

## INSTITUTIONAL FRAMEWORK FOR ADDRESSING GENDER-BASED VIOLENCE IN PAKISTAN: AN ANALYTICAL STUDY

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### ABSTRACT

Gender-based violence is a harmful act which aims at damaging individuals because of their gender, particularly against women. Many civil society organizations are gradually improving their struggle against this social evil. The government has given attention to this issue recently due to increasing public awareness and landmark court judgments. This study aims to explore various segments of the institutional support to prevent gender-based violence. This institutional support is also available to the victims and survivals of GBV in Pakistan. The study explores some details of state response to mitigate GBV in Pakistan. It elaborates the framework that is developed by the government for contesting Gender-Based Violence in Pakistan. It includes constitutional and legal provisions related to GBV, landmark judgments of superior courts related to GBV, the Federal Sexual Violence Response Framework (FSVRF), and the National Policy on Ending Violence against Women & Girls 2019, Punjab Police Khidmat Markaz (PKM), Punjab Women Protection Authority and Violence against Women Center (VAWC), Multan. The article also discusses initiation and performance of GBV courts in Pakistan. The implementation of fair trial in GBV courts, the need for the establishment of GBV courts and the history of GBV courts in Pakistan is also part of this discussion. The conclusion of the study suggests further recommendations to make state response to GBV more effective and stronger, so that Pakistani state can effectively contribute in the process of civilization of Pakistani society.

**Keywords:** Gender-based violence, human rights, judgments, framework, response, GBV courts

### 1. INTRODUCTION

The terms “Gender-based violence” and “violence against women” are interchangeably used because in most cases due to gender-based reasons violence against women is perpetrated. Moreover, gender-based violence mostly and disproportionately affects women. The “UN Declaration on the Elimination of Violence against Women” defines 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.”<sup>1</sup>

Pakistan has a population of over 229 million, and ranked as the fourth most dangerous country for women in 2021.<sup>2</sup> According to the World Economic Forum, Pakistan is the 3<sup>rd</sup> least performer country in the global map.<sup>3</sup> UNDP on GDI (Gender Development Index) in 2010 reported the following: “The Islamic Republic of Pakistan is the sixth most populous country in the world and is ranked 125th out of the 169 countries on

<sup>1</sup> “Declaration on the Elimination of Violence against Women” (Proclaimed by General Assembly resolution 48/104, December 20, 1993), Article No.1.

<sup>2</sup> Nasreen Akhtar and Daniel A. Métraux, “Pakistan is A Dangerous and Insecure Place for Women,” *International Journal on World Peace* XXX, no. 2 (June 2013): 35.

<sup>3</sup> <https://www.thenews.com.pk/print/585465-pakistan-fares-badly-on-gender-gap-index>. Retrieved on July 29, 2023.

Development Index (GDI), and 99th out of 109 on the Gender Empowerment Measure (GEM).”<sup>4</sup>

It is reported that 93% of women in Pakistan have experienced violence at various stages of their lives.<sup>5</sup> GBV institutional interventions refer to,

“Core crisis programming activities that can remedy, mitigate, or avert direct loss of life, physical or psychological harm and threats to a person’s dignity and well-being.”<sup>6</sup>

The UNO reported on April 2021 that only 1.5% (5,870/391,364) female police officers are in Pakistani police.<sup>7</sup> It is necessary that law enforcement agencies should practice gender-justice. Moreover, a higher proportion of females be encouraged to be part of these agencies. A national healthcare response needed to have clear referral pathways, for the protection of survivals of GBV. Along with health services, financial services and the police force be empowered to develop and implement gender sensitive policies. These various departments together can form a framework for the protection as well as help of the survivals of GBV. These state intuitions can get first-hand information about the GBV situations through regular surveys of urban as well as rural areas. Such data can provide insight of the cruelty of gender-based violence to local, provincial and federal governments. An effectively trained team must be included in healthcare workers and police officers to serve as a first-line response to GBV. The government needs to take care of its initiatives and include steps related to protection from GBV in its priorities.

The data for this research is collected from a variety of sources. It has been analyzed based on gender-

<sup>4</sup> Rakshinda Parveen, “Gender-Based Violence in Pakistan: A Scoping Study” (Islamabad: Aurat Publication and Information Services Foundation, January 2011), 01.

<sup>5</sup> M. Rafique Wassan, Abdul Razaque Channa, and Syed Faisal Hyder Shah, “Violence against Women in Pakistan: Causes, Consequences and the Way Forward,” *International Research Journal of Arts and Humanities (IRJAH)* 49, no. 49 (2021): 49.

<sup>6</sup> “Institutional Framework for Addressing Gender-Based Violence in Crises” (Geneva, Switzerland: International Organization for Migration (IOM), 2018), 05.

neutral methodologies inspired by epistemological approaches. Feminist epistemologies that challenge gender inequalities in society have also been considered in this study. The study draws on a combination of legal, social, humanistic and feminist social theories. This investigation is conducted through the use of historical, descriptive and philosophical methods. Socio-legal methods have also been used to verify the data related to GBV in Pakistan. The research is prepared for serious researchers from the police, investigation officers, prosecutors, lawyers, opinion leaders, faculty members, religious leaders and human rights activists.

