worked in the residence of a government official. The victim's father lodged an FIR against the wife of the officer who brutally bludgeoned and injured his daughter on little things. He further said that the victim was only 11 years old and was hired for a little help. She was not only forced to do heavy tasks but if she failed to perform them, she was severely punished, refused

⁵⁴⁴ *Uzma Naveed Chaudhary v Federation of Pakistan*, 2022 PLD 783.

meals, and beaten.⁵⁴⁵ Initially, the case was registered under GBV court, but due to pressure from civil society and the sensitivity of the matter was transferred to the Supreme Court to entertain it under constitutional jurisdiction.

The Supreme Court, itself took notice of this incident, in suo motto/constitutional jurisdiction, and stated that the accused, being the civil servants are the protectors of law, and are expected to be more decent and gentle in their handlings than ordinary citizens.⁵⁴⁶ They are also expected to be well-known for constitutional provisions related to fundamental rights. Article 11 (3) of the Constitution of Pakistan, 1973 explicitly prohibits forced and bonded labor and no child under the age of 14 can be engaged in hazardous employment.⁵⁴⁷ Therefore, the SC, in its judgment gave full doze of punishment to the accused i.e. 5 years' imprisonment, suspension of government job, and also the fine penalty of 5 lac rupees.

5.2.19 Ali Ikram VS Mian Muhammad Ikram and 3 others (2022)⁵⁴⁸

Father (respondent no.1) filed an application before the GBV court alleging therein that his son (petitioner) forcibly stopped his entry into a house owned by respondent father. The deputy commissioner, acting as a judge of GBV court, while exercising his powers followed the procedure enshrined in Chapter XX of the Criminal Procedure Code, 1898,⁵⁴⁹ and initiated criminal proceedings against the disobedient son. The petitioner, being aggrieved by the proceedings, filed a criminal revision petition before the Lahore High Court against the proceedings initiated by the deputy commissioner. The petitioner (son) appeared before the High

⁵⁴⁵ *Tayyaba Bibi v The State and 2 others*, PLD 2020 SCMR 146.

⁵⁴⁶ *Tayyaba Bibi v The State and 2 others*, PLD 2020 SCMR 146.

⁵⁴⁷ The Constitution of the Islamic Republic of Pakistan (The Official Gazette of Pakistan, April 12, 1973), Article 11(3).

⁵⁴⁸ *Ali Ikram v. Mian Muhammad Ikram and 3 others*, PLD 2022 Lahore 559.

⁵⁴⁹ The Code of Criminal Procedure (Act No. V of 1898), (The Official Gazette of Pakistan, Extraordinary Part VI, March 22, 1899), Chapter. XX.

Court and asserted that his father used to live in a separate house with his other wife and that the house-in-question is not owned by his father rather its title is disputable before a civil court.

The section 4 of the “Protection of Parents Ordinance, 2021” says that whoever evicts his parents from a home, even if it is constructed by the funds of the child, shall be subjected to the punishment and fine. It further says that any of the defenses put up by an individual in this regard shall be immaterial.

Justice Ali Baqar Najafi held that the Protection of Parents Ordinance, 2021 is a special law which had to be given a special status therefore the jurisdiction and powers of deputy commissioner under the Ordinance are very well intact. This clearly reveals that the eviction of old parents, being a weaker section of society, is not tolerable in any case in the eyes of the law, and admitting any defense to such a disobedient act is equivalent to encouraging the disrespect and non-maintenance of parents.

5.2.20 Gul Shair v Additional and Session Judges/Ex-Officio Justice of Peace (2023)

In this case, the petitioner leveled allegations against the accused for the breach of contract as the petitioner had promised to give his daughter’s hand in exchange for a promissory note before the session court having powers of GBV court as well. The petitioner asserted that the promissory note given by the accused was bogus and was rejected by the bank for insufficient balance so the consideration was illegal. Hence the contract being invalid, is revoked, so the petitioner could not give his daughter in marriage to the accused⁵⁵⁰. The GBV court, while, rejecting the petition stated that it was devoid of necessary evidence and witnesses. This compelled aggrieved petitioner, Gul Shair, to file an appeal against the orders of the Sessions Court/GBV court in High Court.

⁵⁵⁰ *Gul Shair v Additional and Session Judges/Ex-Officio Justice of Peace*, 2023 PLD 171.

The High Court, while quoting in golden words, held that the significance of Article 9 and Article 14 lies in their commitment to safeguarding the security of individuals and upholding the inviolability of human dignity. These provisions specifically address the issue of gender-based violence, which disproportionately affects women and girls⁵⁵¹. By recognizing and protecting their fundamental rights, particularly the right to life and dignity, these articles play a crucial role in promoting equality and justice. Court further held that women are not the articles of trade and tools to resolve the disputes, they are the human beings with equal rights as that of men⁵⁵². The High Court also held that no nation can prosper without the participation of women from all walks of life, and if such violence against them is not ended by administering justice, Pakistan can never be able to become successful and developed. Therefore, anything that affects their well-being, existence, and dignity is not spared. Fixing the marriage of an adult daughter to a random person without her will is not permissible in Islam and such a kind of contract is also void in the eyes of law.

5.2.21 Faisal Amin v The State (2023)

The brief facts of this case include accused was charged with abducting, beating, and committing unnatural sex with the victim⁵⁵³. The victim had directly nominated accused persons for the cruel treatment meted out to him because of his gender in an FIR. The case was initiated in the GBV Court, Rahim Yar Khan. The case was taken on a priority basis for recording evidence and hearing arguments of the parties. During the case proceedings in GBV court, the medical report of the victim also corroborated the version of prosecution's account. The public prosecutor asserted before the court that the unnatural offences, under section 377 of PPC stated

⁵⁵¹ *Gul Shair v Additional and Session Judges/Ex-Officio Justice of Peace*, 2023 PLD 171

⁵⁵² *Ibid.*

⁵⁵³ *Faisal Amin v The State*, 2023 YLR 199.

to be “voluntary carnal intercourse against the order of nature with any man, woman or animal”⁵⁵⁴ which is an offense against the state and is non-compoundable. Therefore, any plea for compromise in similar cases cannot be considered during the bail hearing.

The GBV court, consequently, held that the accused individuals are evidently linked to the commission of a serious offense that not only goes against societal norms and values but also falls under the prohibitory clause of Section 497 of the Criminal Procedure Code⁵⁵⁵. The GBV court, held that sexual violence against suppressed and weaker sections of society will not be forgiven by the courts today. During the bail proceedings, in general circumstances, only tentative assessment of the case is made to evaluate the reasonable grounds for the grant of bail. In most of the cases, it is usually granted to the accused as detailed assessment of case is not made. But in such like cases, the courts are strict. The court refused to grant him bail as the offense was against the norms and values as well ultimately protecting the rights of transgender community again.

5.3. A Critical Analysis of the Judgments of Gender-based Violence Courts

The judgments of superior courts demonstrate that gender-based violence was not spared at any cost by the judiciary and full doze of punishments were given to the wrongdoers which gives a ray of hope for justice to the suppressed class. Contrastingly, the long list of litigation

⁵⁵⁴ The Pakistan Penal Code (Act No. XLV of 1898), (The Official Gazette of Pakistan, Extraordinary Part VI, October 6, 1860), section 377.

⁵⁵⁵ The Code of Criminal Procedure (Act No. V of 1898), (The Official Gazette of Pakistan, Extraordinary Part VI, March 22, 1899), section 497.

shows that a plethora of gender-targeted cases are instituted in courts of Pakistan every day and other important facts and figures that are extracted and analyzed by monitoring the above-mentioned case laws are discussed below point wise:

The perusal of “*Khurshid Bibi v Babu Muhammad Amin (1967)*” case indicated that the major flaw of GBV judiciary is restricting the right of a Muslim wife to obtain a dissolution of her marriage by the way of khula without the consent of her husband, even if such marriage union cause her mental agony and trauma. The judge adjudicating Khursheed Bibi’s case in GBV court even being Muslim, ignored the Islamic principles of khula which were laid down by the Holy Prophet (S.A.W), in dissolving the marriage of a Muslim woman namely Hazrat Jamila bin Qais (R.A) who did not want to continue the hateful marital bond with her husband that caused her mental torture and ordered her to free herself from this bond by giving her dower back to the husband as ransom. Islamic law is quite clear in this matter, but the GBV court in “*Khurshid Bibi v Babu Muhammad Amin (1967)*” case seemed to be biased and discriminated against the female petitioner by not granting her relief just on the basis that the second marriage of husband is not a valid ground to seek such dissolution. Even when such a right was granted to the petitioner by virtue of Islamic law and Section 2 (ii-A) of the Dissolution of Muslim Marriage Act, 1939. Khursheed Bibi was finally administered justice by the Supreme Court by holding that an unwanted matrimonial relationship is synonymous with violence and cruelty against her.

In “*Mst. Sarwar Naqvi v Ghulam Ali (1990)*,” the female petitioner struggled and waited for 15 years to file a petition in GBV court till her final appeal was disposed at the Supreme Court to get relief and access to justice. During this time, she knocks on the door of various courts, including the GBV court, session court, high court, and the last Supreme Court of Pakistan. This means that the legal system of Pakistan has wasted the 15 precious years of the

petitioner in declaring that the judiciary discourages and denounces the practices of male legal heirs to opt for illegal and fraudulent tactics to deprive female legal heirs of getting their religious share in the property of deceased and considered it as a discrimination, emotional exploitation and violence against them. During this entire journey, the time and monetary resources that have been spent by Mst. Sarwar Naqvi (petitioner) to bear the legal expenditure of the Courts was equivalent to the market value of the share she had been claiming from the estate of her deceased father, therefore, the litigation remained useless for the victim in the end.

In the case of “*Shiren Munir v Government of Punjab (1990)*,” when the medical college denied admission to a female candidate even when she was on merit, persuaded her to file a petition in GBV court to seek justice. She repeatedly requested the court for the early disposal of this case as her precious academic years were being wasted. Frequent adjournment sought by the respondent party and a heavy backlog of cases pending before said GBV court due to which the court fixed the hearing dates with much longer gaps, ultimately caused her to get the final decision of her case in 3 years. Therefore, unfortunately, Shiren Munir (petitioner) got enrolment in medical college after the lapse of three academic years.

In the “*Sabeeha Begum v Fahimuddin (1991)*” case, the petitioner did not receive justice in the subordinate courts including the GBV court and High court which forced her to move an appeal in the Supreme Court. Since, in this case, she exercised her right of appeal, it led to further delay in accessing relief. As in high court and Supreme court, due to heavy backlog of pending cases and shortage of judicial staff and other resources, cases are not fixed for hearing quickly. Petitioner waited for years to get her turn and start her appellate process which further exacerbated delay in getting her justice in controlling gender based violence.

In “*Inquilabi Labour Party v Government of Pakistan and others (1993)*”, the female petitioner encountered obstacle in holding public offices and key positions even she fulfilled the merit and has absolute eligibility like all other competitors and contestants. The GBV court adopted bias and discrimination while tackling her case by stating religious impediments in holding the office of Prime Minister by female contestants. Hence, in this case, the female petitioner not only faced discrimination on the basis of gender from the society but also from the law keepers i.e. GBV court.

In the “*Abdul Zahir v The State (2000)*” case, the wife of the accused was brutally murdered in the name of honour. The deceased wife failed to obtain justice and retaliation for the violence she sustained just because of the poverty of her parents, they lodged an FIR but could not continue the legal proceedings to acquire justice for their innocent daughter as they could not afford to engage a lawyer to plead their case. Challenges like lack of access to legal representation free of cost caused a delay of 2 years until a competent lawyer affiliated with a local NGO promised to defend the case of the victim free of cost on humanitarian grounds.

