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Legal Perspective of Domestic Violence Against Women: A Case Study of District Mardan

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ABSTRACT

Domestic violence remains a pervasive yet underreported issue in Mardan, a district in Khyber Pakhtunkhwa, Pakistan, where socio-cultural norms, institutional failures, and weak law enforcement mechanisms contribute to the continued victimization of women. Despite the legal protections established under the Khyber Pakhtunkhwa Domestic Violence Against Women (Prevention and Protection) Act, 2021, survivors of domestic violence face significant barriers in accessing justice, including police inaction, judicial delays, gender biases, and economic dependency. This research provides a comprehensive analysis of the effectiveness of domestic violence laws in Mardan, examining the challenges in legal implementation, law enforcement inefficiencies, and the lack of survivor support services. Using qualitative research methods, including legal analysis, case studies, and interviews with key stakeholders (legal professionals, NGOs, and survivors), this study highlights how patriarchal social structures, honor-based violence, and the influence of informal justice systems (Jirgas and Panchayats) prevent survivors from seeking legal protection. The findings indicate that police frequently dismiss domestic violence cases as private matters, while courts often prioritize reconciliation over justice, leading to low conviction rates and continued cycles of abuse.

INTRODUCTION

To define domestic violence in simple words, it is a pattern of abusive/assaulting behavior in any household that is used by one partner to gain or maintain power and control over the other. In this sense, domestic violence can be in various forms and may include physical, sexual, emotional, and psychological, actions or threats of actions that intimidate, manipulate, frighten, terrorize, hurt, injure, or wound another partner, in general and wider scope.

It goes without saying that Domestic Violence is a prevailing and deep-rooted issue in Pakistan's society. It is evident from that the backdrop of Pakistan social dilemmas that it has a long history of patriarchal social structures and orthodox cultural norms that ensue gender discrimination and violence against women. In this context, according to many researches and surveys conducted, domestic violence is a major problem in Pakistan, with a high prevalence of physical and sexual violence against women.

Similarly, in the region of Mardan, a major district of the province Khyber Pakhtunkhwa, the challenge of domestic violence is particularly concerning owing to factors like poverty, lack of education, absence of mainstream and direct legal platform. Social and cultural barriers while approaching court of law, and norms that does not mitigate domestic violence. According to the data issued by the government of Khyber Pakhtunkhwa, the literacy rate in Mardan is 52% with females having a share of 18.38%. This exacerbates the issue in the context of not having the required confidence, awareness, and limited access to media and legal platforms.

It is evident that many steps have been taken by the successive governments to curb the menace of domestic violence to ensure protection of women being terrorized and subjected to violence. In this context, Protection of Women Act 2006 was introduced and it introduced various clauses in Pakistan Penal Code and Criminal Procedure Code regarding sexual and domestic violence on women. Yet, a lot needs to be done in the realm to ensure the safety of women in districts where women are considered vulnerable and prone to domestic violence (Qasim, 2023).

While it is true that in legal domain, certain steps have been taken but there is yet a significant gap to fill in a bid to bridge women access to justice. In the case of Mardan, not only are there legal impediments but also have lack of enforcement mechanisms. Therefore, the effectiveness is impeded by a number of challenges such as enforcement, socio-cultural barriers, lack of awareness, and gender biases. In a bid to improve the situation, it is essential to address these

challenges and ensure the effective implementation of legal framework. It is also paramount on part of the legislative bodies to provide a more comprehensive and inclusive legal framework. Limiting the scope of research to Mardan only will help us identify the core challenges underlying. It also makes it crucial for a number of reasons such as the high prevalence of domestic violence in the region and gender inequality. By understanding the underlying causes behind the prevalent domestic violence is important for the legal professionals and legislators for effective intervention.

STATEMENT OF RESEARCH PROBLEM

Since it is evident that domestic violence is a prevailing and deep-seated issue in the many parts of Pakistan, however, with specific reference and focus on Mardan region, where women face significant challenges in access to education, economic empowerment, and social equality, that result in lack of awareness and thus are subjected to domestic violence. Despite the many quoted cases of domestic violence, there is still a lack of detailed understanding of the root causes and consequences of this phenomenon in the region. Particularly, the interplay of women's access education and economic autonomy and their attitudes towards domestic violence remains unclear. This research aims to investigate the prevalence and causes of domestic violence in the Mardan, with a focus on the effectiveness of legal frameworks, loopholes, lack effectiveness in enforcement, and absence of special forums.

