

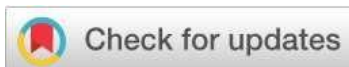
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Domestic Violence Laws and Impediments Barring Effective Implementation in Pakistan

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Abstract

Domestic violence is a universal issue so Pakistan is not an exception. Patriarchal nature of Pakistani society, coupled with traditional gender role, poses additional challenges to combating domestic violence. Awareness campaigns, education, and community mobilization to challenge societal attitudes thereby promoting a culture of zero tolerance towards domestic violence are bound to have long-lasting effects. Need to examine the existing domestic violence laws in Pakistan and identify the impediments that hinder their effective implementation are of prime importance. The paper identifies a range of impediments, including societal norms, cultural barriers, inadequate resources, lack of awareness, and institutional weaknesses. These factors contribute to a prevailing culture of silence and impunity, hindering survivors from seeking justice and perpetuating cycles of violence. This research paper underscores the importance of effectively implementing domestic violence laws in Pakistan. It highlights the need for comprehensive strategies that address both legal and societal aspects of domestic violence. By identifying and addressing the impediments to effective implementation, Pakistan can work towards safeguarding the rights and well-being of its citizens, particularly vulnerable individuals facing domestic violence.

Keywords: Domestic Violence, Protection of Women, Peaceful Pakistan, Laws, Pakistan Society.



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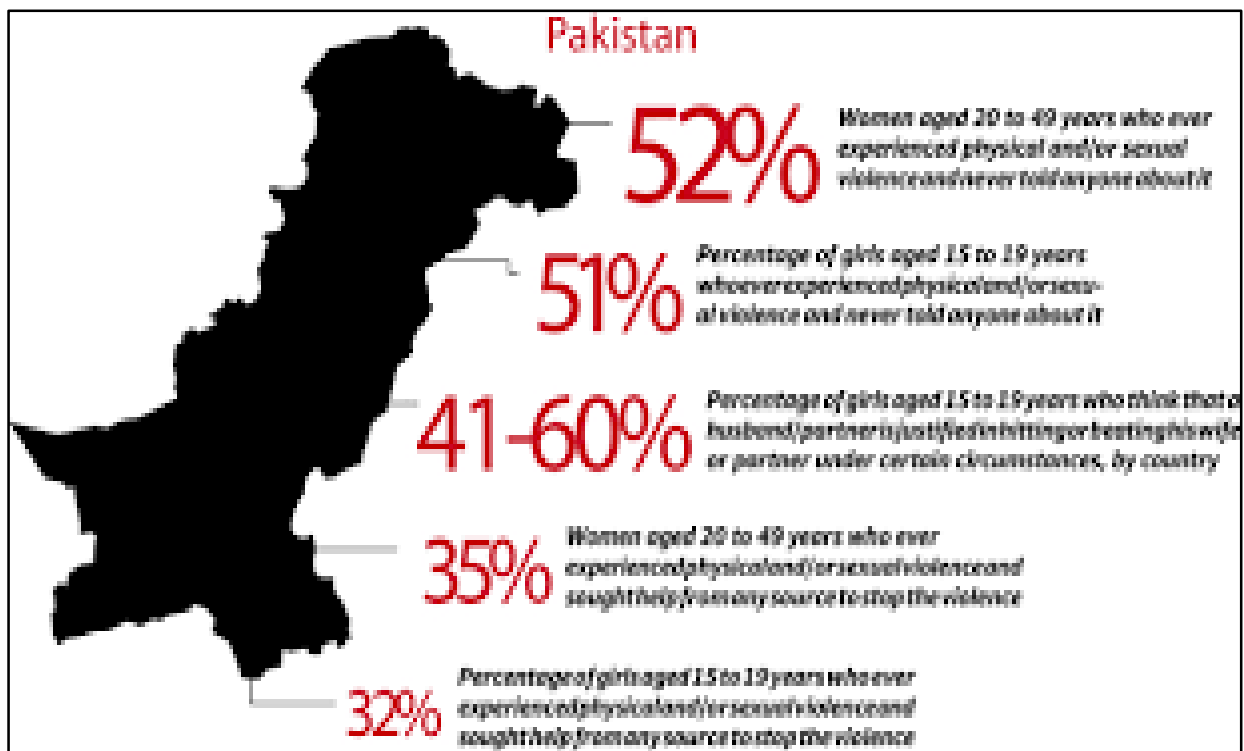
Introduction