In “*Hafiz Abdul Waheed v Asma Jahangir (2004)*”, the GBV court while entertaining this case, felt reluctant to accept the plea of the complaint, Saima Waheed, that an adult woman possesses a complete legal capacity to ink a marriage contract independently while exercising her free will even without the consent of her legal guardian. The major factor that contributed to the hesitance of the GBV court in providing justice to the petitioner was the religious and societal pressures and interferences that hindered the independent mind of a GBV judge to decide rationally and logically. This ultimately led to decision in “*Hafiz Abdul Waheed v Asma Jahangir (2004)*” not based on merits of the case but on the external influential factors.

In “*Rafique Bibi v Muhammad Sharif and others (2006)*”, the cumbersome legal procedures and perusal of documentation as an essential requirement for admissibility of appropriate evidence hindered the female petitioner in her ability to access the legal system and justice. The complexity of the judicial process disproportionately affected Rafique Bibi (petitioner) leading to a denial of justice by GBV court.

In the “*Salman Akram Raja v Government of Punjab (2013)*” case, firstly, the rape victim failed to report the incident to the local police station due to societal stigmatization and associated issues which severely traumatized the victim until 2 months passed and then finally a legal representative of Aurat Foundation pleaded her case in GBV court. But this traumatized attitude of the victim continued in the court as well, it took a long time to convince the victim to have a medical examination. The fear of disbelief in the justice system, also exacerbated the situation when she failed to give the required evidence and accurate narration of facts before the GBV court which further caused a delay in access to justice. The GBV court also failed to ensure the victim and witnesses their identity protection, and safeguard against fear of life threats and retaliation from the rapists which proved to be a significant barrier in the provision of justice to the victim.

In the case of “*Dr. Muhammad Aslam Khaki v S.S.P Operations Rawalpindi (2013)*”, the GBV court, failed to administer justice to the transgender petitioners without recording proper evidence just because of stereotypes and prejudices encountered by the GBV judge, in this case, living in unjust environment. These prejudices also effected the decision given by the GBV court in this case which resulted in partial treatment of the petitioners within the judicial system and also greatly impacted the fairness of legal proceedings. Due to these societal and cultural barriers, no lawyer felt confident in giving legal representation to such an aggrieved transgender

community causing a delay of 5 years in the final disposal of a case until a public prosecutor gave them legal representation.

In “*Mst. Rukkiya Iqbal v Faisal Hayat (2017)*”, **the** petitioner had been sustaining violence by the hand of her husband and in-laws because of lack of information about her right to a peaceful and dignified life. This lack of knowledge about her legal rights and a way to justice caused her to suffer so much that a neighbour filed an FIR against her abusive husband and took her to the hospital. After sustaining so much physical and mental violence for 12 years, she was able to receive justice from the GBV court. This case shows that lack of knowledge regarding legal rights and courts is also one of the reasons that women remain deprived from getting their rights.

In the “*Imran Ali v The State (2018)*” case, the rape victim and her family had been struggling to receive justice for 5 years because the GBV court did not show urgency in disposing of the matter quickly. Another lacuna in this case, was the delay in submission of the police report before the GBV court due to which Imran Ali, the accused rapist, was enjoying freedom due to an ineffective legal system. The process of recording evidence remained very slow and the medical examination of the victim was also held by the delayed of 3 months. The public holidays and frequent leave of the judge further worsened the situation and made access of quick relief difficult for the rape victim.

In “*Ghulam Mustafa v Judge GBV/Family Court (2021)*”, the respondent wife was hesitant in undergoing her medical examination and GBV court too did not force her to do keeping in view the privacy rights but this hesitancy caused denial of justice to her. This not only wasted the time and resources of litigants but also the court. As the evidence and further case proceedings were dependent upon her medical examination. The major flaw in this case, was the

quick and just decision of the GBV court, as the court did not felt the dire need of medical examination that was necessary for the provision of justice to the women. The GBV court should have ordered it even if the wife was reluctant because of its necessity to administer relief and justice.

In “*Faiz Ullah v The State (2021)*”, the major drawback that led to the denial of justice in GBV court was the political influence and pressure, the police remained reluctant to file a murder case against the accused who was known to be “Don of the city” even when he committed a culpable homicide of a transgender. This act of the police and further delay and adjournments in submitting the police report before the GBV court to initiate legal proceedings caused a huge loss to the victim, and the culprit happily moved outside the jail just because of money and deterrence for the police officials. However, even upon the directions of the GBV court, police remained lazy in the collection of evidence which caused much adjournments of the case, as the court could not proceed without the cooperation of police officials. Once again, through this case, transgender victims struggled for 7 years to access justice because of such legal lacunas and delays.

The “*Uzma Naveed Chaudhary v Federation of Pakistan (2022)*” case, demonstrated that the female petitioners faced a lot of problems in proceeding with their case in GBV court. Firstly, the court system therein was outdated and inefficient as it was located in a small town with lack of competent GBV judge and judicial staff that led to various oversights in recording evidence along with legal and procedural mistakes. Then, even after wasting such a long time of female victims, GBV judge wrote an unjust decision and transferring the matter to High Court. This case portrayed another example that access to justice for females in how much lengthy and cumbersome in Pakistan judicial system.

In “*Gul Shair v Additional and Session Judges/Ex-Officio Justice of Peace (2023)*” case, the GBV court was already overloaded with case dockets that led to the rush proceeding of the case, even though the case was disposed of early but GBV judge overlooked most of the important evidence points and gave decision in hurry thus posed negative impact on the quality of justice provided to the petitioner in this case. Due to this reason, the victim moved to the appellate forum to get relief, but in higher courts, the date of hearings was fixed with much longer gaps causing extended periods of uncertainty for the victim. Therefore, in “*Gul Shair v Additional and Session Judges/Ex-Officio Justice of Peace (2023)*”, the appellate court gave justice after the passage of 6 years until then few of the witnesses of the case forgot details and the evidence faded, this factor also proved to be vital in delayed justice to the victim of the case.

5.4 Cases Adjudicated by Gender-Based Violence Courts

Some of the significant cases entertained by the GBV courts regarding gender-based violence are analyzed below which demonstrate the difficulty of seeking judicial relief therein that ultimately compels the aggrieved to file appeals in the higher forums i.e. apex court. In *Khurshid Bibi v Babu Muhammad Amin (1967)*, the brief facts of this case reveal that the petitioner (Khurshid Bibi) brought a lawsuit for the dissolution of marriage through khula before the GBV Court. By virtue of this petition, she went to exercise her statutory right to seek judicial separation on the grounds of her husband’s second marriage without her prior consent. She asserted before the GBV court of law that she is empowered by virtue of “section 2(ii-A) of Dissolution of Muslim Marriage Act, 1939” to seek termination of marriage if her husband solemnizes another nikkah without the prior consent of Chairman “Arbitration Council” and

existing wife.⁵⁵⁶ GBV court held that permission of husband is a necessary element for seeking khula, hence, khula remains ineffective if it is non-assented by the husband like in this case. The GBV court declined the petition being meritless and held that the second marriage of the husband is not an appropriate ground to seek khula as no violence was involved herein, therefore, the GBV court lacks jurisdiction to entertain it. Khusheed Bibi (petitioner) rebutted the ruling of the GBV court by asserting that the second marriage of a husband is itself torture and mental agony for an existing wife and the law provides a remedy for it. The dismissal of the petition by the GBV court forced Khursheed Bibi to approach the High Court for redress but it also upheld the decision of GBV Court. Hence, she knocked on the door of justice by filing an appeal in the Supreme Court. Khursheed Bibi was finally administered justice by the Supreme Court and its decision became remarkable in the history of Pakistan which is still practiced by the lower judiciary and is often quoted in golden words:

“Khula is an unrestricted and inherent right of a Muslim wife where she cannot live with her husband within the limits ordained by Allah due to any reason and if she is forced to stay in this unwanted matrimonial relationship, it would be synonymous to violence and cruelty against her.”⁵⁵⁷

In this case, *Mst. Sarwar Naqvi v Ghulam Ali* (1990), the facts of the case revolve around the tale of an illiterate village woman who is not only assaulted but also deprived of her essential religious share. Mst. Sarwar Naqvi stated that she is the only sister of Ghulam Ali (respondent) and claimed a share in her father’s estate from her brother according to the set fractional proportion mentioned in the Holy Quran. But he also insulted her and dragged her out of the home. Petitioner again requested him to handover her due share upon which respondent said that

⁵⁵⁶ Dissolution of Muslim Marriage Act, (VIII of 1939), (The official Gazette of Pakistan, Extraordinary Part I, March 17, 1939), Section 2 (ii-A).

⁵⁵⁷ *Khurshid Bibi v Babu Muhammad Amin*, PLD 1967 SC 97.

we have already given you massive dowry articles on your wedding so you are not entitled for any share in the property. Respondent (Ghulam Ali), also allegedly threatened the petitioner of dire consequences if she did not comply with. These circumstances compelled Mst. Sarwar approached a local NGO (Aurat Foundation) working to protect the interests of victimized women to seek remedy as she was an illiterate woman living in a village. Hereupon, the director of the NGO, assisted her in instituting a petition before GBV Court, Peshawar to seek justice. In GBV Court, the respondent (Ghulam Ali) took a defensive plea that the entire estate of the deceased father was gifted to him during his lifetime and also the petitioner received the dowry articles worth 1 million rupees from their father so she is no more entitled to her share in property. Mst. Sarwar Naqvi (respondent) succeeded in establishing that the gift deed presented by the respondent was illegal and fabricated. Therefore, the GBV court decided in favour of the petitioner (Mst. Sarwar). Ghulam Ali instituted an appeal before the Supreme Court of Pakistan against the decision of the GBV Court. The Honourable Supreme Court of Pakistan also accepted and upheld the decision of GBV court being devoid of any error and irregularity. The apex court declared that it is an un-islamic customary practice of relinquishing inheritance rights by women in favour of their male relatives.⁵⁵⁸ It was held that dowry articles presented to a bride at the time of marriage are considered to be a gift, which is not mandatory to be given to her, whereas, giving a share in the property of a deceased is a right of legal heir and it should necessarily be provided accordingly. Supreme Court also discouraged and denounced the male legal heirs to such illegal and fraudulent tactics to deprive female legal heirs of religious shares in the property of the deceased and considered it as discrimination, emotional exploitation, and violence against them.⁵⁵⁹

⁵⁵⁸ *Mst. Sarwar Naqvi v Ghulam Ali*, PLD 1990 SC 1.

⁵⁵⁹ *Ibid.*

In *Shiren Munir v Government of Punjab (1990)*, the brief facts of this case demonstrated that the plaintiff brought a claim before a GBV Court against a public sector medical college in Rawalpindi which declined to give her admission despite her clearing entrance exam and scoring the required marks necessary for the admission.⁵⁶⁰ The counsel representing the Government of Punjab on the behalf of said medical college took a defence that out of total 858 open merit seats in public sector medical colleges, 677 seats are reserved for men. The counsel for petitioner student argued before the court that the selection procedure and division of seats for men and women in educational institution violated women's fundamental right guaranteed under article 22 (3)(b) of Constitution of Pakistan, 1973 which states that:

“No citizen shall be deprived be get admission in educational institutions on the basis of religion, race, birthplace, caste, and sex.”⁵⁶¹

The GBV court, while interpreting the above mentioned constitutional provision, favoured female students and held that the only criteria that can be set by the government to give admission to any student in an educational institution is merit, and who so ever succeeds in achieving such merit shall necessarily be granted admission irrespective of discrimination including gender based differentiation which shall not be tolerable in any case.⁵⁶² Therefore, the respondent was directed by the GBV court to enroll the petitioner in medical college forthwith.