## 2-Constitutional and Legal Framework for Contesting Gender-Based Violence

The most significant institutional response of the government of Pakistan to the prevailing state of GBV is protection and preservation from gender-based violence through the provisions of the constitution and laws. The most extensive abuse of human rights is gender-based violence (GBV). GBV is resulted in widespread violations of human rights. It affects several rights such as:

“The right to life; the right to equality; the right to liberty and security of a person; the right to equal protection under the law; the right to be free from all forms of discrimination; the right to the highest standard attainable of physical and mental health; the right to just and favourable conditions of work; the right not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment.”<sup>8</sup>

<sup>7</sup> Vienna: United Nations Office on Drugs and Crime; 2021 Available from: <https://www.unodc.org/unodc/en/frontpage/2021/April/female-police-officers-step-into-the-frontlines-as-first-responders-in-balochistan.html> [cited 2022 Mar 30].

<sup>8</sup> “Declaration on the Elimination of Violence against Women” (Proclaimed by General Assembly resolution 48/104, December 20, 1993), article no. 3.

It also breaches “the right to health, the right to non-discrimination and the right to just and favourable work conditions.”<sup>9</sup> All the rights that are affected by GBV are protected by various provisions of the constitution of Pakistan.<sup>10</sup> The legal provisions that provide protection from gender-based violence and punish the criminals of GBV are also very important state responses to the challenges that Pakistan is facing. Some of the important laws that have been enacted in Pakistan include “The Pakistan Penal Code 1860, Child Marriage Restraint Act 1929, Foreigners Act 1946 and Foreigners Order 1951, Muslim Family Laws (Dissolution of Muslim Marriages Act 1939, Muslim Family Laws Ordinance 1961, Family Courts Act 1964, Dowry and Bridal Gifts (Restriction) Act 1976, Anti-Terrorism Act 1997, Prevention and Control of Human Trafficking Ordinance 2002, Prevention of Trafficking in Persons Act 2018, Protection for Women (Criminal Law Amendment) Act 2006. Acid Control and Acid Crime Prevention Act 2011, the Acid and Burn Crime Bill 2018, Criminal Law Amendment (Prevention of Anti-Women Practices) Act 2011, Domestic Violence (Prevention and Protection) Act 2020, Criminal Law (Amendment) (Offense of Rape) Act 2016, Criminal Law (Amendment) (Offences in the name or pretext of Honour) Act 2016 and Prevention of Electronic Crimes Act 2016, The Punjab Protection against Harassment of Women at the Workplace (Amendment) Act 2012, Punjab Fair Representation of Women Act 2014, Prohibition of Child Age Marriage/Early Age Marriage Act 2015, Various Family Law Amendments to empower women that were introduced during 2015, Punjab Enforcement of Women’s Property Rights Act, 2021, Punjab Protection of Women against Violence Act 2016 and the Punjab Protection of Women Against Violence (Amendment) Act 2022.

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<sup>9</sup> “Institutional Framework for Addressing Gender-Based Violence in Crises,” 05.

<sup>10</sup> “The Constitution of Islamic Republic of Pakistan 1973 as Modified up to 31<sup>st</sup> May 2018” (National Assembly of Pakistan, May 31, 2018), articles: 6;8-28;29;25;27;32;34;35;37.

### **3-Landmark Judgments of the Superior Courts**

#### **3.1- Salman Akram Raja vs. Government of Punjab (2013 SCMR 203)**

This is a landmark judgment. Not only the case is important but the reforms that have been suggested in the decision are also important. The facts of the case state that the court provided a unanimous opinion. During the proceedings of subordinate court, initially DNA tests were rejected as evidence hence the courts were generally not relying on DNA evidence in the process of convictions. However, with the advancement of technology in the last decade, the exactness and accurateness of DNA tests empowered courts to punish real culprits and exonerate wrongfully-accused and suspects. However, the court declared that DNA evidence will be accepted conclusive only when it is in substantiated with other pieces of evidence. The Court also discussed the aspects of personal liberty associated with DNA tests. It relied upon previous jurisprudence arising from different high courts to conclude that before ordering a DNA/blood test, a court had to consider the specific facts of the case, and the consequences of such an order. Additionally, the court held that prior consent of the person must be taken before taking a blood/DNA sample, reasoning that such tests inherently interfere with the person’s personal liberty.<sup>11</sup>

The Supreme Court in the appeal against the decision of the subordinate court held that “a court need not take the consent of the accused before ordering him to submit a blood/DNA sample.” Supreme Court took this decision based on some legal precedents and previous decisions that ruled that “a DNA test done without the consent of the accused would not violate his protection against self-incrimination.” The court also asked for reservation of DNA even after considerable time of the crime happening. The Supreme Court also suggested that this procedure be

<sup>11</sup> “Case Citation: 2013 SCMR 203 Salman Akram Raja VS. Government of Punjab” (Center for Communication and Governance), accessed August 19, 2023, <https://privacylibrary.ccgnlud.org/case/salman-akram-raja-vs-government-of-punjab?searchuniqueid=206736>.

regularized through proper legislation. The court ordered that the DNA tests and preservation of DNA evidence be made mandatory in rape cases.<sup>12</sup>