Violence is a negative word. It radiates injuries, destruction, stress, pangs and bloodshed. Domestic violence is usually attributed with physical injuries, mental health problems, social issues, psychological complications, fear, distress that ultimately result in over-shred of personality and loss of ego or self-confidence. Domestic violence was once considered to be a private affair. Now it has been recognized as a major human rights issue. The term Gender Violence forms the general perception of committal of violence by men against women (Johnson, M. P., & Ferraro, K. J. - 2000). This, thus indicates that domestic abuse should be considered as a specifically gendered crime. This abusive act is “something” which men do with women and that it should be considered within a broader spectrum of violence against women viz sexual assault, sexual harassment and sexually degradation of one’s ego (Masson, J. M. - 2013). This fosters the feeling of helplessness, hopelessness, shame and lack of control over one’s body and soul. Victims often leave and return several times before permanently separating from the abuser. Though hope kindles joy, permanent hopelessness of getting caught up in a noose induces the feeling of deprived living, meaningless life, buried alive and thus, victims often take extreme steps of giving up their lives.

Domestic Violence in global context is rampant in all corners of the world though it devastates the lives of millions of women and billions of their associated family members. It will not be wrong to state that domestic violence as a global social issue has affected millions of individuals, families, communities, transcending cultural and geographical boundaries. This trend is rooted in a global culture of discrimination which hampers women of their equal rights. This legitimized misappropriation of women’s body and soul for ego, political benefits or individual’s gratification enhances discrimination and further reinforces it. Within this context, Pakistan is confronted with a significant challenge as it also grapples with the prevalence and devastating consequences of domestic violence.

As per global estimates a worrisome state of affairs claims every 1 out of 3 globally existent women in worldwide scope undergoes either physical, social, sexual, psychological or some sort of violence in their lifetime whose imprints will dwell much longer than their worldly lives (Ghanim, D. - 2009). Same stigma stained women are responsible to produce and nourish the future generations in the times to come. Children who witness their mothers or feminine blood relations undergoing violence or grow-up in societies or families where they are willingly or unwillingly exposed to violence may suffer from a range of stressful, behavioral and emotional disturbances (Violence, W. I. G. B. – 1999). Will these remorseful events not affect their growth by making them perpetrators or be a victim of homophonic violence? No wonder the future of the world is insecure and under threat.

As far as Pakistanis concerned, it is a “*strategically located country*” in south Asia blessed with natural and human resources. Almost half of the population of Pakistan is female. Deprivation of women from their basic rights is not only a violation of human rights unjustifiable under any political, social, historical, religious or other cultural norm but is equivalent to hampering half of the population’s potential contributing towards the progress of the country (Forst, R. - 2010).



Domestic Violence – a New Phenomenon?

The history of domestic violence is deep rooted in human societies and spans across various cultures and time periods (Norenzayan, A., Shariff, A. F., Gervais, W. M., Willard, A. K., McNamara, R. A., Slingerland, E., & Henrich, J. - 2016). While it is challenging to pinpoint an exact beginning, the recognition and understanding of domestic violence has evolved over centuries. Going through the pages of history, we can find that in ancient civilizations, many societies considered women as the property of their husbands and had limited legal rights. This male dominance and control over women was prevalent and asserted upon by use of physical power and punishment.

During the medieval period, societal structures were heavily influenced by religious and cultural beliefs. The concept of patriarchy and the subordination of women was more pronounced through religious teachings. Domestic violence was considered a private matter of the dominant male partner and legal systems rarely intervened.

During 18th and 19th Century, the advent of the Enlightenment and the rise of women's rights movement, attitude towards domestic violence began to drift. Activists such as Mary Wollstonecraft and Elizabeth Cady Stanton advocated for women's equality and highlighted the issue of domestic violence, (Reid Jr, C. J. - 2012). However, legal systems and societal norms still largely disregarded the rights and safety of women within their home. Moving ahead, early 20th century saw the emergence of “Feminist Movements” that sought to address the issue of domestic violence. “Women Shelters” are also known to have been established in 1970s, providing a safe haven for survivors, (Tarar, M. G., Ranjha, A. N., & Almas, A. S. A. I. - 2021). Activism and advocacy efforts led to increased recognition of domestic violence as a social problem, prompting changes in legislation and the establishment of support services.