The plaintiff in this case *Sabeeha Begum v Fahimuddin (1991)*, Sabeeha Begum, filed a complaint against her husband for violating the principle of polygamy as mentioned in “section 6 of Muslim Family Law Ordinance, 1961” in GBV Court as it caused extreme mental pressure and torture to her which made her a depression patient. She asserted that section 6 of MFLO, 1961 empowers the existing wife to hold her husband accountable for the immediate payment of

⁵⁶⁰ *Shiren Munir v Government of Punjab*, PLD 1990 Lahore 295.

⁵⁶¹ The Constitution of the Islamic Republic of Pakistan (The Official Gazette of Pakistan, April 12, 1973), Art. 22(3)(b).

⁵⁶² *Shiren Munir v Government of Punjab*, PLD 1990 SC 295

deferred dower amount and request his judicial penalty if he solemnizes another marriage without the approval of existing wife.⁵⁶³ The counsel representing the husband called an act of polygamy as religious right and said that no one can hinder him from doing so. The GBV court turned down the complaint of the petitioner by exercising judicial discretion and stating that Section 6 MFLO, 1961 is against the injunctions of Islam as there is no evidence of “Sahabi” women seeking divorce upon another marriage of husband while considering it violent. The GBV Court considered it as an unlawful tool for black husbands and seek divorce as it is the most disliked thing in the eyes of Allah so it should not be sought without any reasonable ground. The petitioner, therefore, filed an appeal before the Supreme Court. The Honourable Supreme Court of Pakistan, in its ruling, affirmed that an existing wife fully possesses the locus standing to lodge a complaint for an act of polygamy committed by her husband and demand the immediate payment of the dower amount otherwise it is considered as violence and infringement of wife’s matrimonial rights.⁵⁶⁴

In the case, *Inquilabi Labour Party v Government of Pakistan and Others (1993)*, a member of the Inquilabi Labour Party (Benazir Bhutto), now known as Pakistan Peoples’ Party, filed a lawsuit before GBV Court against the Government of Pakistan for not allowing her to contest election as a prime minister of Pakistan due to being a female candidate. She asserted that it amounts to gender based violence against her womanhood for the rights and positions which have been permitted to her by Islam and also by the constitution of Pakistan. The Counsel for Benazir Bhutto contended that section 25 of the Constitution of Pakistan guarantees that there shall be no discrimination on the basis of gender with respect to education, employment and

⁵⁶³ Muslim Family Law Ordinance, (VIII of 189), (The official Gazette of Pakistan, Extraordinary Part I, March 2, 1961), Section 6.

⁵⁶⁴ *Sabeeha Begum v Fahimuddin*, PLD 1991 SC 1074.

opportunities.⁵⁶⁵ It was further asserted that even the father of nation Quaid e Azam said that “*women are the integral part of any nation and no nation can rise without women empowerment.*” GBV court failed to redress the complaint of petitioner which made her approach the Supreme Court to seek relief and justice. Afterward, the inquilabi Labour Party filed an appeal before the Supreme Court of Pakistan, under its constitutional jurisdiction, against the Government of Pakistan and the Pakistan Peoples’ Party for allowing Benazir Bhutto to contest for the seat of Prime Minister.⁵⁶⁶ The counsel for the inquilabi Labour Party argued that Pakistan being an Islamic state should not permit a thing that is debatable. Some religious clerics are of the opinion that women are unable to serve as the head of an Islamic state, chief minister, or member of the Provincial or National Assembly. The Supreme Court of Pakistan, in its findings, held that there is no constitutional obstacle preventing women from holding public offices and positions if they fulfil the merit and have absolute eligibility like all other competitors and contestants.⁵⁶⁷ Therefore, the argument of the respondent i.e. Government of Pakistan is irrelevant and immaterial that women cannot hold a key position having religious and cultural impediments.

The brief account of the case *Abdul Zahir v The State* (2000), revolves around the fact that a complainant, a father of the deceased daughter, lodged an FIR against his son-in-law that Abdul Zahir (accused) brutally murdered his daughter in the name of honour with a deadly weapon. The complainant’s father asserted before the GBV Court that her deceased daughter worked really hard as a labour and domestic helper in various households to raise her children. Accused, even being a father, had a duty to bear the household expenses but he remained house

⁵⁶⁵ The Constitution of the Islamic Republic of Pakistan (The Official Gazette of Pakistan, April 12, 1973), Art. 25.

⁵⁶⁶ *Inquilabi Labour Party v Government of Pakistan and others*, NLR 1993 SCJ 397.

⁵⁶⁷ Ibid.

ridden and forced her to do work outside. Not only this, accused was alcoholic person and every time when her daughter brought her salary home, he used to snatch it and whenever she resisted, he used to beat her severely with sticks. On the day of this unfortunate incident, complainant's daughter refused to give her accused husband money upon which he became furious and took her life with a hatchet. However, on the other side, the accused had a different version of arguments and pleaded before the GBV court that he saw his wife having illicit relationships with her maternal cousin and this killing was the result of sudden provocation and was not intentional.⁵⁶⁸ The GBV court, while discarding the accused plea, held that women are equal citizens with equal rights to have the protection of life as that of men. So there can be no leniency for such heinous offenses and awarded death sentence to the accused. The accused challenged this decision and filed an appeal before SC. The Supreme Court held that admitting such pleas is equivalent to encouraging honour killings and giving such criminals the benefit of mitigating circumstances and promoting the practice of violence against women.⁵⁶⁹ Hence, the death sentence of the accused was confirmed.

The case *Hafiz Abdul Waheed v Asma Jahangir (2004)*, reveals that a college girl namely, Saima Waheed, secretly married her teacher without the knowledge and consent of her parents. When her parents came to know about this, they forced her to dissolve this marriage immediately, or else they would kill her. This made her run away from her parental house and take refuge in an NGO seeking protection for her life. Resultantly, a lawyer namely, Asma Jahangir who was affiliated with the said NGO, provided the petitioner with legal aid and decided to plead her case free of cost as an advocate before GBV Court. On the other hand, the petitioner's father, Hafiz Abdul Waheed, brought a counterclaim and filed an FIR against said NGO for abducting her

⁵⁶⁸ *Abdul Zahir v The State*, 2000 SCMR 406.

⁵⁶⁹ *ibid.*

daughter. Her father asserted that the marriage solemnized by her daughter is void ab initio because he did not assent to this being legal guardian of Saima Waheed which is necessary ingredient for a valid marriage in Islamic law.⁵⁷⁰ An advocate for petitioner, Saima Waheed, contended that Islam equally gives respect to the opinion and choices of women as that of men and there are various examples from the life of Holy Prophet (S.A.W) where he dissolved marriages on the request of women who were married by their guardians without their consent. Therefore, choices of Wali cannot be imposed upon bride with force. Similarly, it is un-Islamic and unethical for a Wali to compel a bride to annul her happy marriage. The GBV Court declined the version of respondent father and decided in favour of petitioner Saima Waheed. Therefore, father of petitioner, Hafiz Abdul Waheed approached SC to file an appeal. The Supreme Court of Pakistan, while declining the plea of petitioner, ruled in its esteemed judgment that an adult woman possesses a complete legal capacity to ink a marriage contract independently while exercising her free will even without the consent of her legal guardian under Hanafi School of Law which is mostly practiced in Pakistan.⁵⁷¹ The only thing required for a valid marriage, under Hanafi School of law, is offer and acceptance of contracting parties. This judgment proved to be an empowering tool for adult women of Pakistan in succeeding years to lawfully choose a life partner (husband) for themselves and not to sustain the mental torture and forcibility of parents anymore.

In *Rafique Bibi v Muhammad Sharif and others (2006)*, Rafique Bibi filed a criminal complaint in GBV court against her brothers/respondents that they fraudulently engineered the land revenue records and transferred the land mutations in their own names thus depriving the

⁵⁷⁰ *Hafiz Abdul Waheed v Asma Jahangir*, PLD 2004 SC 219.

⁵⁷¹ *ibid.*

petitioner from her legal share in the estate of her deceased father.⁵⁷² The counsel for Rafique Bibi asserted that she being an uneducated and simple lady was unaware of the malafide intentions of her brother. They took signatures from her on a blank paper while stating that it is just for some good purpose related to well-being of the village. The petitioner, blindly trusted her brothers and could not assess their evil plots. Later on, she came to know that they collectively engineered the revenue records to make their sister (petitioner) deprived of her due share. When she shouted about this distrust and deception, respondents began to beat her and gave life threats if she did not withdraw the petition filed before GBV Court. However, the GBV dismissed the application of the petitioner on the basis of insufficient evidence and declared it meritless.

Rafique Bibi, being aggrieved by the order of the GBV court, appealed before the Supreme Court of Pakistan. The SC in a commendable decision, criticized the previous practice of manipulating revenue records, which resulted in the unjust deprivation of a woman's rightful portion in immovable property through inheritance. The court placed significant emphasis on safeguarding women's rights, specifically in relation to their ownership of landed property as women possessed the legal entitlement to seek recourse through the judicial system in order to assert their rightful claims.⁵⁷³

In *Salman Akram Raja v Government of Punjab (2013)*, the brief facts of this case are that a girl named Ayesha was subjected to a gang rape and then her FIR was not registered by the respective police station, resultantly, she committed suicide. The father of the victim girl filed a criminal complaint before GBV court against the concerned police officials who failed to perform their professional duty and became a reason for the mental breakdown and suicide of a

⁵⁷² *Rafique Bibi v Muhammad Sharif and others*, 2006 SCMR 512.

⁵⁷³ *Ibid*.

victim. The GBV court rejected the complaint of the petitioner having so many doubts, lacunas, insufficient evidence and lack of credible witness. Consequently, the petitioner, filed an appeal before Supreme Court to seek justice for his victimized daughter. The Supreme Court provided a detailed guideline to curb such like rape and violence cases immediately by extending an easy-to-approach justice policies for affected women.⁵⁷⁴ The guidelines to tackle violence and rape cases against women provided by the Supreme Court, by virtue of this remarkable judgment, included the statements of rape victims to be recorded and documented by female Magistrates. Rape is to be considered as an offense against the entire society therefore the cases are to be registered against the State. The State shall bear the burden of the expense of legal proceedings out of the national exchequer and will compulsorily pursue the case even if the parties had an out-of-court compromise.⁵⁷⁵ Also, strict measures to be adopted for the identity protection of victims and witnesses. For this purpose, modern devices could be used to record testimonies to minimize accused-victim-witness confrontation.

In *Muhammad Aslam Khaki v S.S.P Operations Rawalpindi (2013)*, the petitioner stated that he filed multiple applications and complaints before the GBV Courts regarding the discriminatory behavior and practices adopted by the public institutions of Rawalpindi for the transgender community with respect to entrance tests in educational institutions, jobs in public and private sectors, even they are humiliated in public places like shopping malls and parks. However, the petitioner contended that these petitions remained useless and no directions were made by GBV courts to the concerned departments. These circumstances compelled the petitioner to approach the Supreme Court. This case was filed by an Islamic Scholar, Dr. Muhammad Aslam khaki on the behalf of transgender community before the Supreme Court of

⁵⁷⁴ *Salman Akram Raja v Government of Punjab*, 2013 SCMR 203.