### 3.2-Federal Shariat Court Judgment Regarding the Punjab Protection of Women against Violence Act 2016 in Muhammad Ibrahim Khan v. Province of Punjab

The Punjab Protection of Women against Violence Act 2016<sup>13</sup> is one of the important legislations for establishing a preservation and protection system for the mitigation of gender-based violence in Pakistan. The patriarchal mindset challenged this legislation before the Federal Shariat Court on the pretext that this law is contradictory to Islam, therefore it may be declared null and void.<sup>14</sup> The petitioners in the case *Muhammad Ibrahim Khan v. Province of Punjab* argued that the 2016 Act demanded the settlement of domestic disputes through courts. This is a clear violation of the privacy of the home. They further argued that:

“Islam gives the male a higher status in society over the females to such an extent that a husband is authorized to beat his wife.”

The petitioners further pleaded that:

“Requiring an offender to wear an ankle/wrist bracelet GPS tracker under Section 7(d) of the 2016 Act is against the dignity of man.”

Federal Shariat Court of Pakistan (FSC) after lensing arguments on November 29, 2022, declared that this Act is as per the Qur'an and Sunnah of the Prophet (peace be upon him).<sup>15</sup> FSC went deep into the understanding of Quranic verses (34-35) of Surah al-Nisa. The petitioners quoted argued on the bases of these verses that marital disputes must not be brought to court. The FSC stated that the scope of this Act is different in nature and much wider. It cannot reduce

just to marital disputes. It is actually related to the commission of domestic abuse. The court carefully lessen various arguments and declared that as per Surah Al-Mujadilah a woman has the right to access to justice in every situation. The execution of this right demands that the grievances of women must be redressed. The court further observed that Islam does not allow any person to commit violence against a female family member. In the opinion of the court the law is not against males as it is wrongly showed by the petitioners. It is in fact against the perpetrators of domestic violence and abuse. The court on the bases of various verses of the Quran (Al-Hujrat: 13, Al-Nahl:97 and Ghafir:40, etc.) declared that male and female are equal in the eyes of law. Moreover, Islam specifically forbade domestic abuse and a man has no authority to abuse his female relative/s on the pretext of religion. The court observed that the challenged law will strengthen family system through protection of women. FSC stated that 34 and 35 verse of Surah An-Nisa which are related to marital disputes with the use of term “*Darab*” did not authorize the husband to hit the wife. Hitting wife by husband in any manner will fall within the definition of domestic abuse as labelled under the 2016 Act. Verse 128 of Surah al-Nisa and Verse-10 of Al-Hujurat clearly state the need and importance of amicable settlement of disputes. Therefore, as suggested by the Act, resolving disputes through mediation and reconciliation is compatible by the rulings of Islam. The FSC further observed that the use of ankle or wrist bracelet GPS to track the wrongness in case of threat or risk of serious harm by the defendant is not against the teachings of Islam. Finally, the FSC decided that the 2016 Act neither breach Shariah nor it is repugnant to the teachings of Islam. The landmark judgement was celebrated across Pakistan.<sup>16</sup> By upholding the 2016 Act, a

<sup>12</sup> SALMAN AKRAM RAJA and another Versus GOVERNMENT OF PUNJAB through Chief Secretary, and others, No. 2013 S C M R 203 (Supreme Court of Pakistan October 2012); “Case Citation: 2013 SCMR 203 Salman Akram Raja VS. Government of Punjab.”

<sup>13</sup> The Punjab Protection of Women against Violence Act 2016.

<sup>14</sup> Tahir, “Pakistan’s Federal Shariat Court Affirms that the ‘Punjab Protection of Women against Violence Act 2016’ Aligns with Islamic Injunctions.”

<sup>15</sup><https://ohrh.law.ox.ac.uk/pakistans-federal-shariat-court-affirms-that-the-punjab-protection-of-women-against-violence-act-2016-aligns-with-islamic-injunctions/> retrieved on August 17, 2023.

<sup>16</sup><https://ohrh.law.ox.ac.uk/pakistans-federal-shariat-court-affirms-that-the-punjab-protection-of-women-against-violence-act-2016-aligns-with-islamic-injunctions/>

significant achievement has been made in contesting gender-based violence in Pakistan.<sup>17</sup>

#### 4-The Federal Sexual Violence Response Framework (FSVRF)

This “Federal Sexual Violence Response Framework (FSVRF) 2023” is the latest development in Pakistan. It is a road map for the judiciary, law enforcement agencies, health and other government authorities to prevent and handle cases related to sex crimes through the Ministry of Law and Justice, Government of Pakistan. This response reflects the commitment to contest sexual violence and eradicate fear and discrimination. It shows that the government of Pakistan is ready to implement such policies that will address the challenge of sexual violence in the country. This official response can be successful only with the cooperation of all stakeholders such as civil society, government, communities and individuals. This response is a joint initiative of the government of Pakistan, Legal Aid Society (LAS) and UNFPA. This four-year plan consists of “primary prevention, secondary and tertiary response to sexual violence, including but not limited to, rape, child sexual abuse, child sexual abuse materials, online sexual violence etc.”<sup>18</sup> The initiative not only recognized multi-stakeholder and multi-dimensional approach but also recommended initiatives actions and interventions that have to be taken by various government departments to prevent sexual crimes but also help the victims and survivors to get justice through an effective response of the Criminal Justice System (CJS) at every step.<sup>19</sup>

[against-violence-act-2016-aligns-with-islamic-injunctions/](https://www.federalshariatcourt.gov.pk/Judgments/Shar%20iat%20Petition%2003-17%20of%202016%20Prof%20M%20Ibrahim%20Khan%20-%20Women%20Protection.pdf), retrieved on August 17, 2023.