Domestic violence in Pakistan as per the perspective of history reflects the intertwining of cultural, social, communal and legal factors that all shaped the perception cum attitude in general towards this issue. Traditional gender roles in Pakistan are seen through the patriarchal lens that

have deeply influenced the forbearance towards this existent (yet considered non-existent) societal divide. Male dominance and control over women is in-vogue, not only considered acceptable but women's subordination was oft preached. This created an environment where domestic violence was ignored and probably considered justified.

Emotional abuse: When someone regularly puts you down, criticises you, threatens to stop you from seeing your family/ children, or threatens to commit suicide if you leave the relationship. This includes **spiritual abuse**, for example preventing you from making or keeping connections with your religious ceremonies or practices, or preventing you from expressing your spiritual identity.

Social abuse: When someone prevents you from seeing your friends and family, makes you feel guilty about socialising or working, constantly checks up on your whereabouts.

Financial abuse: When your partner/family member takes control of your financial affairs when you don't want them to, prevents you from accessing money.

Sexual abuse: When someone makes you do sexual things that you don't want to do.

Stalking: When a partner, ex-partner, or someone else follows you around, or repeatedly tries to contact you, even if you say you don't want this

Physical abuse: Includes pushing, hitting, throwing objects, driving dangerously to frighten you, threatening to physically harm you, other people, or pets.

During the colonial period, British introduced certain legal and administrative reforms in the Indian subcontinent. After Pakistan's independence in 1947, efforts were made to establish a legal framework that addressed women's rights and domestic violence. The country's constitution included provisions guaranteeing equality and protection against violence. However, implementation and enforcement of these laws to-date remains a challenge. In the latter half of the 20th century, "Women Right Movements" gained momentum and brought attention to the issue of domestic violence (*Brandenburg, G. W. A. - 1998*). Activists and organizations highlighted the need for legal reforms, support services, and awareness campaigns. Developing gradually at flow flame, over time Pakistan has introduced multiple legal reforms aimed at addressing this violence. Government of Pakistan in consultation with International Non-Governmental Organizations (INGOs) & Non-Governmental Organizations (NGOs), has undertaken considerable steps to address this issue. However, despite legal reforms and increased awareness, domestic violence remains a significant challenge in Pakistan. Cultural and societal norms,

along with limited resources and inadequate implementation of laws, continue to hinder progress. Domestic violence encompasses various types of abusive behaviours in Pakistan. Few of them are mentioned as under:

- **Physical Violence.** Violence that involves the use of physical force, such as hitting, slapping, kicking, choking, throwing acid or using weapons to cause physical harm. It can result in injuries, bruises, broken bones, loss of eyes, permanent disabilities or even cause death.
- **Emotional / Verbal Abuse.** Emotional or verbal abuse involves the usage of derogatory words, threats, insults, intimidation or manipulation to control and demean the victim. It can include constant criticism, humiliation, belittling, or undermining the victim's self-esteem.
- **Sexual Abuse.** Categorization of violence that refers to any non-consensual sexual activity, coercion imposed or forced upon a person, including forced sexual acts, rape, unwanted

sexual advances or manipulation through threats or emotional pressures.

- **Financial Abuse.** Type of violence that involves controlling or restricting access to financial resources such as money, bank accounts, property or barring employment opportunities. It may include withholding of funds, preventing the victim from working, or forcing them to hand over their earnings / income.
- **Psychological Abuse.** Psychological abuse is a pattern of behavior that aims to undermine the victim's mental and emotional well-being. It can involve manipulation, isolation, stalking, threats to harm or likewise acts that resultantly create an atmosphere of fear, freight and submission.
- **Digital / Technological Abuse.** This type of abuse occurs when technology is used to control, monitor, harass or intimidate the victim. It can include cyberstalking, monitoring online activities, controlling or restricting access to devices. This type encompasses, targeted spamming or sharing of explicit images or messages without the consent of the victim to degrade her or ruin her public / societal image
- **Cultural / Social Abuse.** Cultural or social abuse involves using cultural or social norms, beliefs, or practices to exert control or maintain power over the victim. It can include forced marriage, dowry-related violence, honor-based violence, or restricting the victim's participation in social or cultural activities.