⁵⁷⁵ *Ibid.*

Pakistan under its constitutional jurisdiction. The constitutional jurisdiction of SC under “article 184(3) of Constitution of Pakistan, 1973” empowers it to entertain a petition that pertains to infringement of a fundamental right guaranteed under constitution and a large segment of the society is affected by its violation.⁵⁷⁶ As transgender community of Pakistan also comprises a major section therefore SC granted a leave to file a petition. The counsel representing the transgender community argued that even eunuchs are equal citizens of Pakistan and the Constitution of Pakistan entails that there shall be no discrimination in terms of acquiring property, inheritance share, education, profession, religion, opportunities, voting rights on the basis of caste, religion, sex, and birthplace.⁵⁷⁷ But still, they have been continuously deprived of their fundamental and constitutional rights ultimately resulting in legal and social insecurities, violence, and attacks. The Supreme Court of Pakistan duly acknowledged and considered the social status and inequities faced by the transgender population. The Supreme Court has issued an order mandating that both the Federal and Provincial Governments take necessary measures to ensure that all the rights that have been enshrined in the Constitution of Pakistan and are enjoyed by other citizens should be enjoyed by transgender(s) too and facilitation desks to be constructed for them forthwith.⁵⁷⁸

In *Mst. Rukkiya Iqbal v Faisal Hayat (2017)*, the brief facts of the case revolve around a severe domestic violence case incurred in the outskirts of Karachi on February 23, 2019. The victim namely, Mst. Rukkiya Iqbal was brought to the DHQ hospital in a serious condition and the father of the victim went to the local police station to lodge an FIR against the accused husband. Faisal Hayat, an accused, allegedly beaten her wife with sticks and eventually evicted

⁵⁷⁶The Constitution of the Islamic Republic of Pakistan (The Official Gazette of Pakistan, April 12, 1973), Article 184(3).

⁵⁷⁷ *Dr. Muhammad Aslam Khaki v S.S.P Operations Rawalpindi*, 2013 PLD 188.

⁵⁷⁸ *Ibid.*

her from her matrimonial home.⁵⁷⁹ However, the police officer refused to file an FIR and turned down their request. This compelled the victim to file a criminal complaint before the GBV court and nominated police officials as well who refused to perform their official duty i.e. to lodge an FIR of a cognizable offence. The GBV Karachi court, after recording evidence and perusal of the record, held that the accused was found guilty of causing "hurt and physical abuse" to the victim under section 337-L of the Pakistan Penal Code.⁵⁸⁰ The accused is also guilty of inflicting "emotional, psychological, and verbal" abuse on the victim. The court declared that domestic violence is a grave human rights violation, if the offenders of such crimes are spared, it is equivalent to the encouragement of crimes against the weakest classes of society and their abandonment; also if stringent punishments are not awarded to such abusers, the purpose of relevant enactment protecting victim's rights is failed.⁵⁸¹ Resultantly, the court sentenced 6 months imprisonment along with the payment of Rs.45,000/- daman (fine penalty) to the victim.

In this case, *Imran Ali v The State (2018)*, a 6 years old girl namely Zainab, hailing from Kasur, was raped followed by her murder by an accused, Imran. The entire social media and print media of Pakistan played a vital role in highlighting this incident and making it the most high-ended case. Initially, the advocates associated with NGOs and civil society, collectively instituted a suit before the GBV court to seek justice for the helpless young children, being weak and suppressed sections of the society. During this time period, the child rape cases were on their peak where dozens of cases were reported on daily basis within the vicinity of Punjab. Zainab's rape and consequent murder put a full stop to the tolerance of the parents and members of civil society and decided not to be mute anymore. Importantly, these rapists belonged to widespread

⁵⁷⁹ *Ms. Rukkiya Iqbal v Faisal Hayat*, Criminal Petition No. 457 of 2017.

⁵⁸⁰ The Pakistan Penal Code (Act No. XLV of 1860), (The Official Gazette of Pakistan, Extraordinary Part VI, October 6, 1860), section 337(L).

⁵⁸¹ *Ms. Rukkiya Iqbal v Faisal Hayat*, Criminal Petition No. 457 of 2017.

network of mafia with influential people having their back whose pressure and power not only affected the independent judicial mind of the judges but also many of the judges in GBV courts refused to entertain Zainab's case. People from all around Pakistan including members of civil society, for the first time following this incident, came on the roads and recorded their protest against child rape and sodomy and insisted on the public hanging of such abusers. This situation of the country forced the Supreme Court to take immediate action on it otherwise it would result in anarchy and chaos in the society. The honourable Supreme Court held that the right to a dignified life is a right of every citizen as guaranteed by Article 10 of the Constitution of Pakistan.⁵⁸² The offences against children especially rape and sodomy shall not be tolerable by the law keepers and therefore awarded the death penalty to Imran Ali.⁵⁸³ This punishment was conferred under Section 376(1) of PPC.⁵⁸⁴

In *Mian Asia v Federation of Pakistan through Secretary Finance (2018)*, in this case, NADRA, the national identity card issuing authority, declined to renew the CNIC for an applicant who happened to be a transgender. This compelled the transgender petitioner to lodge a complaint before the GBV court. The counsel representing on the behalf of NADRA argued before the court that the application was declined by NADRA due to lack of knowledge and record regarding the petitioner's parentage and absence of the name of his/her spiritual mentor.⁵⁸⁵ On the other hand, the counsel representing Mian Asia (petitioner) asserted that gender identity is a fundamental concept in human existence, encompassing an individual's inherent perception

⁵⁸² The Constitution of the Islamic Republic of Pakistan (The Official Gazette of Pakistan, April 12, 1973), Article 10.

⁵⁸³ *Imran Ali v The State*, 2018 SCMR 1378.

⁵⁸⁴ The Pakistan Penal Code (Act No. XLV of 1860), (The Official Gazette of Pakistan, Extraordinary Part VI, October 6, 1860), section 376(1).

⁵⁸⁵ *Mian Asia v Federation of Pakistan through Secretary Finance*, PLD 2018 LHC 201.

of his/her own gender as either male, female, or transgender.⁵⁸⁶ Every individual possesses the inherent entitlement to freely exercise their universally recognized human rights, without any limitations imposed on the basis of their gender identity, and to receive equal treatment under the law in all jurisdictions. The Supreme Court, in its observation and obiter dicta, emphasized the necessity for a shift in societal attitudes, wherein individuals with diverse gender identities comprehend and assert their entitlement to comprehensive legal rights across all domains of existence. Supreme Court held that, we being the protectors of the Constitution are bound to follow its provisions in letter and spirit. The transgender community is the equal citizen of Pakistan and by dint of article 25 of the Constitution of Pakistan, there is a guarantee to every citizen that there shall be no discrimination in any field of life on the basis of gender.⁵⁸⁷ Consequently, SC directed NADRA to immediately renew the CNIC of the petitioner and to act likewise for the succeeding cases.⁵⁸⁸

In *Mst Hina v Province of Sindh (2019)*, a domestic violence incident was reported to Malir Police station, Karachi, where a wife named Hina, lodged an FIR against her abusive husband under “Sindh Domestic Violence (Prevention and Protection) Act, 2013.” She alleged that her husband not only used to beat her at home on petty issues but also created a fuss at her workplace, causing threats and chaos there too.⁵⁸⁹ Mst. Hina (petitioner) approached a Bint –e- Fatima Foundation to seek the help of their legal team. She also alleged that she was not maintained by her husband and in order to bear her children’s expenses she used to work in a local biscuit factory, even there she was not safe. She told the legal team that she did not want

⁵⁸⁶ *Mian Asia v Federation of Pakistan through Secretary Finance*, PLD 2018 LHC 201.

⁵⁸⁷ The Constitution of the Islamic Republic of Pakistan (The Official Gazette of Pakistan, April 12, 1973), Article 25.

⁵⁸⁸ *Imran Ali v The State* (2018), PLD, 2019, SC 345.

⁵⁸⁹ *Mst Hina v Province of Sindh*, PLD 2019 Sind 363.

to dissolve marriage because of her children's future that's why she had been sustaining so much violence. But now her tolerance level has crossed limits and even children want to end this unpeaceful environment at home. These circumstances led to the filing of petition before the GBV Court with the help of the legal team of the Bint-e-Fatima Foundation. GBV court Karachi, initially, heard the arguments but dismissed the petition without stating reasonable grounds. Then petitioner approached the High Court. A Karachi high court entertained this case at length and issued a restraining order to the accused husband, prohibiting him from physically assaulting his wife in the future and also restraining him from approaching her place of employment. Alongside, the court also directed the concerned SHO of the relevant Police Station to provide security for the petitioner and procure a security bond of Rs 100,000/- from the accused in order to prevent the commission of domestic violence under section 11(4) of Sindh Domestic Violence (Prevention and Protection) Act, 2013.⁵⁹⁰

The case *Ghulam Mustafa v Judge GBV/Family Court (2021)* was a strange case brought up by an aggrieved husband before GBV court contending therein that since his wife possesses objectionable gender characteristics that are not similar to that of females and in this way his nikkah is invalid therefore, prayed before the court to dissolve his marriage.⁵⁹¹ Petitioner, further argued that as the nikkah is void ab initio, hence, she is not entitled to any sort of maintenance, dower, and other marriage benefits. During the case proceedings, the husband filed an application seeking a medical examination of his wife to determine her gender characteristics. The respondent's wife, refused to allow her medical examination contending that she has a constitutional right to "dignity and privacy" under "article 14 (1) of Constitution of Pakistan,

⁵⁹⁰ Sindh Domestic Violence (Prevention and Protection) Act, (Sindh Act No. XX of 2013), (The Official Gazette of Pakistan, Extraordinary Part I, March 8, 2013), Section 11(4).

⁵⁹¹ *Ghulam Mustafa v Judge Family Court*, 2021 CLC 204.

1973.”⁵⁹² The GBV court declined the petition of husband and favoured respondent wife under article 14 (1) of Constitution of Pakistan, 1973 for having her right to dignity and privacy. The petitioner husband, then approached, Lahore High Court to file an appeal therein. The High Court, in its rightly framed judgment, held that if a party refused to comply with a directive to undergo a medical examination, the court could not compel that party and could only draw conclusions from the facts and circumstances of the case.⁵⁹³ Also, the marriage was presumed to be valid because the petitioner had been married to the respondent wife for eight months and had not yet filed for divorce. Petitioner could have requested a medical examination of the respondent only after recording evidence and presenting evidence to persuade the Court that such an order was absolutely necessary; therefore, the petitioner's request at this time is irrelevant and therefore petition was dismissed.⁵⁹⁴

In *Faiz Ullah v The State (2021)*, the brief facts of the case are that the complainant filed a criminal complaint before the GBV court as the police officials refused to register the case due to pressure of the influential tribes’ men. According to the prosecution, the defendant shot and injured a transgender individual badly, who was taken to the hospital in a critical condition. The Public prosecutor argued before the GBV court that the accused side is giving life threats and forcing them to withdraw the case and else they will face the consequences. Prosecution side also argued that the opponents are offering them heavy amount if the charges are withdrawn. It was further argued that violence against any class is not tolerable in whatsoever case but transgender community belong to more “suppressed” class and require more kind and gentle treatment by other citizens. On the contrary, they are not even considered citizens, though

⁵⁹² The Constitution of the Islamic Republic of Pakistan (The Official Gazette of Pakistan, April 12, 1973), Article 14(1).

⁵⁹³ *Ghulam Mustafa v Judge Family Court*, 2021 CLC 204.

⁵⁹⁴ Ibid.

constitution has directed the state institutions to make stringent legislations and reforms for the social and economic welfare of transgender community for their betterment and curb violence against them. The GBV court of law, after perusal of the evidence and record, held that taking someone's precious life (culpable homicide) is not a smaller thing. This is not a private wrong that could be compensated by offering a compensation amount or damages. It is an offence against a state as Islamic Republic of Pakistan has guaranteed its citizen through constitutional provisions that every citizen has a right to life and protection of dignity.⁵⁹⁵ The murderers could not escape from the execution of penal law by opting such tactics, he has to face the due punishment even if the victims compromises with him. Once the non-compoundable case is registered, it becomes the concern of the pillars of the state to do justice at any cost.⁵⁹⁶ The accused was convicted for capital punishment.