RESEARCH METHODOLOGY

This research study was qualitative in nature which involve legal reviews, proactive interaction with legal scholars, prosecution, and lawyers, and a thorough series of surveys to collect data in Mardan. Data will be collected through in-depth interviews from already selected population. The collected qualitative data will be examined and interpret to identify the relevant themes and patterns. In the last a comprehensive report will be prepared on the bases of analyzed data.

DOMESTIC VIOLENCE

Domestic violence is a reality that many women suffer around the world, regardless of their age, social and economic status, or cultural background. According to the World Health Organization (WHO, 2021), it refers to any act of violence within an intimate partnership that results in physical, psychological, or sexual harm. Surveys from the United Nations Office on Drugs and Crime (UNODC, 2022) show that thirty per cent of women globally have experienced some form of domestic violence, with partner violence being the most common. Domestic violence in Pakistan continues to be prevalent throughout the region due to cultural practices and a lack of

legislation to protect women. Human Rights Watch reported that at least 33% of the married women in Pakistan experienced some form of spousal abuse, but due to the social factors surrounding the issue, the statistics might be even worse (Khan et al., 2021). Nonetheless, even with the enactment of the Protection of Women Act (2006) and the Domestic Violence (Prevention and Protection) Act (2020), the enforcement of these interventions has been considerably poor especially in Khyber Pakhtunkhwa (Jalal-ud-din & Khan, 2022).

CAUSES OF DOMESTIC VIOLENCE:

The causes of domestic violence in Pakistan are multifaceted, which are embedded in sociocultural and economic aspects. Women's economic dependence is seen as one of the main causes of their weak bargaining power hence, staying in abusive relationships as postulated by Elahi and Shah (2014). For instance, according to Zahoor et al (2021), some of the key forms of violence include dowry-related violence, honor-based abuse, and forced marriages and this is prevalent in the rural areas. Domestic violence is part of the culture and increased in Khyber Pakhtunkhwa and especially in Mardan due to low literacy rates amongst women and patriarchal norms. According to the Khyber Pakhtunkhwa government data 2021, the female literacy rate in Mardan is only 18.38%; hence, women are not well informed of their legal rights and are more prone to be abused (Israr et al., 2020). In addition, women do not report cases of domestic violence, a point made by Jahangir (2015) and Shah et al. (2017) noted that the Pashtun culture puts the family 's honor above the welfare of the woman and, therefore, covers up abuse cases.

FEMINIST LEGAL THEORY

Feminist Legal Theory is thus useful in addressing domestic violence since it tracks the ways in which the laws lack gender sensitivity and how they often leave women vulnerable to abuse by their partners. MacKinnon (1989) opined that laws are gendered from a male point of view, and thus even when there are laws to protect women against violence, their implementation may not address the problem in its entirety. This is well illustrated in Pakistan where male-dominated culture pervades the legal framework and community expectations on the handling of DV victims (Nawab et al., 2019). The Pakistani legal system and the interpretation and application of laws have been historically Patriarchal, and failed to address the structural factors that disempower women.

One of the core arguments of Feminist Legal Theory is that laws alone are insufficient to protect women if the institutions enforcing them remain biased. This is particularly evident in the case of domestic violence in Mardan, where police officers, judges, and lawyers often dismiss cases as private family matters rather than legal offenses (Israr et al., 2021). Studies indicate that even when women report abuse, they often face hostile treatment from law enforcement, pressure from family members to withdraw complaints, and delays in judicial proceedings that discourage them from pursuing legal action (Pakistan Human Rights Commission, 2022). This reflects what

Smart (1995) describes as the "double victimization" of survivors—first by their abusers and then by the legal system that fails to protect them.

POWER AND CONTROLE THEORY

Power and Control Theory, introduced by Michael P. Johnson (1995) allows for a better understanding of domestic violence not as a number of random acts of aggression, but as a system of power and domination. This theory is quite suitable for understanding Mardan, where cultural, economic, and legal frameworks continue to subjugate women and allow men to use violence in the home to assert dominance. In contrast to the conventional criminological approaches that define violence as the key factor, Power and Control Theory assumes that the batterers employ physical, financial, verbal, and psychological means to dominate their partners (Johnson, 2006).