Women Friendly Pakistan

As per google research of Pakistan being a women friendly country, “*Pakistan cannot be considered a women-friendly country due to the prevalent issue of domestic violence (DV) and the lack of effective measures to address it.*” While it is important to acknowledge efforts made by individuals, organizations and the government to combat DV and promote women's rights, the reality is that Pakistan faces significant challenges in ensuring the safety and well-being of women. Domestic violence in Pakistan reflects a gradual shift from acceptance and silence to recognition, legal reforms, and efforts to support survivors. While significant challenges remain, ongoing efforts seek to challenge patriarchal norms, raise awareness, and promote gender equality, with the aim of creating a society free from domestic violence. In 2006, the “**Protection of Women (Criminal Laws Amendment) Act**” was passed. This bill criminalized acts of domestic violence and provided legal protection to survivors (Mehdi, R., & Niazi, A. A. K. *The Protection of Women (Criminal Laws Amendment) Act, 2006*). Subsequently, the “**Domestic Violence (Prevention and Protection) Act**” of 2021 was enacted, focusing on prevention, protection, and rehabilitation of survivors (Amir, F., Noreen, N., & Mushtaq, S. A. - 2023). The Pakistani Awareness campaigns, helplines, women shelters have been established to provide support and assistance to survive. Additionally, NGOs have played a crucial role in advocating for women's rights, raising awareness, and providing legal aid to survivors. Increased public discourse, the involvement of civil society, and the commitment of various stakeholders have contributed to a growing recognition of the importance of addressing domestic violence in Pakistan.

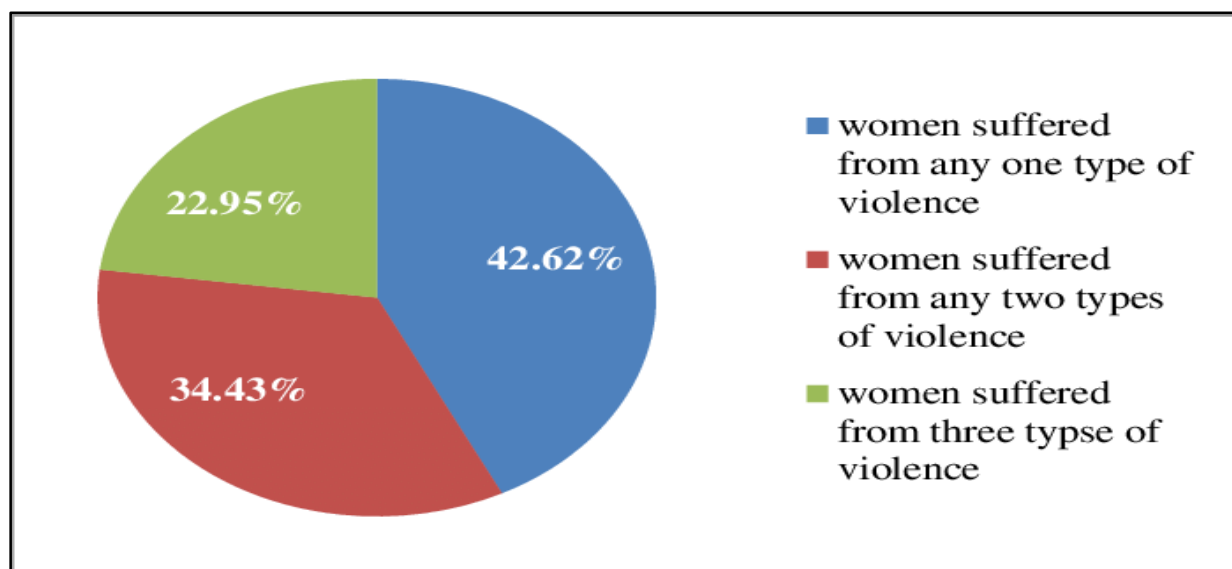
To highlight a few, Pakistan has taken steps to protect women's rights through legislation. The Constitution of Pakistan guarantees equal rights for men and women (Khalid, I., & Anwar, M. - 2018). Several laws have also been enacted to address issues such as domestic violence, harassment, and honor crimes. Similarly, to ensure women represented by their gender themselves, Women, in Pakistan, have been increasingly participating in politics. In addition, some have been holding significant positions in government and public offices. This includes women serving as members of parliament, ministers, Provincial Governors in governmental