In the case, *Uzma Naveed Chaudhary v Federation of Pakistan (2022)*, the facts of the case reveal that a public institution and public TV channel of Pakistan was brought into light as some female employees of PTV collectively approached GBV court and knocked the door of justice. They asserted during proceedings that they repeatedly filed a complaint to the administration regarding the sexual harassment and related behaviour of the higher ups of the institution with the female subordinates but they remained mute and refused to take an appropriate action.⁵⁹⁷ This compelled them to approach the GBV court to seek justice and restraining order against the offending officials. The counsel representing the female employees of PTV stated that the younger and new comer employees are often subjected to harassment of sexual nature while offering them a handsome salary packages and quick promotion

⁵⁹⁵ *Faiz Ullah v The State*, PLD 2021 Lahore 1091.

⁵⁹⁶ *Ibid.*

⁵⁹⁷ *Uzma Naveed Chaudhary v Federation of Pakistan*, 2022 PLD 783.

opportunities by their bosses. If some lady flatly refuses to do, she is threatened for expelling from the job. Some of these female employees reported that they are only hope and breadwinner for their families and could not afford such termination and violence at workplace which could not provide them healthy working environment.

Because of the sensitivity of the matter, it had been transferred to the Lahore High Court by GBV court. After perusal of the evidence, LHC, directed the Federal ombudsperson and chairperson of the relevant institution to make a report regarding the unprofessional conduct and submit it before the court forthwith.⁵⁹⁸ The court, also demanded fifty lac rupees per victim as compensation amount and the amount will be deducted from the arrears of his pension money. Hence, this case clearly shows that women are equally powerful and have the right to work peacefully and play their roles in their respective professions comfortably.

Tayyaba Bibi v The State and 2 others (2022), in this case, Tayyaba Bibi's also received much limelight as that of Zainab's rape case. This is because of social media that trends to viral videos and exposes the faces of black sheep hidden in glass houses. This was also a violence and assault case of a domestic helper, Tayyaba Bibi, who worked in the residence of a government official. The victim's father lodged an FIR against the wife of the officer who brutally bludgeoned and injured his daughter on little things. He further said that the victim was only 11 years old and was hired for a little help. She was not only forced to do heavy tasks but if she failed to perform them, she was severely punished, refused meals, and beaten.⁵⁹⁹ Initially, the case was registered under GBV court, but due to pressure from civil society and the sensitivity of the matter was transferred to the Supreme Court to entertain it under constitutional jurisdiction.

⁵⁹⁸ *Uzma Naveed Chaudhary v Federation of Pakistan*, 2022 PLD 783.

⁵⁹⁹ *Tayyaba Bibi v The State and 2 others*, PLD 2020 SCMR 146.

The Supreme Court, itself took a notice of this incident, in suo motto/constitutional jurisdiction and stated that the accused, being the civil servants are the protectors of law, are expected to be more decent and gentle in their handlings than ordinary citizens.⁶⁰⁰ They are also expected to be well-known of constitutional provisions related to fundamental rights. As article 11 (3) of the Constitution of Pakistan, 1973 explicitly prohibits forced and bonded labour and no child under the age of 14 can be engaged in hazardous employment.⁶⁰¹ Therefore, the SC, in its judgment gave full doze of punishment to the accused i.e. 5 years imprisonment, suspension of government job and also the fine penalty of 5 lac rupees.

In this case, *Gul Shair v Additional and Session Judges/Ex-Officio Justice of Peace* (2023), the petitioner levelled allegations against the accused for the breach of contract as the petitioner had promised to give his daughter's hand in exchange for a promissory note before session court having powers of GBV court as well. The petitioner asserted that the promissory note given by the accused was bogus and was rejected by the bank for insufficient balance so the consideration was illegal. Hence the contract being invalid, is revoked, so petitioner could not give his daughter in marriage to the accused.⁶⁰² The GBV court, while, rejecting the petition stated that it is devoid of necessary evidence and witnesses. This compelled aggrieved petitioner, Gul Shair, to file an appeal against the orders of Sessions Court/GBV court in High Court. The High Court, while quoting in golden words, held that the significance of Article 9 and Article 14 lies in their commitment to safeguarding the security of individuals and upholding the inviolability of human dignity. These provisions specifically address the issue of gender-based

⁶⁰⁰ *Tayyaba Bibi v The State and 2 others*, PLD 2020 SCMR 146.

⁶⁰¹ The Constitution of the Islamic Republic of Pakistan (The Official Gazette of Pakistan, April 12, 1973), Article 11(3).

⁶⁰² *Gul Shair v Additional and Session Judges/Ex-Officio Justice of Peace*, 2023 PLD 171.

violence, which disproportionately affects women and girls.⁶⁰³ By recognizing and protecting their fundamental rights, particularly the right to life and dignity, these articles play a crucial role in promoting equality and justice. Court further held that women are not the articles of trade and tools to resolve the disputes, they are the human beings with equal rights as that of men.⁶⁰⁴ The High Court also held that no nation can prosper without the participation of women from all walks of life, and if such violence against them is not ended by administering justice, Pakistan can never be able to become successful and developed. Therefore, anything that affects their well-being, existence, and dignity is not spared. Fixing the marriage of an adult daughter to a random person without her will is not permissible in Islam and such a kind of contract is also void in the eyes of law.

In *Faisal Amin v The State* (2023), the brief facts of this case include accused was charged with abducting, beating, and committing unnatural sex with the victim.⁶⁰⁵ The victim had directly nominated accused persons for the cruel treatment meted out to him because of his gender in an FIR. The case was initiated in the GBV Court, Rahim Yar Khan. The case was taken on a priority basis for recording evidence and hearing the arguments of the parties. During the case proceedings in GBV court, the medical report of the victim also corroborated the version of the prosecution's account. The public prosecutor asserted before the court that the unnatural offenses, under section 377 of PPC stated to be “voluntary carnal intercourse against the order of nature with any man, woman or animal”⁶⁰⁶ which is an offense against the state and is non-compoundable. Therefore, any plea for compromise in similar cases cannot be considered during

⁶⁰³ *Gul Shair v Additional and Session Judges/Ex-Officio Justice of Peace*, 2023 PLD 171

⁶⁰⁴ Ibid.

⁶⁰⁵ *Faisal Amin v The State*, 2023 YLR 199.

⁶⁰⁶ The Pakistan Penal Code (Act No. XLV of 1898), (The Official Gazette of Pakistan, Extraordinary Part VI, October 6, 1860), section 377.

the bail hearing. The GBV court, consequently, held that the accused individuals are evidently linked to the commission of a serious offense that not only goes against societal norms and values but also fell under the prohibitory clause of Section 497 of the Criminal Procedure Code.⁶⁰⁷ The GBV court, held that sexual violence against suppressed and weaker sections of the society will not be forgiven by the courts today. During the bail proceedings, in general circumstances, only tentative assessment of the case is made to evaluate the reasonable grounds for the grant of bail. In most of the cases, it is usually granted to the accused as a detailed assessment of the case is not made. But in like cases, the courts are strict. The court refused to grant him bail as the offense was against the norms and values as well ultimately protecting the rights of transgender community again.

5.5 Major Hurdles in Access to Justice in Gender-based Violence Courts

There are issues in the system of judiciary due to which gender-based violence cases are not decided at a good pace. The lacunas in the implementation system are a reason that the rate of gender-based crimes is not decreasing. Possible causes for the limited impact of the Gender-Based Violence laws in Pakistan include the following:

5.5.1 Weaknesses in Legislation

During this study, it is explored that relevant laws are too complicated to meet the demand of justice. For instance, the “Anti-Women Practices (Criminal Law Amendment) Act of 2011”, has been criticized for having insufficient definitions and for being non-cognizable, requiring judicial authorization for its application.⁶⁰⁸ Consequently, no cases have been

⁶⁰⁷ The Code of Criminal Procedure (Act No. V of 1898), (The Official Gazette of Pakistan, Extraordinary Part VI, March 22, 1899), section 497.

⁶⁰⁸ The Anti-Women Practices (Criminal Law Amendment) Act of 2011. S.4.

submitted pursuant to this law. The necessary systems and mechanisms to implement the law are either not specified or do not exist. Likewise, the law requires DNA reports as proof of rape, but there are few DNA testing facilities, less than one per province. In many instances, the victim or survivor is asked to pay for tests because they are not budgeted. There is a lengthy queue at the laboratories, and it may take weeks to receive results. In the absence of Medico-Legal Officers in hospitals, medical-legal examinations, which are mandated in cases of rape or sexual abuse, are also compromised.⁶⁰⁹

For the entire province of Baluchistan, there is only one female surgeon with a valid medical license. There is little coordination between the various implementation mechanisms, and those in charge of providing aid and protection have a significant gender bias. It is well known that the police and prosecution cannot collaborate effectively and that lower-level judges are frequently oblivious to new laws or revisions, which discourages individuals from seeking justice.⁶¹⁰ Due to the generality of “The Cyber Crime Act 2016”, cases could not be presented before the courts.⁶¹¹

5.5.2 Lacunas in the Dispensation of Justice through GBV Courts

In GBV courts, the investigation focuses on women and transgender individuals who have been victims of violence. This focuses on the gendered nature of this violence, recognizing that the majority of sexual violence and intimate partner violence victims are

⁶⁰⁹ Criminal Law (Amendment) (Offences Relating to Rape) Act, 2016.

⁶¹⁰ Fazal Karim, *Judicial Review of Public Actions* (Islamabad: Pakistan Law House, 2018), 54.

⁶¹¹ The Cyber Crime Act of 2016. s.5.

female and the majority of perpetrators are male.⁶¹² Due to the complexity of the procedure, most of the victims avoid reporting and filling a case against the culprit.⁶¹³

5.5.3 Slow Procedure of Trial

One of the major obstacles to access to justice is the slow procedure of the legal system itself. The bar associations have failed to serve as disciplinary bodies and emphasize their professional growth. There is a lack of disciplinary policy to ensure effective and quick action against those tarnishing the profession's reputation through their disruptive behavior, fake degrees, or unethical practices. For the majority of Pakistani residents, access to justice is still a distant ideal.

There is an absence of a comprehensive legal forum to reform the out-of-date legal provisions and to add needed changes to civil and criminal laws. Hundreds of cases are delayed due to the backlog policy.

To improve the situation, the “National Judicial Policy 2009” was introduced at the national level and was updated in 2012 but it could not be implemented properly. There is a lack of collaboration between the bar and judiciary.

Additionally, the “ADR centers” have been established at each district judiciary since 2017 which has been widely successful and has lessened the burden on the judiciary but this improvement has very little impact on the whole system.

In 2017, the Lahore High Court issued its “Court Management Handbook” and provided a very useful strategy for instituting model courts, ADR centers, and specialized

⁶¹² Adam Doek and Lorne Mitchell, *Judicial Independence in Context* (USA: Irwin Law Company, 2010), 21.