<sup>17</sup><https://www.federalshariatcourt.gov.pk/Judgments/Shar%20iat%20Petition%2003-17%20of%202016%20Prof%20M%20Ibrahim%20Khan%20-%20Women%20Protection.pdf>, retrieved on August 17, 2023.

<sup>18</sup> “The Federal Sexual Violence Response Framework 2023” (Islamabad: Ministry of Law and Justice, Govt. of Pakistan, 2023), 11.

<sup>19</sup> “The Federal Sexual Violence Response Framework 2023.”

#### 4.1-National Policy on Ending Violence against Women & Girls 2019

The government of Pakistan proposed this policy to address various types of violence against girls and women from a variety of cultural and religious backgrounds. It aims to identify components of violence, its forms and manifestations in Pakistan. The policy provides a framework to comply with the international conventions and treaties that have been ratified by Pakistan. The policy stressed that new domestic laws and policies are needed to fulfil the international obligations of Pakistan. The policy proposed a guiding principle to combat violence. The framework that has been proposed in this policy is based on prevention, response, protection, rehabilitation, implementation, evaluation, monitoring and reporting.<sup>20</sup>

#### 4.2- Relationship between Health and Gender-Based Violence

Gender-based violence and the health status of women are intertwined. The consequences of various types of gender-based violence are death, permanent disabilities, physical injuries, suicide, sexually transmitted diseases, psychological disorders, unwanted pregnancies, female feticide and unsafe abortions.<sup>21</sup> Psychological disorders and female feticide are also reported due to GBV.<sup>22</sup> Due to the severe consequences of gender-based violence resulting in death and major physical injuries, Pakistani civil society has mobilized to protect women from GBV but the majority of women because of the collective trauma are reluctant to seek appropriate help and community support.<sup>23</sup>

<sup>20</sup> “National Policy on Ending Violence against Women and Girls.”

<sup>21</sup> Gilad Hirschberger, “Collective Trauma and the Social Construction of Meaning,” *Frontiers in Psychology* 9 (2018), <https://www.frontiersin.org/articles/10.3389/fpsyg.2018.01441>.

<sup>22</sup> Ali and Gavino, “Violence against Women in Pakistan.”

<sup>23</sup> Hirschberger, “Collective Trauma and the Social Construction of Meaning.”

The health issues related to GBV demand that mitigation of this phenomenon should be considered as a humanitarian urgency in Pakistan as women and other weak segments are not safe and vulnerable to terror and violence. Awareness about various forms of violence among key stakeholders such as healthcare personnel, religious leaders, media outlets and the public is an important step to mitigate GBV. In dealing with GBV, it has to be considered that two-third of all women live in rural areas where technology, human resources and funding opportunities are very limited. Deep-rooted GBV practices towards women take place in rural settings more often because of their lower social, political and economic status. It is easy to force a rural woman to marry as part of a conflict resolution mechanism. The big cities have less discriminatory gender systems because of better education, greater awareness and employment opportunities. Awareness at a grassroots level in rural areas would require an essential sociopolitical change at the domestic, local and provincial levels. These fundamental changes can be carried out through non-discriminatory education, legal reforms, empowerment and employment opportunities.<sup>24</sup>

Inadequate public healthcare resources also contribute to the alarming rates of GBV cases in Pakistan. Rural health centers and basic health units are primary-level health service providers in Pakistan. These health service centers are mostly staffed by males. Many of them are not trained in their profession but may have been influenced by gender biases. Seeking help from such medical staff for the victims of GBV can put them at risk of violence again. GBV support system needed to be evolved in such a manner that victims can get effective and easy help. National Action Plan on Human Rights advanced the protection of female as an important component of its agenda. The

implementation of this action plan will be vital for the health care of survivors and victims of gender-based violence.<sup>25</sup>

### 5-Punjab Police Khidmat Markaz (PKM)

The police are the first point of contact for victims of gender-based violence. The victims often contact police officials and police stations to lodge their complaints. Therefore, it was suggested in various policy interventions that in each police station one policeman be dedicated to deal with GBV. Similarly, policewomen at women's police stations need to be trained to deal with the situations and victims of GBV systematically. Moreover, it was suggested that more police be recruited to prevent violence against women and girls. These policy interventions also suggested that SOPs be developed that can be helpful in preservation and protection from gender-based violence.<sup>26</sup> The introduction of community policing was suggested as the most important way of contesting gender and sexual violence.<sup>27</sup> Initiatives such as the Citizen Police Liaison Committee (CPLC) can serve as a tool to address gender-based violence in Islamabad.<sup>28</sup>

In the presence of such policy interventions, Punjab Police has established citizen facilitation centres. These centres were named as "Police Khidmat Markaz (PKM)." These centres have been established in 36 districts of Punjab. The establishment of these centres is a collaborative effort of the Punjab Police and the Punjab Information Technology Board (PITB). The functions of these centres have been automated through a centralized integrated IT system. This system is key to the efficiency of these centres. The characteristics of these centres are mentioned as

"guaranteed turn-around time for citizens; the hassle-free process; respectable treatment with the citizens; online tracking

<sup>24</sup> Azza Sarfraz et al., "Gender-Based Violence in Pakistan and Public Health Measures: A Call to Action," *Bulletin of the World Health Organization* 100, no. 7 (July 1, 2022): 462., <https://doi.org/10.2471/BLT.21.287188>.