sectors. While women in private sector are waxing towards the upsurge. Access to education has improved for girls and women in Pakistan over the years. Efforts have been made to increase enrollment and reduce gender disparities in primary and secondary education. Despite these positive developments, it is important to note that challenges persist in achieving full gender equality. Pakistan still faces issues such as gender-based violence, limited access to healthcare in certain far flung cum or distant located areas, cultural norms and to some extent discrimination. However, ongoing efforts and greater research is being made by civil society organizations, activists and the government to address these challenges and promote women rights.



There has been a significant increase in conduct of research vis a vis anti-dote policies to get rid of the menace of domestic violence in Pakistan. However, few research gaps still continue to dwell. Addressing these gaps can contribute to a more comprehensive understanding of the issue. It can further, help chalk out effective interventions. Clear understanding of the same gaps is a pre-requisite to formulate effective policies.

Existing research on domestic violence in Pakistan often overlooks marginalized groups dwelling in far flung remote areas as rural populations, ethnic minorities and individuals with disabilities. Understanding the unique experiences and challenges faced by these groups is essential for developing inclusive interventions and policies. There is also a lack of longitudinal studies that follow survivors of domestic violence over an extended period. Longitudinal research can provide insights into the long-term consequences, patterns and trajectories of domestic violence as well as the effectiveness of interventions and support services. While some studies touch upon the impact of domestic violence on women exclusively, there is a need for more in-depth research specifically focusing on the experiences, effects and interventions measures for all exposed to domestic violence in Pakistani households. Understanding the intergenerational transmission of violence is crucial for breaking the cycle and providing appropriate support, (Widom, C. S., & Wilson, H. W. - 2014).



Provincial review – fail safe measures vs grey areas

Are women not safe in country's capital?

At the federal level, there is no legislation that specifically penalizes domestic violence. Debate around domestic violence legislation has revealed a patriarchal mind-set and the belief that violence within the home is a private matter between families is no-more true. This void needs to be addressed with proper legislation. As per the research conducted in year 2017 by **Gallup** in urban Pakistan, “31% of men and 20% of women believe that a man has the right to beat his wife if she misbehaves” (Batoool, S., & Sohail Riaz, M. S. M. - 2021). However, it has been known through research that cases of domestic violence manifesting in physical abuse are often brought before the courts and in absence of a specified law on the subject are more often than not registered under the **Pakistan Penal code 1860 (PPC), section 332**, which reads “**Hurt:** Whoever causes pain, harm, disease, infirmity or injury to any person or impairs, disables [disfigures, defaces] or dismembers any organ of the body or part thereof of any person without causing his death, is said to have cause hurt” (Mushtaq, A., Razzaq, M., & Omar, S. - 2013).

While cases of domestic violence are entertained under section 332 to 337 depending on the type, severity and consequences of the physical abuse caused to women, the current regime fails to subsume the necessary gender perspective to ensure the due rights of women in the private sphere and domestic context. *The provisions of the Pakistan Penal Code 1860 are inherently gender blind, failing to take into account the vulnerability, dependence and power disparity between men and women in Pakistan's context of the domestic sphere.* The hinging of cases of domestic violence to physical abuse does not therefore take into account verbal, economic and psychological abuse meted out to women, which forms a substantive part of domestic violence. It is in this regard that a normative gap exists with regard to domestic violence. The current legal framework necessitates a definition of the crime of domestic violence that not only takes into account gender disparity and power differential between men and women in the private and domestic sphere but also elaborates on the psychological, emotional, verbal and economic abuse that is constitutive of acts of domestic violence. Islamabad Capital Territory (ICT) at the moment does not have a comprehensive law to address domestic violence. Therefore, an effort needs to be undertaken to formulate following:

- Law that criminalizes Domestic Violence
- Amendment in Criminal Law of Pakistan Penal Code 1860 be undertaken to formulate clear definition of “Domestic Violence”
- Punitive measures for perpetrators who commit crime under DV
- New domains of Psychological, Verbal, Economic and Technological abuse be incorporated under DV act
- Comprehensive law to provide relief to the complainant