APPLICATION OF THEORIES TO THE CASE OF MARDAN

Analyzing the case of domestic violence in Mardan through the lens of Feminist Legal Theory and Power and Control Theory shows how law, culture, and institutions contribute to abuse. Whereas Feminist Legal Theory addresses structural gender bias in the legal system, Power and Control Theory outlines how domestic violence is a form of domination characterized by psychological, financial, and emotional domination. Together, these approaches give a clear picture on the legal and social factors that hinder survivors from seeking justice.

Applying all of these into Mardan's context requires the following adjustments: First, laws on domestic violence should be broadened to encompass coercive control, financial abuse, and psychological abuse since these are currently unaddressed in the Pakistani legal statutes (Ali et al., 2019). Second, women's access to justice should be enhanced by enhancing the representation of women in the police, in the legal profession, and in the judiciary to address gender-sensitive issues (Pakistan Human Rights Commission, 2022). Third, the existing economic measures to empower women, including vocational education and microcredit projects, should be bolstered so that women do not have to return to abusers out of financial desperation (UNDP, 2021).

PAKISTAN DOMESTIC VIOLENCE LAWS

The legal measures for the protection of women from domestic violence are laid down through provisions of the constitution, national legislation, provincial laws, and international laws to which Pakistan is a signatory. Even though there are enshrined in law, the enforcement of these

laws is wanting, patchy, and thus ineffective in offering protection to survivors. The subsequent section delves into the context of constitutional and legal frameworks of domestic violence cases in Pakistan, including available national laws and provincial legislation with special reference to the loopholes and challenges faced by women of Mardan in getting justice.

LEGAL LOOPHOLES AND GAPS IN ENFORCEMENT MECHANISM

The implementation of the KP Domestic Violence Against Women (Prevention and Protection) Act, 2021, faces significant obstacles due to various legal loopholes and enforcement failures. Though enacted to protect survivors and hold perpetrators accountable, it has failed due to inherent flaws in the law, ambiguous sections, and ineffective institutions. These loopholes not only complicate the search for justice but also contribute to the perpetuity of domestic violence in Mardan and the rest of Khyber Pakhtunkhwa (Ali et al., 2019).

Another legal anomaly that has been pointed out by many people is the absence of punishment for noncompliance. The law requires the formation of District Protection Committees (DPCs) for handling such cases of domestic violence but does not prescribe a definite time frame or organizational structure for the proper functioning of these committees (Khan, 2020). Consequently, many districts, including Mardan, either lack these committees or have not made their functioning effective. The survivors turn to the police or any legal agencies only to discover that there is no agency that is directly responsible for the survivor's cases, hence they cannot get protection or help immediately. The lack of a clear structure for implementing the new procedural system results in bureaucratic disorder which can lead to cases being stalled or dismissed entirely.

Domestic violence in Mardan manifests in multiple forms, each influenced by social, cultural, and economic factors. These forms of abuse often overlap; creating a cycle of control and coercion that leaves women with little to no escape from their abusers.

FORMS OF DOMESTIC VIOLENCE IN MADAN

• Physical Violence: Physical abuse is the most visible and commonly reported form of domestic violence in Mardan. This includes slapping, kicking, beating with objects, choking, and burning. In extreme cases, women have been subjected to "honor-based violence" when suspected of violating family norms. Many survivors do not seek medical attention due to fear of being blamed or further punished.

- Psychological and Emotional Abuse: Emotional abuse is less visible but equally damaging. Many women in Mardan suffer from verbal insults, threats, humiliation, and gaslighting, which erodes their self-esteem and independence (Rasheed & Mar'iyah, 2024). Abusers often threaten divorce or separation from children, using psychological pressure to force submission and obedience. Due to low literacy rates and limited awareness, many survivors do not even recognize emotional and verbal abuse as a form of domestic violence.
- Economic Abuse: Economic violence is a powerful tool used to maintain control over women, particularly in a region like Mardan, where women's economic participation is already limited. Many women are denied access to household finances, prevented from working, or forced to hand over their earnings to male family members. A 2021 report by local women's rights NGO found that 70% of women in Mardan have no independent financial resources, making it nearly impossible for them to leave abusive relationships.
- Sexual Violence: Sexual violence within marriage remains one of the most underreported forms of domestic abuse in Mardan. Many women suffer from forced sexual relations, marital rape, and reproductive coercion, but Pakistan's legal system does not recognize marital rape as a crime. This legal loophole leaves survivors with no legal recourse. Due to cultural taboos and the stigma surrounding discussions of sexual violence, women in Mardan rarely disclose sexual abuse by their husbands or family members (Gul, et al., 2024).
- Honor-Based Violence and Forced Marriages: Mardan has reported numerous cases of honor-based violence, where women are beaten, burned, or even killed for allegedly violating family honor. Forced and early marriages are also common in the district, with girls as young as 14 being married off against their will. This practice exposes young girls to lifelong domestic abuse, depriving them of education and economic independence.