<sup>25</sup> Sarfraz et al., 462.

<sup>26</sup> "National Policy on Ending Violence against Women and Girls," 20-21.

<sup>27</sup> "The Federal Sexual Violence Response Framework 2023," 17-18.

<sup>28</sup> Writ Petition No. 3555/2019 (Legal Aid Foundation for Victims of Rape and Sexual Assault & Others vs Federal Government).

of application; citizen feedback & monitoring system; delivery of issued documents through courier and increase in revenue by ensuring transparency.”<sup>29</sup>

These centres provide various services to the people which include Women Violence Report; General Police Verification, Character Certificate; Learner Driving License; Endorsement of a License; Driving License Renewal; International Driving License; Duplicate Driving License; Vehicle Verification; Employee Registration; Loss Report; Crime Reports; Tenants Registration; Women Violence Report and Copy of FIR.”<sup>30</sup>

One of the important tasks that is performed by Police Khidmat Markaz is quick response to gender-based violence. This initiative not only responds to the call for help in gender-based violence but also helps in getting legal aid. After getting reports and complaints regarding gender-based violence these centres also refer them to the relevant police or community centres where investigative officers are assigned. The process for filing GBV complaints is very simple. A complaint can be filed on a simple paper with a copy of CNIC. This service is free and response time is 15 to 20 minutes. The contact information of all these centres is available online.

### 6-Punjab Women Protection Authority

This authority was established under “The Punjab Protection of Women against Violence Act 2017.” Its objective is to establish an effective system for the protection and rescue of women from violence, torture and harassment. This autonomous authority provides survivors of gender-based violence with opportunities for rehabilitation. This authority is linked with the Bait-ul-Maal, Social Welfare and police departments of the government of the Punjab. The vision of the state is to achieve a violence-free society where every woman has protection from

violence, abuse, discrimination and exploitation.” Its mission is “protecting every woman from all forms of violence through advocacy, capacity building, collaboration, and implementation of relevant laws/policies.”<sup>31</sup> The authority is the institutional response of the government of Punjab to mitigate increasing trends of gender-based violence in Punjab. The *raison d’etre* for the establishment of this authority lies in the relevant Act which states that this authority has been established, so that an efficient, comprehensive and effective gender-equitable system can be established. This system not only provides protection, rehabilitation and relief to women against violence in the Punjab but also helps the authorities to monitor, control and oversee this system and its ancillary thereto matters.<sup>32</sup>

### 6.1-Functions of Punjab Women Protection Authority

The 2017 Act of the authority has clearly mentioned functions and powers of authority. The government of Punjab has established this authority to maintain, monitor, and operate protection centers in various areas of Punjab. The authority is also responsible to plan sustainable system for protection from gender-based violence. Provision of relief to the victims of GBV and their rehabilitation is also responsibility of this authority. As per women protection Act, District Women Protection Officer is very important office. Guidelines and directions are also issued to this office by the authority. The authority also formulates standard operating procedures (SOPs) to make protection system effective. The authority not only devises a mechanism for the awareness of the employees but also periodically sensitize on issues involving the relief of the aggrieved persons. The matters related to the investigation of violence cases are also to come under the preview of the authority. It also plays its role in referring medical examination, collection of forensics evidences, investigation and prosecution. The authority also prepares feasibility

<sup>29</sup> <https://pkm.punjab.gov.pk/public>, retrieved on August 19, 2023.

<sup>30</sup> <https://pkm.punjab.gov.pk/public#>, retrieved on August 19, 2023.

<sup>31</sup> <https://pwpa.punjab.gov.pk/overview>, retrieved on August 19, 2023.

<sup>32</sup> “The Punjab Women Protection Authority Act 2017,” Pub. L. No. Act X of 2017, Punjab Gazette (Extraordinary), dated 31 May 2017 7667 (2017), <http://punjablaws.gov.pk/laws/2684.html>.

reports and financial statements. Administrative approvals, technical sanctions and procurement processes are also initiated by the authority. The authority also provides funding to the District Women Protection Committee to carry out its functions.<sup>33</sup>

## **6.2-Violence against Women Center (VAWC), Multan**

The authority established its first state-of-the-art Violence against Women Center (VAWC) in Multan. The centre was formally inaugurated by Muhammad Shahbaz Sharif, former Chief Minister of Punjab on March 2017. This centre is established in compliance with the Punjab Protection of Violence against Women (Amended) Act 2022.<sup>34</sup> This centre was established to eliminate violence against women. The center is working twenty-four hours and providing women related facilities. This state-of-the-art facilitation center is extending one widow solution to all the challenges that women are facing due to prevailing violence tendencies. The center has all in one solution as it provides services such as first aid, rehabilitation, FIR lodging, police reporting, post-trauma, prosecution, forensic and medical examination.<sup>35</sup>

This initiative is aimed at providing protection and rehabilitation to 1,200 women annually. Until now it has served 10,000 women within six years. The centre provides rehabilitation and mediation services. For that purpose, it has trained Mediation Officers and Psychologists. The centre has also housed a police centre. This police station is a model police station, as it has one SP level officer to overall supervise the duties of the police. The superintendent

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<sup>33</sup> The Punjab Women Protection Authority Act 2017, article 5.