⁶¹³ Tomris Atabay, *Hand book on Women and Imprisonment* (New York: UNO Office, 2014), 32.

courts for expediting the resolution of cases. The proposals in this document could not be put into practice.⁶¹⁴

The Federal Judicial Academy and the provincial judicial academies have been quite productive over the past few years, but they still require improvement and reinforcement. Only a few special courts are established in Punjab, Sindh, KPK, & Baluchistan.⁶¹⁵

The “Peshawar High Court”, has unveiled its strategy document and included a detailed list of the operational, legal, and technological initiatives that must be made to enhance the capacity of the province's judicial system and access to justice. Many of the suggestions made in this document are also transferable to other provinces”.⁶¹⁶ The slow procedure of conducting trials in cases of gender-based violence offenses is a big barrier and reason for the delay in dispensation of justice in Gender Based Violence Case Adjournments etc.⁶¹⁷

5.5.4 Cultural barriers

Due to cultural and social norms, many of the victims of Gender-Based Violence don't register the case. Cultural barriers are also an issue in the dispensation of justice in Gender Based Violence cases. Among the services offered to victims of violence are counselling, medical care, legal assistance, coordination with regional law enforcement organizations, and temporary lodging at *Dar-ul-Aman*. Society never accepts a GBV (gender-based violence) victim, even criticize the same. The victims face a lot of difficulties living in society as people use symbolically such a victim. So this fear of defamation results in non-reporting of the

⁶¹⁴ Lahore High Court, *Court Management Handbook*, 7.

⁶¹⁵ Azam Ali, Michael Rogers, *Gender-based Violence*, 310.

⁶¹⁶ Peshawar High Court, *Judicial Reforms Strategy 2018–22*, 44.

⁶¹⁷ Fazal Karim, *Judicial Review of Public Actions* (Islamabad: Pakistan Law House, 2018), 54.

cases. Men are valued more highly in society than women and women are not treated equally with men. Majority of women encounter bias and gender inequality. The relevant laws requires monetary orders to compensate the victim for expenses such as lost wages, medical expenditures, and any other harm they may have suffered yet in most of the cases, victim remained deprived of this compensation.⁶¹⁸

5.5.5 Vague interpretation of the law

Problematic interpretation and implementation of the law, as well as lack of Gender Understanding, Demystifying Gender and Sex, Gender Stereotyping, Lack of Sensitivity to Gender-Based Violence, and Understanding Unconscious and Implicit Bias, are also caused by lack of justice in gender-based violence cases which causes great problems in the dispensation of justice in gender-based violence case to GBV (gender-based violence) Courts.⁶¹⁹

5.5.6 Risk Factor for Judges

There is a lack of security system for the judges and the courts which causes risk factors for the judges and their families. This has resulted in the bribery and fear of justice.⁶²⁰ Bribery by the police and staff of the judicial department is also a barrier in the dispensation of justice.

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⁶¹⁸ The Punjab Protection of Women against Violence Act 2016.

⁶¹⁹ Ibid.

⁶²⁰ Christophe Jaffrelot, *Pakistan at the Crossroads* (USA: Columbia University Press, 2016),151.

⁶²¹ Ibid

5.5.7 Delayed Reporting or Non-Reporting

At an institutional level, there is a lack of gender sensitivity and responsiveness at various levels.⁶²² An enabling environment where women can access justice is also non-existent. Social and cultural barriers, coercion, fear, and bribery are the reasons for delayed reporting and non-reporting of cases.

5.5.8 Lack of Technical Assistance like audio/video conferencing

The victims and witnesses in GBV (gender-based violence) cases should be provided with technical assistance like audio and video conferencing, but there is a lack of these facilities for the victims and witnesses in spite of legislation in this regard.⁶²³

5.5.9. Shortage of Judges

There is a shortage of judges and due to awareness among the people number of cases is increasing but the number of judges is short.⁶²⁴

5.5.10 Complex procedure

Procedure from police station to court becomes very difficult for a GBV (gender-based violence) victim. The attitude of police officials as well as of court staff lawyers is humiliating towards the victims. The victim becomes a rolling stone in the hands of police and court staff

⁶²² IDLO, "Survivor Centered Justice for Gender-based Violence Courts in Complex Situations," *Relief Web*, 2022, <https://reliefweb.int/report/world/survivor-centred-justice-gender-based-violence-complex-situations>, assessed on May, 21, 2023.

⁶²³ Raja Amir Hanif, and Muhammad Yasir Ali. "Women Role and Participation in the Politics of Punjab." *Pakistan Journal of Social Sciences* 39 (2019): 1699-1709.

⁶²⁴ Amna Zahid and Sundus Rauf. "Rape Myth Acceptance by Police: An Underlying Cause for Rise in Number of Unreported Cases of Sexual Assault." *Multicultural Education* 7 (2021): 31.

as well as lawyers. The procedure from police station to court is very complex for a person who never visited these places before.⁶²⁵

5.5.11 Unfair Investigation

More than 62% of the investigation officers in the research admitted that they lacked the necessary training to look into allegations. The inclusion of more women is crucial for achieving gender equality in the nation's legal system. Between 2014 and 2016, a crime against a woman was committed every 90 minutes on average. But just 6,899 (less than 2%) of the 465,035 police officers are female. The role of prosecution is very important in GBV (gender-based violence) cases. The prosecution plays a very important role in gender-based violence cases. The ineffective role of prosecution is also a cause of the lack of justice in GBV (gender-based violence) cases.⁶²⁶

5.5.12 Delay Tactics

Delayed tactics from the counsels of the parties are also a cause of lack of justice and a barrier in the dispensation of justice. Irrelevant adjournments in GBV (gender-based violence) cases are very common. Political interference in such cases is also a barrier. Politicians use such types of cases for their dirty politics which results in reselling statements of the victims and witnesses.⁶²⁷

⁶²⁵Raja Amir Hanif and Muhammad Yasir Ali, "Women Role and Participation in the Politics of Punjab," *Pakistan Journal of Social Sciences* 39 (2019): 1699-1709.

⁶²⁶ Ibid.

⁶²⁷ Sara Hossain and Lynn Welcham. *Honour Killing* (UK: Zed Books, 2013), 21.

5.5.13 Unnecessary grant of Bail

In most cases, unnecessary bail is granted to the accused which has a bad impact on the whole case and makes it weak and uncertain.⁶²⁸ The “Code of Criminal Procedure, 1898”, divides the offenses into bailable and non-bailable categories. Bailable offenses are those in which the nature of the offense does not indicate that a person may pose a threat to society and that he is not likely to avoid investigation or trial by making himself unavailable. In such cases, a person may be released from the custody of the state and given the custody of a person or persons who would guarantee his availability whenever the law demands it. Bail cannot be claimed in non-bailable offenses but due to certain political and personal benefits, bail is granted by the Courts in non-bailable offenses that are actually, punishable.⁶²⁹

5.5.14 Lack of trust in the Police and the Judiciary

Because of the non-professional and corrupt fame of the police department, the victim has a defect of trust. This mentality impacts the victim demonstrating that calling the police or filing a report of a crime is a horrible challenge. After facing a lot of problems from police and investigation officers, in most of the cases, the victim changed her mind and declined to testify or to continue the case. Her hesitation can be related to the discomfort that she faced during the investigation. She encounters apathy and unfavourable looks when she is by herself, but when she is with a male, she usually gets a better reception. The majority of these events go unreported by the media and are typically abandoned.⁶³⁰

⁶²⁸ Raja Amir Hanif and Muhammad Yasir Ali, "Women Role and Participation in the Politics of Punjab." *Pakistan Journal of Social Sciences* 39 (2019): 1699-1709.

⁶²⁹ The Code of Criminal Procedure (Act No. V of 1898), (The Official Gazette of Pakistan, Extraordinary Part VI, March 22, 1899), section, 497.

⁶³⁰ PLD 2019 Sindh High Court 363.

5.5.15 Pressure on the victim

Reselling statements made by the victims is also a hurdle in the dispensation of justice. There are different factors that resulted in the reselling statements. Pressure is built from the family on the victim. A study reveals that 66% of the women who had experienced violence avoid going to police stations and instead file complaints elsewhere.⁶³¹

5.5.16 Lack of Financial Resources

Lack of financial resources is also a reason for the non-reporting of cases, as they can't afford the fees of lawyers and the court's expenses.

5.5.17 False cases

In Pakistan, false rape cases are common, which causes a lack of trust in the victims of GBV (gender-based violence) cases. Prostitution resulted in fake rape cases and they registered a fake rape case for the purpose of money by blackmailing.⁶³²

Conclusion

This chapter concludes that through the judicial rulings, gender-based violence courts have largely been successful working and women's rights in the fields of education, family,

⁶³¹Pamela Palmater, "Shining Light On The Dark Places: Addressing Police Racism And Sexualized Violence Against Indigenous Women And Girls In The National Inquiry." *Canadian Journal of Women and the Law* 28 (2016): 253-284.

⁶³² Ibid.

politics, and landed property have been safeguarded and advanced by the courts. The performance of GBVCs however, could not gain attention because of certain loopholes in the Further, non-professional attitude of police and investigating team and because of deeply ingrained patriarchal attitudes of people, the ratio of reporting of GBV cases is very low and in most cases, victims seem unsatisfied with the whole judicial system. Political pressure on the judges is also a barrier to the GBVCs in the dispensation of justice. For any instances of physical assault, sexual assault, or intimidation, GBV Courts can hear cases of discrimination, forced marriages, mental torture, harassment, and other issues determine a course of action, assess needs, and difficulties, at the policy and reaction levels, judgments and suggestions are provided.

CONCLUSION AND RECOMMENDATIONS

Conclusion

This chapter concludes that gender-based violence courts established first in Malaysia, India and some other countries. Pakistan established Gender-based Violence courts by following pattern of India. Under a judgment of Supreme Court regarding protection of rights of the transgender persons in particular of women in general the gender-based violence courts were established. The procedure followed by the gender-based violence courts are quite good and women and transgender persons have expressed their trust upon the whole system of courts dealing with their issues. Over all, the gender-based violence courts are working well and are trying to reduce the issues of women and transgender communities sin Pakistan. The above abovementioned cases in this chapter provide different modes adopted by GBV courts to deal with gender-based violence cases. The courts can also hear cases of domestic violence against spouses and other people who are accused of committing the crimes mentioned in the PPC. In any instances of physical assault, sexual assault, or intimidation, GBV Courts can hear cases of discrimination, forced marriages, mental torture, harassment, and other issues determining a course of action, assessing needs, and difficulties, at the policy and reaction levels, judgments and suggestions are provided.

This study concludes that gender-based violence is one of the most critical issues of Pakistani society. Because of rigid culture and illiteracy along with so many other factors, the issue could not be reduced. It is a bitter reality that in Pakistan, about forty % of the population defends the honorable execution of women/honour killing, and thousands of girls are killed in the name of honor killing every year.

Addressing gender-based violence (GBV) in Pakistan requires a holistic and sustained effort, with judicial reforms and legal mechanisms playing a central role in ensuring justice, accountability, and protection for survivors. The judiciary must act as a strong pillar in upholding the rule of law by eliminating legal loopholes, harmonizing existing legislation, and imposing strict penalties to deter perpetrators. Strengthening judicial capacity through gender sensitization training and specialized GBV courts can improve the efficiency and sensitivity of the judicial system, ensuring that cases are handled with the urgency and seriousness they deserve. Increasing female representation in the judiciary and law enforcement can further enhance trust in the system and encourage survivors to seek justice.

Swift and effective legal proceedings are critical to preventing delays that often discourage victims from pursuing legal action. Fast-track courts, strict implementation of rulings, and the rejection of alternative dispute resolution methods in GBV cases are necessary to ensure that justice is not compromised. Additionally, robust victim protection measures, including witness protection programs, free legal aid, and access to psychological and medical support, are essential in providing survivors with the resources they need to recover and rebuild their lives.

Judicial accountability and oversight must be strengthened to prevent biases, inconsistencies, and external pressures from influencing case outcomes. Transparency in judicial decisions and independent reviews of acquittals can help restore public confidence in the justice system. Law enforcement agencies must also be reformed through rigorous training, anti-corruption measures, and independent investigative bodies to ensure impartial and victim-centered investigations.