CHALLENGES IN ACCESSING JUSTICE FOR VIVTIMS

Several cross-sectional studies showed that women from Khyber Pakhtunkhwa and FATA continue to face various barriers in accessing justice, even after the enactment of Khyber Pakhtunkhwa Domestic Violence Against Women (Prevention and Protection) Act 2021. These challenges originate from cultural perceptions, ineffective policing, slow judicial systems, illiteracy of rights, and inadequate funding. The justice system rather than being a protective mechanism becomes a hindrance to survivors by discouraging them from seeking legal redress.

This is one of the major challenges because the police usually do not listen to women when they report acts of domestic violence. Despite this, many survivors who try to report abuse end up being harassed and their cases dismissed by the police as family affairs instead of criminal cases. Police officers frequently encourage women to "resolve the issue at home" rather than pursue legal action, which reinforces the cycle of abuse (Gul et al., 2023). Several studies carried out in KP by human rights groups reveal that around 60 percent of cases of violence against women are not reported, meaning that survivors cannot seek justice. In many cases, even when complaints are made, investigations are defective, or biased if the accused is a person with influence in the society or holds a political position.

The other challenge is that many police officers and personnel in the judicial system have not undergone through gender-sensitive training. To date, some law enforcement officials in Mardan do not categorize psychological, economic or emotional abuse as heinous crimes, hence the low reporting and inadequate legal action. Such survivors are often intimidated and discouraged when confronted with a police force and the entire judiciary that is dominated by men. This is compounded by the fact that there are no female police officers in Mardan which means that many women do not report abuse to male officers. This paper will show that the involvement of female officers in the handling of domestic violence cases lead to the survivors seeking justice. In the district however, there are very few female officers meaning that most survivors are left with no other option than to continue interacting with the unsympathetic police force (Gul and Samad, 2021).

The legal system in Mardan is tardy and frustrating for the offended party which increases the time it takes to conclude a case which ranges from months to years. Women who seek justice through the KP Domestic Violence Act, 2021 are subjected to lengthy trials, legal formalities, and delays in protection orders. Some are withdrawn owing to lack of sufficient proof, inadequate police investigations, or intimidation of the complainants. Due to the few judges trained in tackling Gender Based Violence (GBV) cases, courts give out lenient sentences that do not deter perpetrators of violence against women and girls. The Demand for reconciliation instead of prosecution is a common trend in many cases, which compounds the social pressure placed on women to stay in abusive relationships (Rasheed & Mar'iyah, 2024).

ROLE OF LAW ENFOCEMENT AND JUDICIAL SYSTEM IN MARDAN

The police and the Judicial system have a significant role to play in the enforcement of the laws against domestic violence and of protecting the survivors. However, in Mardan, both institutions have failed to deliver justice in the timely and effective manner due to various cultural issues and lack of gender sensitization training and weak enforcement system. Despite the implementation of the Khyber Pakhtunkhwa Domestic Violence Against Women (Prevention and Protection) Act, 2021, there are gaps in its protection mechanism that results in many survivors experience inadequate protection from their abusers.

The police force in Mardan is responsible for managing domestic violence cases; however, organizational and social factors hinder its functions. Another concern is the failure to register cases as they should be. Often the survivors who seek justice by reporting their perpetrators to the police either get rejected or pressured to settle the matter out of court (Gul, et al., 2024). Officers often downplay domestic violence as a "family matter", reflecting a broader cultural mindset that prioritizes family unity over individual rights. A data report from Pakistan Human Rights Commission established in 2022 reveals that above 50% of domestic violence cases in KP including Mardan go unreported and without legal redress available to survivors.