Women Friendly Punjab – Most Populous Province

The **Punjab Protection of Women against Violence Act 2016** is a comprehensive civil law that provides a grievance redressal mechanism to women and sets up institutions to protect their rights in the private and public sphere, (*Khursheed Siddiqi, M. - 2016*). The salient features of this law include:

- A grievance redressal mechanism for various forms of violence against women including but not limited to, domestic violence, sexual violence, psychological abuse, economic abuse, stalking and cyber-crimes.
- *A woman aggrieved of such a violence can seek an interim order, protection order, monetary order and/or residence order against the perpetrator. A protection order includes the potential wearing of an ankle or wrist bracelet with a GPS tracker in case of grave violence or a threat of grave violence. It can also include removing the perpetrator from the house in case of grave violence or a threat of grave violence, (Jatoi, B. The Punjab Protection of Women Against Violence Act 2016).*
- If found guilty, **punishment includes imprisonment extending up to one year and a fine extending to two lakh rupees** in case of breach of court order by the accused.
- *If the accused is found to have breached the court orders on more than one occasion the penalty can extend to two years and a fine of five lakh rupees.*
- Establishment of an official helpline for victims of such violence.
- Setting up of and appointing **District Protection Committees, District Protection Officers and Women Protection Officers** to aid implementation of the law and to provide women survivors an institutional mechanism to help them throughout the redressal process.
- Power of entry for the District Protection Officer and the Women Protection Officer to enter any place or house for the purpose of rescuing an aggrieved person with the consent of the aggrieved person.

Here, it is important to know that in order to implement the law, the Punjab Government established one of its kind **Violence Against Women Centre (VAWC)** in Multan in 2016, which serves as a one stop shop for complainants of violence where medical support, police reporting, psycho-social support, legal aid and mediation as well as dispensation of justice is provided in the same premises for women complainants of violence. The Centre is also responsible for “*Collection of forensic and other evidences, besides offering mental health and counselling services, and post-traumatic rehabilitation under one roof, to increase complainants access to justice*”, (*Ahmad, S. - 2023*). If we consider the efficacy of such a single step, it is being reported that, Violence against Women Centre (VAWC) Multan had recorded **1,545 cases of violence against women (VAW) from March 2017 to April 2018** only. However, it was highlighted in 2018 that the necessary resources were further allocated to the Centre and appointments of public functionaries were also sped up.

A great number of efforts have been implemented in this provincial law addressing Domestic Violence. However, few of the avenues that need attention are as under:

- Lack of applicability of notification under section 1(3) of the Act to all districts of Punjab
- Constitutionalize and notify District Women Protection Committees as per section 11 of 2016 Act
- Establishment of more Protection Centres & Shelters under Section 13 of the 2016 Act to dish out services in the outflanks of province
- To foster confidentiality and protection, appointment of District Women Protection Officers as per Section 14 of the 2016 Act
- Awareness Campaigns and sensitization drives to instill confidence
- Drafting and notification of duty rosters to all functioning officials and committees as per Section 29 of 2016 Act
- Despite all, the Act 2016 does not criminalize DV as a criminal act which needs to be recognized and forced upon as such

Violence in Largest Province of Baluchistan

The largest province of Pakistan, despite being a far located and remote place but stands high on ranking as far as the measures are concerned to stop domestic Violence. **Baluchistan Domestic Violence (Prevention and Protection) Act 2014** as evident from name was promulgated in year 2014. As per the act *“Domestic Violence includes and is not limited to all intentional acts of gender based or other physical or psychological abuse committed by an accused against women, children or other vulnerable persons with whom the accused is or has been in a domestic relationship”*, (Bhattacharya, S. - 2014). Highlights of the protective Act are as follows:

- A grievance redressal mechanism for various forms of violence against women including domestic violence, sexual violence, psychological abuse, economic abuse, stalking and wrongful confinement.
- A woman aggrieved of such a violence can seek an interim order, protection order, monetary order or residence order against the perpetrator.
- If one is found guilty, punishment includes **imprisonment extending to one year and a fine extending to one lakh rupees in case of breach of court order** by the accused.
- If the accused is found to have *breached the court orders on more than one occasion the penalty can extend to two years and a fine of two lakh rupees.*
- Setting up of and appointing District Protection Committees, District Protection Officers and Women Protection Officers to aid implementation of the law and to provide women survivors an institutional mechanism to help them throughout the redressal process.

