

Review of
PAKISTAN'S POLICY ON DOMESTIC VIOLENCE
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INTRODUCTION

This essay reviews Government of Pakistan's policy for prevention of domestic violence. The specific law to support the policy is Domestic Violence (Prevention and Protection) Act 2012.

The Merriam-Webster dictionary defines domestic violence as "the inflicting of physical injury by one family or household member on another, also: a repeated or habitual pattern of such behavior" (Merriam-webster.com). Nevada Attorney General's office describes domestic violence "as a violent crime committed in the context of an intimate relationship. It is characterized by acts of violence, power and coercion intended to control another person's behavior" (Smith, L., 1989). According to some experts "domestic violence is a health, legal, economic, educational, development and, above all, a human rights issue" (Syed, A. G. et al, 2013). Domestic Violence (Prevention and Protection) Act 2012 defines domestic violence as "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 person is or has been in a domestic relationship" (Ebrahim, Z., 2013).

The incidence of domestic violence is quite alarming in Pakistan. Rural women, especially, are more likely to face domestic violence than urban women due to customs, traditions, and lack of education. The Human Rights Commission of Pakistan (HRCP) reports that "there were 366 domestic violence cases reported in 2011-12, and 357 of the victims were married women. The perpetrators were mostly husbands and other close relatives" (Immigration and Refugee Board of Canada, 2013). It is estimated that 70 percent women in Pakistan experience domestic violence in some way. The cases of domestic violence include beating, injury, burning, abduction, rape, and murder (Immigration and Refugee Board of Canada, 2013).

Pakistan is signatory to various International conventions on violence against women. Various articles of the Constitution of Pakistan give protection to the citizens against violence of any kind. These articles include: Article 4 (rights of individuals to enjoy the protection of law), Article 8 (Fundamental Rights), Article 25 (equality before the law), and Article 27 (no discrimination on the basis of sex alone). Pakistan Penal Code (PPC) does not specifically cover domestic violence, but several of its sections can be interpreted to cover instances of such violence. However, it is argued “that domestic abuse is rampant in the country partly due to lack of legislation. This is in effect a refusal by the law to recognize violence in the domestic sphere as a crime” (Kamal, S., 2012). In the absence of a specific law for the prevention of domestic violence, victims found it very difficult to seek redress under the existing laws.

The introduction of Domestic Violence (Prevention and Protection) Act 2012 has provided the victims the opportunity to seek justice against their perpetrators. The law requires the courts “to set a date for hearing within seven days of getting a complaint by the aggrieved party. The law also requires that the petition should be disposed off within a period of 90 days. Under this Act, people committing domestic violence will face a minimum sentence of six months and a fine of Rs.100000 (\$1100) (Ebrahim, Z., 2013). Human Rights and Women Rights activists have termed the new law a great step toward ending violence against women.

The Domestic Violence (Prevention and Protection) Act 2012 was first tabled in the National Assembly (Lower House of Parliament) in 2009. The Sub-Committee of the Standing Committee on Women Development drafted the bill. Law experts, civil society and Human rights activists were consulted. National Assembly passed the bill in August 2009. However, the bill lapsed because the Senate (Upper House) failed to pass it within three months required by the constitution. There was lack of consensus among the Senate members over punishment and procedures. After hectic lobbying by the women rights groups, the bill was finally passed by the Senate in February 2012. Although, some right

wing religious parties and groups are still opposing the law but it is very much in practice now.

FEASIBILITY OF THE POLICY

Political Feasibility

In a traditional society like Pakistan, such policies are always hard to introduce and even harder to implement. Domestic Violence Act 2012 took three years to become a law. There was intense debate inside and outside the parliament between the supporters and detractors of the policy. Right wing religious parties, conservatives and groups representing the rural population opposed the bill on the ground that it was against the customs, traditions and religious beliefs. They contended that once passed, it would give women the courage to disobey their husbands and other family members. Giving women such a right tantamount to destroying traditional family structure of the society. Human Rights and Women Rights activists, on the other hand, argued that the law would protect women against the excesses and brutality of their male family members. The availability of Domestic Violence Law to the victims of domestic violence will ensure their protection against such crimes.

Due to this difference of attitude toward domestic violence, it is feared that the law might not be implemented properly in rural and conservative areas. In a male dominated society, where police considers domestic violence a private affaire, it is really hard for a victim to register complaint. This policy against domestic violence is reactive rather than pro-active, for it springs into action only after the victim has registered the complaint.

Institutional Feasibility

The Domestic Violence Act 2012 does not create any new institutions for its implementation and prevention of domestic violence. It proposes to utilize the existing police and courts to bring the criminals to justice. The policy is also silent about any sort of gender sensitivity training to police, courts officials and public sector organizations. Ideally, the policy should have devised a mechanism for imparting training in gender related issues to police, judicial officers, education, health, social welfare and other related government departments.

Access is a big issue in the implementation of the policy. All the police stations are manned by male police officers. There are few Women Police Stations, one in each major city. Victims will find it very difficult to register a complaint, because the police are not sensitive to gender issues. Police considers domestic violence a private affair and in most of the cases send the victim back to the perpetrator on verbal guarantees only (Ebrahim, Z., 2013). To end domestic violence effectively, it is imperative to establish complaint centers at sub-district level for easy access to the victims. Sensitized policewomen can be placed in these centers to make it more comfortable for the women.

Some critics of the policy argue that section 9 of the Act talks about 'Protection Order', which in a way decriminalizes the offence. "This order obligates the accused not to commit an act of domestic violence... when and if the accused breaches this order, only then will she/he be punished with imprisonment and/or fine" (Ebrahim, Z., 2013). In other words, the first act of committing domestic violence only results in a warning (i. e. Protection orders) issued to the accused. He/she is liable for punishment only if he/she commits the crime for the second time. This is not going to work. For law to be effective, it needs to criminalize the offence for the very first time it is committed.

Awareness through media, newspapers, seminars, and educational workshops is very important. Unless the people are made aware and sensitized about the issue, ending violence against the women will remain a far cry.

Economic Feasibility

As discussed above, the policy in its present form does not propose establishment of any new offices or recruiting new personnel. However, saving money on this vital issue will make the policy ineffective. Policy should be modified to include establishment of complaint centers, gender-sensitive training to police and judicial officers, awareness campaign in the print and electronic media, community involvement through workshops and seminars, and supporting those non-governmental organizations that are working to end domestic violence. Establishing a 24-hour help-line will greatly help the cause. All these measures require funds, but given the sensitivity of the problem, government should not shy away from spending some money on this issue of public importance.

Recommendations

On the basis of the foregoing discussion, I propose to modify the Government of Pakistan's policy on domestic violence with following recommendations:

- Amendment in the Domestic Violence Act 2012 (Section 9) to make the offence punishable first time it is committed
- Establishment of complaint centers with women police staff at sub-district level
- Gender-sensitive training for police, judicial officers, and other related government agencies
- Awareness campaign through print and electronic media
- Holding seminars, workshops and discussion on the issue
- Community involvement through community leaders and through non-governmental organizations working in the area of domestic violence and women development

- Advocacy and awareness raising education that teaches non-violence, human rights, and gender issues in schools
- Research on the causes of the domestic violence and making determined effort to remove those causes
- Establishment of 24-hour help line for the victims of domestic violence
- Working with religious leaders to re-examine interpretations of religious texts from the perspective of promoting equality and dignity for women

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