Another major challenge is judicial bias and lack of gender sensitivity among judges and prosecutors. Many domestic violence cases in Mardan are handled by judges who prioritize family preservation over justice for the survivor. In numerous instances, courts encourage "compromise" between the victim and the perpetrator, reinforcing patriarchal attitudes that place the burden of maintaining family honor on women. Unlike countries that have specialized domestic violence courts, Pakistan lacks a structured system to fast-track cases of gender-based violence, making it difficult for survivors to obtain timely legal relief.

Another area that is a significant weakness in Mardan's legal system is the enforcement of the court protection orders. The KP Domestic Violence Act 2021 enables survivors to seek protection orders to bar their abusers from interacting or approaching them. However, it is often seen that many protection orders are not implemented as intended since police do not monitor the subjects of the orders or take proper action in case of breaches, which are commonly neglected or advised to seek an out-of-court settlement erode the strength of the law even among survivors who try to report violations of protection orders.

CONCLUSION

At present, domestic violence is still prevalent in Mardan contrary to the enactment of the Khyber Pakhtunkhwa Domestic Violence Against Women (Prevention and Protection) Act, 2021. This study has revealed that social cultural barriers, weak institutional systems, and lack of sensitization are the major causes of domestic violence in the district. The ability of women in Mardan to access justice is still hampered by pervasive gender bias, fear of being ostracized from society, ineffective implementation of the law, and rare provisions for support. Thus, a large number of survivors continue to be confined in violent relationships and are excluded from receiving legal assistance and community resources.

This study has comprehensively addressed legal dimensions, socio-cultural influences, and institutional factors on domestic violence in Mardan, along with support systems. The findings reveal the ongoing ordeal that survivors undergo even after the Khyber Pakhtunkhwa Domestic Violence Against Women (Prevention and Protection) Act, 2021.

This research finds that women in Mardan still do not report cases of domestic violence due to cultural expectations, fear of shame, financial reliance on the perpetrator, and no confidence in the authorities. In many cases, survivors of sexual crimes do not report the incidents to the authorities for fear of being socially ostracized, harassed by the accused individuals, or disowned by their families and the rest of the community. In addition, the Jirgas and Panchayats also dissuade women from seeking legal redress since these traditional forums compel the victim to accept compensation instead of pursuing justice.

This research also revealed that institutional factors were the most significant factor hindering the process of legal implementation. Police officials in Mardan often turn a blind eye and do not entertain the victim's complaints regarding domestic violence, considering it a family affair. Other factors that discourage survivors from seeking justice include delayed justice delivery, and lack of stiff punishment for offenders. This has been compounded by poor female police representation together with inadequate gender sensitive policing and judiciary/other justice actors training.

Moreover, the study pointed out that most women in Mardan do not understand their rights according to the laws of the country. Aging, illiteracy and limited legal information access means that most survivors had no idea that protection orders, shelters, and legal aid services exist. Lack of awareness campaigns about the laws and community education programs will leave women in abusive relationships helpless and lawless.

Perhaps the most significant legal reform required is the proper implementation of the KP Domestic Violence Act, 2021. However, it has had a weak implementation which render it powerless in the protection of survivors. It's imperative to pressurize the government so that the police takes domestic violence cases seriously, increases the implementation of protection orders and ensures that perpetrators are punished by the law enforcement agencies. This involves challenging police authorities to ensure that this is not the case by punishing errant officers that fail to register complaints, and adopting legal supervision to avoid cases from stalling.

Policy reforms must also include public awareness and legal education. To ensure that these women get information on their rights and freedoms, the government needs to start campaigns in vernacular English so that every woman, including the illiterate ones get reach. To address domestic violence, it is crucial to bring men and boys into community-based programs and talk about the change in social perceptions of domestic violence.

The future research can extend and investigate the long-term effects of domestic violence especially on women in relation to; psychological wellbeing, financial status, and reintegration into society. Despite this, there is limited research assessing post-separation coping among many survivors who experience psychological trauma and financial vulnerability. Further research on the survivor recovery and reintegration process would assist policymakers in developing better rehabilitation programs.

This study shows that the phenomenon of domestic violence has not been eradicated in Mardan, even though there are laws that provide protection to the victims. This study revealed that lack of implementation of the law by the police, lack of legal literacy, socio-cultural factors, and lack of service providers reduced the effectiveness of the KP Domestic Violence Act, 2021, in providing justice to survivors. To address these hurdles, there is a need for procedural and legal reform, improved enforcement mechanisms, survivors' enhanced services, and changing social norms.

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