A lot of efforts have been undertaken and yet a lot needs due attention. Few of the postulates rendering look over are:

- The Act of year 2014 needs to be notified and applicable to all districts of Balochistan vide section 1(2) of the Act.
- Constitution and notification of District Women Protection Committees as per section 14 of 2014 Act
- Establishment of Protection Centres
- Appointment of District Women Protection Officer
- Act be amended to stipulate DV as a recognized state offence

Domestic Violence in KP & Sindh

Khyber Pakhtunkhwa does not have a comprehensive law to address domestic violence in the province to provide a grievance redressal mechanism for domestic violence to curb the menace. On the contrary, **Sindh Domestic Violence (Prevention and Protection) Act, 2013** is a comprehensive law that provides a grievance redressal mechanism to women and sets up institutions to protect the rights of women in the private and public sphere, (Syed, A. A. S. G., Shaikh, F. M., Halepoto, A. H., & Shah, A. S. - 2013). The salient features of the law include:

- The law of 2013 stands unique as it **criminalizes all kinds of violence including domestic violence** and has adopted a wide *definition to include “assault”, “criminal force”, “criminal intimidation”, “economic abuse”, “harassment”, “hurt”, “mischief”, “physical abuse”, “stalking”, “sexual abuse”, “verbal and emotional abuse”, “willful or negligent abandonment” and “wrongful confinement.”*
- The aggrieved person could be anyone *“woman, child, man or any vulnerable person who is or has been in a domestic relationship with the accused and who alleges to have been subjected to any act of domestic violence by the accused.”*
- Any person aggrieved of violence can approach the Court for an interim order, protection order, monetary order or residence order to be passed in their favour.
- Breach of court order by the accused shall constitutes an offence. Breaching a Court order can be punished with **“imprisonment which may extend to one year or with fine which may not be less than twenty thousand rupees.”**
- The law also requires certain institutions, like Protection Committees and Protection Officers to be established and notified in order to implement the law.
- **Domestic Violence (Prevention and Protection) Rules 2016** have also been notified to elaborate upon the mechanisms and institutions in the primary law for effective redressal in complaints of domestic violence.

Now, considering the “To improve upon aspects,” following are the major grey areas identified:

- In KP Province, drafting and promulgation of a law that bars the violator to undertake domestic violence is of supreme importance
- As far as Sindh province is concerned, appointment of protection officers as per section 21 of 2013 Act is needed
- Constitution and notification of Protection Committees as per section 17 to monitor and facilitate implementation
- Awareness drives
- Sensitization of Act through Law enforcement agencies to implement legal fraternity of 2013 Act

Conclusion

Domestic violence in Pakistan highlights the alarming prevalence of this issue and sheds light on the various factors contributing to the non-implementation of effective measures to address it. The findings underscore the urgent need for comprehensive strategies and concerted efforts to combat DV and protect the rights and well-being of victims. Despite efforts made by the government and other organizations to address DV, there are significant challenges hindering the effective implementation of preventive and protective measures. The absence of a comprehensive, multi-sectoral approach results in fragmented efforts and inadequate support systems for victims. It is imperative to establish clear protocols, enhance collaboration, and strengthen the capacity of these institutions to ensure a coordinated response to DV cases.

Drafting and promulgation of a special law to provide relief to victims of domestic violence at federal level. Criminal Law Amendment in the Pakistan Penal Code 1860, with a clear definition of domestic violence and a penalty for domestic violence, the Amendment in the Pakistan Penal Code 1860 must include psychological, verbal and economic abuse as acts of domestic violence. Amendment in the Punjab Protection of Women against Violence Act 2016 to criminalize domestic violence in Punjab and other provinces. Apropos, the enforcement of these laws should be strengthened through specialized training for law enforcement personnel and judges, as well as the establishment of dedicated DV courts. Only through sustained efforts and a collective commitment to change can Pakistan make progress towards eradicating domestic violence and creating a society that respects the rights and dignity of all its citizens.

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