<sup>34</sup> "The Punjab Protection of Women Against Violence (Amendment) Act 2022," Pub. L. No. XXXVIII of 2022 (2022).

<sup>35</sup> <https://pwpa.punjab.gov.pk/services>, retrieved on August 20, 2023.

<sup>36</sup> <https://pwpa.punjab.gov.pk/services>, retrieved on August 20, 2023.

<sup>37</sup>This right is mentioned in various international documents such as: Articles 2(1), 3, 14 and 26 of the ICCPR (International Covenant on Civil and Political

discharges his duties with the help of station house officers, inspectors, sub inspectors, assistant sub inspectors and constables. This police station performs its duties in accordance with international standards. It registers reports and lodge FIR. The investigation of the cases of GBV with laid down international SOPs. One female and one male detention room is also available in this police station. To provide first aid and medical assistance one medical wing is also available in the center. VAWC has also prosecution wing which consists of two rooms for prosecutors, one court room and one room for a judge. The prosecutors help the courts in discharging of justice to the victim of GBV in the courts. Two dedicated judges to adjudicate GBV cases are also available in this VAWC.<sup>36</sup>

## **7- Establishment of Gender-Based Violence Courts**

### **7.1- The Right of Fair Trial in GBC**

The "right to a fair trial" is one of the fundamental rights. It is enshrined in most contemporary constitutions and legal frameworks. The right to a fair trial is explained in various national, regional and international charters and treaties.<sup>37</sup> This right is a demonstration that everyone is equal before the law. Similarly, everyone has the right to have a public and fair hearing before an independent court established by a legitimate authority.<sup>38</sup> In the context of gender-based violence, it is observed that the right to a fair trial is usually used in favor of the accused. The experts are of the view that there is imbalance in favor of accused in rights between victim/complacent and accused. The imbalance is more prominent in the sex related offences and GBV.

Rights (ICCPR); Articles 2 and 15 of the CEDAW; Articles 6(1) and 14 of the European Convention on Human Rights (ECHR) and Article 1 of Protocol 12 to the ECHR; Articles 2, 3, 6, 7, 8 and 26 of the African Charter on Human and Peoples' Rights (ACHPR); and Article 8 of the Maputo Protocol.

<sup>38</sup> "Sexual and Gender-Based Violence, Fair Trial Rights and the Rights of Victims Challenges in Using Law and Justice Systems Faced by Women Human Rights Defenders," *ICJ Reflection Paper*, n.d., November 2015, [https://doi.org/10.1163/2210-7975\\_HRD-0088-2015001](https://doi.org/10.1163/2210-7975_HRD-0088-2015001).



In these cases, the standard of proof is higher than other offences. The application of these higher standards of proof facilitates accused and it becomes much difficult for the prosecutors to get accused punished.<sup>39</sup> Particularly harsh cross-examinations of victims and witnesses put them not only in risk but also result into further trauma of victims. It is suggested that legal and medical professionals should work together to point out psychological conditions, so that unreliable evidence of a traumatized victim is not simply dismissed. Judges can call medical professionals as witnesses in the interests of justice.<sup>40</sup>

## **7.2- Need Assessment of Gender-Based Courts**

In Pakistan, GBV cases are underreported by the victims because of the prevailing humiliating and shameful attitude of the officials who are involved in the process of providing justice. It is reported that officers of various departments such as police, medico-legal staff, defence lawyers and others are responsible for contributing to the provision of justice to the victim. However, their attitude impedes speedy justice and is responsible for the low conviction rate of the accused. The justice system is not able to provide a conducive atmosphere in which a victim can record her testimony in a court of law without any pressure and fear. Litigation has turned into a fearful dream for victims because of the heart-wrenching situation for victims during the court proceedings. Factors such as excessive expenses of lawsuits, confusion within the courtroom, and prolonged trials make it troublesome for the survivors of GBV to hope for fair play in the presence of inquisitive stares of male prejudice.<sup>41</sup> The difficulties of the victims and survivors of GBV are many. For example, victim of rape face difficulties to get justice at every stage. These victims are harassed at all stages of provision of justice. Even

it is not easy for them to report the crime to police because their harassment can be consequences of their plea for justice. It is also observed that chemical examiner and medico-legal officer also treat victims disrespectfully through awkward questions. The environment in the courts is usually in favor of the accused. Victims and witnesses are not provided sufficient protection. The lengthy legal procedures are creating impediments in execution of justice. It happened in many cases that rape victims and their families are fearful to identify the accused in courts.<sup>42</sup>