Beyond legal reforms, societal change is necessary to challenge deeply rooted patriarchal norms that perpetuate GBV. Public awareness campaigns, legal education in schools, and engagement with religious and community leaders can help shift cultural attitudes and promote gender equality. Pakistan must also fulfill its commitments under international human rights treaties by aligning its domestic legal framework with global best practices.

A comprehensive approach combining legal, institutional, and societal reforms is imperative to effectively combat GBV in Pakistan. The judiciary must take proactive steps to deliver justice efficiently, protect survivors, and hold perpetrators accountable. By strengthening the legal system and fostering a culture of zero tolerance for GBV, Pakistan can move toward a safer, more just society where the rights and dignity of all individuals, particularly women and vulnerable groups, are fully protected.

Gender-based violence courts need to work in more efficient manner and there is also a requirement to amend lethargic substantive laws so that the speed of court proceedings is increased. GBV (gender-based violence) is a difficult issue. Its causes are numerous, its intersections increase the likelihood of violence, and its effects are extensive. There are many legislations in favour of women and transgender. There are special commissions in each province on the Status of Women that are officially mandated organization founded in 2014-2016 with the purpose of advocating for and advancing women's rights.

The innovation of gender-based violence courts is a great step taken by the government of Pakistan. The establishment of the GBV Courts aims to prioritize and expedite the resolution of cases pertaining to violence against women and transgender and to foster a court environment that is supportive of women and free from discrimination, with the aim of restoring women's confidence in the judicial system. One of the primary goals of these

commissions is to eradicate all manifestations of gender-based discrimination against women and transgender and to facilitate equitable access to the legal system.

The Women Ombudsperson office serves as a valuable resource for women in the community who are facing issues or expressing concerns. The organization offers informal conflict resolution, mediation services, and advocacy to ensure equitable treatment and procedural fairness. All of the services offered are maintained in strict confidentiality.

Front desks and welcome rooms have been erected in various locations across the country. The management of these Reception Rooms is overseen by civilian officials from both genders who are employed in the Information Technology (I.T.) department. Female complainants are provided assistance by female officials in the Information Technology (I.T.) department to promote a conducive environment for women and facilitate their access to justice. There are special Help Desks currently operational across the country. These help desks have been formed with the aim of providing legal aid to women who have experienced violence, hence facilitating their access to justice.

The gender-based violence courts play an effective role in providing justice to the victims. Comprehensive police protection is afforded to victims, witnesses, and their respective family members. The presiding judge in the court handling cases has the authority to instruct law enforcement agencies to conduct an investigation if there are indications that the victim or any witnesses may have been coerced into providing false statements.

However, despite certain legislation to combat gender-based violence particularly, against women and transgender, the situation is so alarming and incidents of violence are occurring on a daily basis. 70% of the women workers are employed in the agricultural industry but cannot get their earnings in their hands. Access to low-cost smartphones and

tablets should be made available to women enrolled in formal or training institutions to improve their access to information and aid in the development of digital skills. 70% of Women and transgender are illiterate and unskilled, having no information about jobs, and contact with potential employers.

Skilled women have expertise in traditional skills and have no idea about IT based skills, digital coding, and electronic record keeping knowledge. The conviction rate of Gender-Based Violence (GBV) court is very low about 10% in Punjab with a similar ratio in other provinces.

Recommendations

These recommendations are given in light of the analysis used in this study on the position of young women, and they include: building an environment that supports young women's economic empowerment, security, and rights through laws and policies and their reinforcement through institutions.

To address the legal and procedural gaps in Pakistan's judicial system, a comprehensive and multi-layered reform strategy is essential. First, there must be a focus on judicial capacity-building, including the recruitment of more judges, provision of adequate infrastructure, and implementation of regular training programs on case management, gender sensitivity, and human rights law. Simplification of legal procedures and greater access to legal aid can significantly reduce barriers for vulnerable populations, particularly women, children, and low-income litigants. The government should also digitize court processes, including case filing, tracking, and virtual hearings, to increase transparency, efficiency, and accessibility—especially in remote or underserved regions. Additionally, specialized courts (such as GBV and family courts) must be expanded and properly resourced to ensure timely and sensitive adjudication of specific types of cases.

Moreover, there is a need to harmonize laws with constitutional guarantees and international human rights obligations, closing gaps between statutory law, Sharia-based laws, and customary practices that often conflict and result in unequal application of justice. Stronger accountability and oversight mechanisms must be introduced within the judiciary to monitor performance, prevent corruption, and build public trust. Coordination between police, medico-legal staff, and the judiciary should be strengthened through standardized protocols to reduce procedural delays and evidence-related failures. Finally, awareness campaigns and community legal education programs can empower citizens to understand and assert their rights, fostering a culture of legal consciousness and accountability. These reforms, taken together, can significantly enhance fairness, efficiency, and equity in Pakistan's judicial system. To achieve the goal of empowerment, gradual social change, a redistribution of power in social and political structures, a redefining of gender roles and responsibilities, ensuring that women receive their fair share of inherited financial assets, support from men, the formation of self-help groups, distribution of general seats in elections, and a definition of the duties of reserve seat holders are all necessary.

To effectively reduce gender-based violence in Pakistan, a multi-pronged and sustained approach is necessary, combining legal reform, institutional strengthening, and cultural transformation. Firstly, existing GBV laws must be fully implemented and strengthened, including the *Anti-Rape (Investigation and Trial) Act (2021)* and the *Domestic Violence Acts* passed by various provinces. There should be uniform national legislation that comprehensively criminalizes all forms of GBV, including marital rape, acid attacks, forced marriages, and psychological abuse. Law enforcement personnel, prosecutors, and judges must be given specialized training in handling GBV cases with sensitivity, while ensuring

survivor protection throughout the investigation and trial process. Increasing the number and capacity of Gender-Based Violence Courts and equipping them with trained female staff, forensic resources, and trauma-informed procedures is essential to ensuring swift and fair justice.

At the community level, awareness and education campaigns should be launched to challenge patriarchal norms, promote gender equality, and encourage reporting of violence. This should be accompanied by the integration of gender rights education into school curricula to instill respect and equality from a young age. Survivors must be supported through accessible and well-funded services, including shelters, helplines, legal aid, psychosocial support, and vocational training to promote independence and recovery. Coordination between police, healthcare providers, social workers, and NGOs must be institutionalized for effective case management and survivor support. Additionally, the government should establish robust data collection and monitoring systems on GBV to inform policy and ensure accountability. Engaging men and boys as allies, strengthening civil society, and ensuring political will at all levels are also critical to dismantling the structural roots of GBV in Pakistan.

To effectively remove the flaws and loopholes in Pakistan's legal and institutional response to gender-based violence (GBV), comprehensive legal reform and systemic strengthening are essential. First, all GBV laws should be harmonized across provinces to eliminate inconsistencies and ensure that crimes like domestic violence, marital rape, psychological abuse, and online harassment are uniformly criminalized and prosecuted. There must be clear legal definitions of all forms of GBV, including non-physical abuse, to close interpretation gaps that often allow perpetrators to escape justice. The government should also

establish mandatory gender-sensitivity training for police officers, prosecutors, judges, and medico-legal staff to reduce victim-blaming attitudes and ensure professional handling of cases. Forensic and investigative processes must be strengthened through better infrastructure, timely medical examinations, and trained female personnel, especially in rural areas where access remains limited.

Additionally, GBV courts must be properly resourced and expanded nationwide, ensuring the presence of female judges, separate survivor waiting areas, and the option for video testimony to protect victims from intimidation. To address the widespread underreporting of GBV, the state must invest in anonymous reporting systems, community outreach programs, and protection measures for survivors and witnesses. Legal aid services should be made widely available and survivor support services—such as shelters, counseling, and emergency assistance—must be expanded and adequately funded. Furthermore, data collection and case-tracking systems should be established to monitor the effectiveness of GBV laws and expose patterns of failure. Finally, stronger coordination between the judiciary, police, health sector, and social services is needed, ideally through a national action plan on GBV, to ensure a unified and survivor-centered approach to justice.

Second, a variety of actions and activities, such as national action plans, rules, procedures, and training, are needed to direct implementation. The laws that are being looked at here are usually only commitments or decrees; in order to be put into practice, they must be supported by other paperwork and procedures.

The judge should raise any concerns about the appropriateness of the cross-examination questions with the defence attorney after reviewing the questions. The decision should be made in a public setting with no prior knowledge of the questions' subjects.

The trial should continue, and the judge should ask the victim's cross-examination questions in language that is understandable, not offensive, and appropriate for the victim, particularly a kid. If the defence is strong, this may occasionally be conducted in private rather than in public. Worried that it would reveal certain components of their defence too soon. Any modifications recommended by the judge may be accepted by the defence attorney. If not, the judge would have to decide whether the queries were appropriate. The court may ask the defence attorney if there are any additional questions they would like to ask the victim once the cross-examination is finished. If the defense attorney wishes to ask additional questions, the court may do so after receiving an indication from the attorney. If they are quick and simple to complete, there is no need to put them in writing. This is simply a reasonable, practical deviation from the method that would otherwise require them to be on paper.

To effectively eradicate gender-based violence and discrimination in Pakistan, strong inter-institutional cooperation is essential. One of the foremost steps is to establish integrated referral mechanisms between police, judiciary, healthcare providers, social welfare departments, and civil society organizations to ensure that survivors receive coordinated and timely support throughout the legal and recovery process. The government should form multi-sectoral task forces at national, provincial, and district levels, including representatives from law enforcement, the Ministry of Human Rights, the Ministry of Health, women's development departments, and NGOs. These task forces should meet regularly to assess gaps,

monitor case progress, and streamline procedures. Standard operating procedures (SOPs) should be developed and adopted across institutions for reporting, investigating, and prosecuting GBV cases, ensuring a unified and survivor-centered approach.

Furthermore, data sharing protocols and centralized digital databases should be introduced to track cases, identify trends, and avoid duplication or loss of information across agencies. Joint capacity-building programs should be initiated to train police, healthcare workers, prosecutors, and social workers together on gender sensitivity, legal protocols, and trauma-informed care. In schools, hospitals, and workplaces, cross-sectoral awareness campaigns involving the education, health, and information ministries can help shift public attitudes and increase reporting. Finally, the government must ensure that institutional cooperation is not just policy on paper but enforced through legislation, funding, and independent oversight, holding departments accountable for non-compliance or negligence in addressing GBV and gender discrimination.

If the victim or witness is a minor, the judge must consult with the prosecution and defence attorneys about the proper course of action, particularly with regard to minors. In this case, questions must still be made in writing, but with modifications that ensure the best interests of the minor are taken into account. Whenever practicable, the trial must proceed and be finished without adjournment. The Judge will only grant an adjournment if there is a valid reason. The victim's whole case, including the examination, cross-examination, and re-examination, should ideally all take place on the same day. The judge must make sure that all questions posed to the victim are done so with gender sensitivity, in language appropriate for

the victim's age, educational background, culture, and any physical or mental disability, and in a manner and tone acceptable for the questions posed.

Create methods to incorporate young women's opinions into programme and policy planning in order to increase the capacity of formal institutions to promote young women's access to human, financial, and physical resources. The provincial commissions on the status of women could be given the responsibility of monitoring and tracking the implementation by the Planning Division, the focal Division, or the Ministry. Provincial data will be compiled by NCSW to monitor a country's development.

The federal and provincial legislatures should examine and correct any shortcomings in women's protection laws that prevent their implementation (anti-women practices, PECA, inheritance, etc.); close legal loopholes and harmonise laws protecting women's rights across provinces, including those that deal with marriage age, "conversion" marriages, domestic violence, and domestic workers. Identification and registration of female farm workers, domestic workers who work regularly, workers who work from home, and self-employed people should be prioritised, especially for the purposes of social protection and assistance and to close any knowledge gaps identified in the wake of the Covid 19 outbreak.

Strengthening national and provincial women's commissions through consistency and facilitation of rules to provide financial and administrative autonomy as required by law to carry out their oversight, advocacy, and review responsibilities. The planning commission's and PBS's calculations of the labour force participation rate will take into account the reproductive and productive activities of women. The SDG 5 goal of valuing women's reproductive and caring activities is reflected in higher LFPR, a realistic indicator of women's

labour force participation. Gender and labour data should be created on a quarterly basis for the benefit of policymakers.

Strengthening national and provincial women's commissions through consistency and facilitation of rules to provide financial and administrative autonomy as required by law to carry out their oversight, advocacy, and review responsibilities. All statistical data should be free of gender and age. Micro data must be made available on the websites of the Federal and provincial statistical offices within three months after data collection in order to support choices on public policy that are based on fact. There should be a discrete technical expert stream within each statistical agency that consistently generates cutting-edge analysis.

Encourage women to leave traditional industries in favour of those requiring communication, artificial intelligence, digital coding, and electronic record keeping by offering scholarships and transportation options. Encourage women with equal pay, benefits for medical and maternity needs, transportation, child care, housing, and anti-harassment laws that are strictly enforced.

For those who work, we must provide lunches, transportation, child care, and senior care. Provide tax breaks to businesses, especially those in the private sector, to encourage them to hire more women. Develop career development plans to retrain and upskill the workforce. To address the gender gap of 12 million voters, ECP and NADRA should take steps. Data on the gender, age, and turnout of registered voters by district and constituency should be kept by ECP.

Make it a requirement that NADRA works with colleges and training centres in all districts to make it simpler for young women, who are 18 years of age and older, to apply for, receive, and register as voters.

To effectively address gender-based violence (GBV) in Pakistan through judicial reforms and legal mechanisms, a comprehensive and multifaceted approach is necessary. Strengthening the legal framework is crucial to ensuring that existing laws related to GBV are harmonized, eliminating contradictions and inconsistencies that allow perpetrators to evade justice. Legal loopholes, such as those in the Qisas and Diyat laws, should be addressed to prevent compromises in cases of honor-based crimes. Additionally, punishments for GBV-related offenses should be enhanced to act as a deterrent, with stricter penalties for rape, honor killings, domestic violence, and other forms of abuse.

Judicial training and capacity building are essential to improving the handling of GBV cases. Gender sensitization training should be provided to judges and judicial officers to foster a deeper understanding of gender justice and human rights. Establishing specialized GBV courts with trained judges can help expedite case resolution and ensure victim-sensitive proceedings. Increasing the representation of female judges in the judiciary can also contribute to a more empathetic and balanced approach toward GBV survivors.

Ensuring swift and effective judicial processes is critical in addressing GBV. Fast-track courts dedicated to GBV cases should be established to reduce trial delays and minimize distress for victims. Strict implementation of court rulings must be enforced to ensure that law enforcement agencies comply with judicial decisions. While alternative dispute resolution mechanisms are useful in civil cases, they should not be applied to GBV cases, as justice must be served through formal legal processes rather than mediation.

Victim protection and support mechanisms should be enhanced to safeguard survivors from threats and retaliation. A robust witness protection program should be implemented to encourage victims and witnesses to testify without fear. Free legal aid services should be

provided to GBV survivors, particularly those from marginalized communities. Additionally, the judiciary should coordinate with relevant departments to ensure access to psychological counseling, medical assistance, and rehabilitation programs for victims of GBV.

Judicial accountability and oversight mechanisms must be strengthened to ensure that GBV cases are handled fairly and impartially. Independent monitoring bodies should be established to assess judicial decisions and identify any biases or inconsistencies in verdicts. Transparency can be promoted by making GBV case judgments publicly accessible, fostering accountability within the judicial system. Furthermore, appellate review mechanisms should be introduced to scrutinize acquittals in GBV cases, ensuring that justice is not denied due to procedural flaws or external pressures.

Reforming law enforcement agencies is another critical step in addressing GBV effectively. Police officers and prosecutors should be trained to handle GBV cases with sensitivity and professionalism, reducing instances of victim-blaming and negligence. Corruption and nepotism within law enforcement agencies must be curbed through strict disciplinary measures. Establishing independent investigative bodies can also help ensure unbiased and thorough investigations into GBV cases, free from political or social influence.

Legal awareness and societal change are necessary for long-term progress in combating GBV. Public awareness campaigns should be conducted in collaboration with NGOs and the media to educate citizens about GBV laws and victims' rights. Gender equality and legal literacy should be incorporated into educational curricula at all levels to foster a culture of respect and awareness. Additionally, engaging religious and community leaders in discussions on gender justice can help counter patriarchal norms that contribute to GBV.

Pakistan should also strengthen its commitment to international human rights standards by fully implementing its obligations under international treaties, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Collaborating with global legal institutions and adopting best practices from other countries can further enhance the judicial response to GBV.

A holistic approach that combines judicial reforms, legal mechanisms, victim protection, law enforcement improvements, public awareness, and international cooperation is essential to effectively combat GBV in Pakistan. Only by addressing these issues comprehensively can the judiciary fulfill its role in delivering justice and ensuring the protection of victims.

It is essential to implement structural and legal reforms that ensure the effective protection of marginalized communities, particularly transgender individuals. First, governments must introduce comprehensive legal frameworks that explicitly recognize and protect transgender individuals from gender-based violence, ensuring their right to access justice without discrimination. Judicial officers, law enforcement agencies, and court staff should undergo mandatory gender-sensitivity training to eliminate biases and improve their understanding of the unique challenges faced by transgender victims. Additionally, appointing specialized prosecutors and legal representatives who are trained in handling GBV cases involving transgender individuals can enhance the fairness and efficiency of court proceedings. Increasing representation by including transgender legal professionals in the justice system will further promote inclusivity and build trust in these courts. While the *Transgender Persons (Protection of Rights) Act, 2018* was a landmark achievement for transgender rights in Pakistan, its implementation remains weak and inconsistent, necessitating urgent reforms. First, there should be clear implementation guidelines and enforcement mechanisms across all provinces to ensure uniform application of the law.

Government institutions, especially NADRA, law enforcement, and healthcare providers, must be trained to recognize and respect gender identity without discrimination, removing bureaucratic hurdles in obtaining CNICs, passports, and other essential documents. Additionally, provisions for employment, education, and healthcare access must be operationalized, including affirmative action programs and vocational training tailored for the transgender community. Dedicated shelters, healthcare units, and legal aid services for transgender individuals should be established, especially in urban centers, to protect them from violence, homelessness, and health risks.

Furthermore, police reforms and gender-sensitization programs are needed to protect transgender persons from harassment and violence, including in custody or detention. Transphobic hate crimes and online abuse must be explicitly criminalized, and law enforcement must be equipped to handle such cases effectively. Representation of transgender individuals in policymaking bodies, human rights commissions, and public service roles should be encouraged to ensure their voices shape laws that affect them. Lastly, a national awareness campaign should be launched to combat stigma, promote inclusion, and educate the public about transgender rights as guaranteed by law and the Constitution. Without these reforms, legal recognition will remain symbolic rather than substantive.

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GLOSSARY

Cross-Dresser: Someone who dresses in the clothing opposite of the gender they were assigned at birth.

Disadvantaged Group: Group within a society that is marginalized and has reduced access to resources and services such as education, health, credit and power.

Discrimination: A difference in treatment based on age, sex, ethnicity, religion or other factors, rather than on individual merit.

FTM: A person who makes the transition from "female-to-male," that is, a person who was born with the gender assigned to her but who now identifies and behaves as a man also referred to as a "transgender man."

Gender: The throughout time changing social and cultural constructs that distinguish men and women differently across and between cultures as well as within and within the same household.

Gender Dysphoria: Unhappiness with one's physical/anatomical gender and also, dissatisfaction with one's gender socialization.

Gender Identity: An individual's internal perception of themselves as male, female, or something different because gender identity is internal, it may not always be apparent to others.

Gender Expression:	How a person presents or communicates their gender identity to others, frequently through their actions, attire, haircuts, voice, or physical features.
Gender Non-conforming:	A term for individuals whose gender expression is different from societal expectations related to gender.
Guru:	In the hijra system, a chela (student) apprentices with a guru, who serves as both a source of knowledge and a means of identification for chelas. The hijra system's equivalent of a "patriarch" is a guru.
Hijra:	Born men but identifying as third-gender, two-spirit, bi-gender, or transgender women, a member of the hijra subculture in South Asia. The faarsi kalaam language, as well as the hijra subculture's own mores, conventions, and traditions, are all local to that group.
Hijra dera:	House where khawajasiras/moorats/hijras live together in community.
Khawajasira:	Respectful Urdu term for hijras, transgender women and eunuchs
Khusra:	Derogatory phrase used to emasculate effeminate guys, gay men, hijras, transsexual women, and anyone without male sexual organs.
MTF:	A person who transitions from "male-to-female," or who was assigned male at birth but identifies and lives as a female, is also referred to as a "transgender woman".
Moorat:	Polite term for hijras and khawaja siras
Sex:	Genetics determines the biological traits of being male or female. Surgery to transform a person's physique so that it more accurately reflects their gender identification is known as "sex reassignment surgery." This could involve a variety of operations, such as those occasionally referred to as "top surgery" (breast augmentation or removal) or "bottom surgery" (genital alteration). Contrary to popular belief, there are actually several different surgeries; there isn't just one. While some people must have these surgeries for

medical reasons, not everyone wants, needs, or is able to have surgery as part of their transition. The term "sex change surgery" is often used in a negative way.

Sexual Orientation: A term used to describe someone's attraction to people of the same sex as well as people of different sexes; typically used to describe lesbians, gays, bisexuals, heterosexuals, or asexuals.

Transphobia: it is prejudice or discrimination against trans people.
This can include harassment, violence and the restriction of medical, legal and civil rights.

Transgender Man: A term for a transgender individual who currently identifies as a man (see also "FTM").

Transgender Woman: A term for a transgender individual who currently identifies as female or female to male but whose gender identity differs from the sex they were assigned at birth. Many people dislike this term because they believe it to be too clinical.

W Two-Spirit: A modern term used to describe the historical and contemporary First Nations people, each of whose spirits was a mixture of male and female spirits. Some members of the Native American LGBT communities have reclaimed this term in order to respect their culture and offer an alternative to the Western terms for homosexuality, lesbianism, bisexuality, and transgender identity.

Zenana: A term used by hijras for effeminate men who has sex with men. They occupy a sub-category within the hijra culture, and wear men's clothes. Amiable curiae companion of the court According to Chapter XVI of the Pakistani Penal Code, the victim or their heirs are to receive arsh compensation. An organisation called the Asian Development Bank works to further the social and economic progress of Asia and the Pacific. A man announces a girl to be engaged to him in accordance with the Pashtun tradition of *avaaz lagana* without the girl's or her family's

permission. One of the three categories of punishment or repercussions for committing jinayat is also called as ghag Awf waiver and forgiveness. One of three types of penalty or repercussions for committing a crime is the badal-i-Sulh compounding. In the past, it was common practice to marry off women and girls to cover up crimes like murder. Girls, frequently minors, are given to the wronged family as payment for damages. To settle blood feuds with the Biradari patrilineal clan or the father's lineage is now against the law and outlawed by Section.