The challenges that are discussed above are not specific to Pakistan. These challenges are common all over the world and victims have to face them. The need for an effective judicial system is also discussed in international forums. In this regard, the United Nations indicates:

“Experiences of complainants/survivors with court personnel in regular courts suggest that such personnel frequently do not have the necessary gender sensitivity or comprehensive understanding of the various laws that apply to violence against women cases; may not be sensitive to women’s human rights; and may be overburdened with other cases, resulting in delays and increased costs to the complainant. Specialized courts [...] have been effective in many instances as they provide a stronger possibility that court and judicial officials will be specialized and gender-sensitive regarding violence against women, and often include procedures to expedite cases.”<sup>43</sup>

It is reported that in 2016, 2,353 rape cases were filed before the courts in Punjab. Out of these cases, only

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<sup>39</sup> “Sexual and Gender-Based Violence, Fair Trial Rights and the Rights of Victims Challenges in Using Law and Justice Systems Faced by Women Human Rights Defenders,” 09.

<sup>40</sup> “Sexual and Gender Based Violence, Fair Trial Rights and the Rights of Victims Challenges in Using Law and Justice Systems Faced by Women Human Rights Defenders,” 09.

<sup>41</sup> Maqbool, “Rape Victims at the Mercy of Incompetent Justice System in Pakistan,” 37.

<sup>42</sup> Khan and Zaman, “The Criminal Justice System & Rape: An Attitudinal Study of the Public Sector’s Response to Rape in Karachi,” 37.

<sup>43</sup> United Nations, ed., *Handbook for Legislation on Violence against Women* (New York: United Nations, 2020), 22.

100 reached to conclusion stage.<sup>44</sup> That makes a conviction rate of 4.25%. This evidence calls for serious reforms in the legal system of Pakistan. The need for reforms was also highlighted in the National Judicial Policy 2009. The policy states:

“The major thrust of the Policy is on early disposal of pending cases in the superior courts as well as in district courts all over the country.”<sup>45</sup>

### 7.3- Establishment of Gender-Based Courts in Pakistan

The establishment of special courts to address the cases of gender-based violence was a global step, so that the victims of GBV and survivors could protect themselves from the attitude that was found in the regular courts. The staff members of the ordinary courts are not gender-sensitive. They cannot comprehend various laws that need to be applied in cases related to GBV. Another reason for the need for specialized courts is that ordinary courts are overburdened and prosecution of GBV cases in these courts will result in delays and increased costs to the survivor/complainant. For these reasons, many countries such as the United Kingdom, Brazil, Uruguay, Spain and Venezuela have established such specialized courts. Many states in the USA also have such courts. These courts provide a stronger possibility for the creation of a gender-sensitive atmosphere in the courtroom.<sup>46</sup>

Pakistan is on the list of those countries that have taken the initiative of establishment of GBV courts. The guidelines for the establishment of GBV courts were issued by the Supreme Court of Pakistan in the *Salman Akram Raja v. Government of Punjab*.<sup>47</sup> This was an important case in which the Supreme Court

of Pakistan under the headship of Iftikhar Muhammad Chaudhry issued guidelines for the prosecutors, the police and the courts. The procedures for these were derived from various provisions in the Pakistan Penal Code 1860 (PPC), Criminal Procedure Code (CRPC) and Qanun-e-Shahadat Order 1984 (QSO). The framework of these courts in Punjab was laid down in the Court's guidelines and practice note<sup>48</sup> that was issued to the subordinate judiciary. The first model GBV court was established in Lahore in October 2017. It was presided over by an Additional Sessions Judge. The court was inaugurated by Syed Mansoor Ali Shah, the former Lahore High Court Chief Justice. On this occasion, he stated that victims must be able to seek justice in a protected environment. The opportunity to record statements through video link in a separate room. He stated that modern mechanism has been adopted without changing any system.<sup>49</sup> Through GBV courts the victims and witnesses were provided a conducive atmosphere to record their statements. Complainants and vulnerable witnesses such as women and children were provided a separate room. Moreover, they were also given opportunities to record their evidences through video recording. The GBV courts introduced new culture. The female was added in the staff of the courts to facilitate female victims, survivors and witnesses. The staff and judges were trained through case management skills. Along with specialized judges, dedicated prosecutors were appointed. They were also provided GBV sensitive training. Specialized police units were assigned the investigation related to GBV cases. The evaluation of GBV court proceedings show that judges, victims, prosecutors and defense counsels got better opportunities to provide justice to the victim. The most important impact of the GBV courts is

<sup>44</sup> Punjab Commission on the Status of Women (PCSW). Gender Management Information System.

<sup>45</sup> National Judicial Policy Making Committee, “National Judicial Policy 2009” (Islamabad: Secretariat, Law and Justice Commission of Pakistan, Supreme Court Building, Islamabad, Revised Edition 2012), 05.

<sup>46</sup> United Nations, *Handbook for Legislation on Violence against Women*, 20.

<sup>47</sup> SALMAN AKRAM RAJA and another Versus GOVERNMENT OF PUNJAB through Chief Secretary, and others.

<sup>48</sup> Practice Note for the Model Gender-Based Violence Cases Court, Lahore issued by the Director General of Directorates of District Judiciary, Lahore High Court. Vide no 2053/DDJ/P,D&IT dated 01-02-2018

<sup>49</sup> <https://sharp-pakistan.org/court-deal-gender-based-violence-cases-opens-lahore/>, Retrieved on August 9, 2023.

increase of the conviction rate for rape cases from 1% to 16.5%.<sup>50</sup>

Due to this success, the Supreme Court desired that specialized GBV courts needed to be setup in all 116 districts of Pakistan. National Judicial (Policy Making) Committee (NJPMC) held its meeting on April 29, and June 24, 2019, under the chairmanship of Chief Justice of Pakistan Asif Saeed Khan Khosa. The committee discussed the possibility of establishing gender-based violence courts. During this meeting all chief justices of high courts were asked to establish these courts till November 04, 2019. It was also decided that the high courts would nominate a judge of the high court as the focal person for establishing these courts. NJPMC also decided that all the high courts will recommend judges of subordinate courts such as magistrates, Addl. District and Sessions Judges and District and Sessions Judges from each district for training on GBV in the Punjab Judicial Academy. It was also decided that these judges would be trained on cases on GBV, so that they could be appointed as trained judicial officers. The secretary of NJPMC highlighted the need for the establishment of GBV courts.<sup>51</sup>

## 6- Conclusion

The facts presented in this study highlight the current state of GBV in Pakistan. Gender-based violence is common human rights violations. It is a life-threatening socio-economic and health issue. Data shows that more than 32 per cent of women have experienced violence in Pakistan.<sup>52</sup> Almost half of the women who faced violence never sought help from their families or state institutions such as the

police. In Pakistani society, there are various indigenous forms of violence. They take place from houses, villages, streets, and workplaces to online platforms. In Pakistan, GBV has taken various forms such as sexual, physical and psychological. Digital violence is a new form of violence that Pakistani women are facing. GBV has severe effects on the victims, survivors and their families. It brought with itself many health problems such as post-traumatic stress disorder (PTSD), depression, anxiety and suicidal intentions. Social stigmas are also attached to survivors as their self-worth, sense of individuality and dignity are placed at stake.<sup>53</sup> Many misperceptions about GBV are prevailing in our society. Sometimes ineffective support systems and unimpressive legislation and safety nets let perpetrators commit gender-based violence. At present insufficient systems are working at the local and national levels to reduce GBV. Similarly, misunderstanding of the issue by civil society and various communities is an obstacle to addressing GBV comprehensively. The breakdown of protective mechanisms and social structures has also weakened the norms that regulate social behavior on the issue of gender-based violence. The domination of males in the distribution of goods and other needs of women has also created disadvantages for women. A strong tendency to ignore women's and children's opinions and voices at the decision-making levels is also found. The available data on various forms of GBV reveals that the underlying causes of crimes against women such as honour killing, kidnapping and abduction of women and girls include taking revenge from the family for restoration of honour, sexual exploitation, ransom, and restrictions on the free will of women in matters related to marriage.<sup>54</sup> There is strong evidence that the cases of violence are not reported properly. Many instances of GBV particularly domestic violence are not reported. Over

<sup>50</sup> Ahsan et al., "Court Companion on Gender-Based Violence Cases," 1-2.

<sup>51</sup> <https://www.thenews.com.pk/print/539208-cjp-directs-high-courts-to-establish-gbv-courts-by-nov-4>, accessed on August 3, 2023.

<sup>52</sup> "Pakistan Demographic Survey 2020," Demographic Survey (Islamabad: Government of Pakistan Ministry of Planning, Development and Special Initiatives Pakistan Bureau of Statistics, April 2022).

<sup>53</sup> <https://pakistan.unfpa.org/en/news/time-vow-end-violence-against-women#:~:text=32%20per%20cent%20of%20women,violence%20in%20Pakistan%5B1%5D>, retrieved on July 29, 2023.

<sup>54</sup> Wassan, Channa, and Shah, "Violence against Women in Pakistan: Causes, Consequences and the Way Forward," (2021), 57.

prevailing perception is that domestic violence is a family dispute which can be addressed by the individuals, families, and community, and courts should not involve in it. The present study shows that this pattern is also found in high-profile cases. The institutional response to gender-based violence in Pakistan contains provisions of the constitution and legal codes that not only protect vulnerable segments of society from gender-based violence but also provide justice to the victims and survivors of gender-based violence. The case laws that emerged as the outcome of judgments of superior courts are also very important because these judgments forced the federal and provincial governments to establish various institutions, and authorities and introduce various reforms in courts and the police. This study shows that violence against women in Pakistan is widespread. It has turned into a chronic social evil. It is rampant everywhere and not limited to any particular region, class, ethnic group, age or gender. In majority of cases women, girls and children are disproportionately affected by gender-based violence. The current legislation needs to be revisited, so that discriminatory and women-biased behaviors can be changed. The traditional codes of ethics based on tribal structures need to be dismantled. The officials of law enforcement agencies need training through gender lens. Gender-sensitive courses, seminars, workshops, and conferences are vital in this regard. Universities must adopt gender-justice pedagogy in their teaching and learning.