

COUNTRY REPORT - PAKISTAN

*By Akbar Nasir Khan**

I. INTRODUCTION

Domestic Abuse includes spousal and child abuse by parents and/or guardians. Anyone can be a victim of domestic violence...young, old, rich or poor; white, brown, black, yellow or red; professional or unemployed; educated or uneducated; male or female. Domestic Violence encompasses mental, emotional, verbal, sexual or physical abuse such as constant demeaning and humiliating remarks, threats, slapping, kicking, hitting, choking, and destroying property, economic deprivation, forced sexual activity, isolation and starvation.

There have been no comprehensive studies of domestic violence in Pakistan. The main method of gauging domestic violence in the country is by interviewing the women in the shelters, from newspaper reports, and from interviewing the doctors and police who come in contact with the victims in extreme cases. From conversations with women at social gatherings, in shelters, in prisons, in government, in the profession of law and women organized into professional and social welfare groups, it seems that abuse of women at home and wife battering in particular is very commonplace. One informal study, conducted by the Women's Ministry, concluded that, at minimum, 80% of all women in Pakistan were subjected to Domestic violence' in their lifespan in one way or other.

A. Cultural Understanding of the Issue

Approaching the subject from a human rights perspective, I believe that all forms of violence and child abuse, whatever their cultural justification, are wrong and need to be eradicated. While I stress the importance of recognizing cultural differences and avoiding essentialism when studying domestic violence in different countries, this is not from a cultural relativist stance that tries to avoid cultural imperialism by refusing to impose 'western' values on other cultures. I emphasize recognition of cultural differences in studying domestic violence for reasons of efficiency in effecting reforms.

It is only by recognizing culturally specific forms of violence and culturally defined perceptions of social relations that foster abuse that we can have the most workable and realistic means of combating domestic violence and child abuse.

B. 'Public' and 'Private' Violence

To see the difficulty presented in addressing the issue of domestic violence and child abuse, we have to analyze the dichotomy created between (a) public and private lives and (b) public and private violence. 'Public' life facilitates people's struggle against violence insofar as it is easier to collectively act and organize against the violence. Seeing Lives as 'private' on the other hand, disempowers people—firstly, by failing to see their problems as one shared by many others; secondly by making it impossible to organize against this problem; and thirdly by constricting horizons and limiting options. The 'private' life becomes subservient to 'public' life because the later incorporates the former (or has the tendency to) while the former is excluded from the latter's sphere of action. As far as the nature of violence is concerned, 'public' violence has been much easier to address because it is open to public scrutiny and condemnation. 'Private' violence has been traditionally protected from public exposure. Privacy stands as the main impediment to recognition of violence. Firstly, private violence is shielded from public eye (as well as other private eyes). Secondly, even if this violence and abuse of children reaches public notice, public action is deterred by non-familiarity with the setting of the violence and the conditions that led to it. And thirdly, there is a hesitation on the part of people who lead public lives to interfere in aspects of their peers' 'private' lives for fear that such meddling could jeopardize their own 'privacy'.

'Women and children have, historically, been relegated to the 'private' sphere. In addition, the home is seen as a bastion of privacy, effectively taking domestic issues out of the public eye. Domestic violence and child abuse, thus suffers a double disadvantage to recognition (being recognised) in that (a) structurally it affects private lives and (b) it takes place in a 'private' sphere. If we link recognition of domestic violence and child abuse on a continuum from 'public' to 'private' (meaning that public violence will be recognized and

* District Police Officer, Chitral N.W.F.P., Pakistan.

addressed before private violence will) and we also view the development process as moving women and children's lives along the continuum from 'private' to 'private-public' to 'public' then it should come as no surprise that studies on domestic violence and child abuse, in particular, come from developed countries because it is only in these countries that this issue has transcended the 'private' sphere to a great extent. Women and children of most developing countries are still struggling to get recognition of 'public' violence against weaker sections of society (mainly women and children) and efforts to study or systematically deal with domestic violence are a distance away. It is only by making the home 'public' to the extent of the abuse it fosters and by exposing 'private' relationships to public view that child abuse and domestic violence can be seen as a social problem.

C. Role of Religion

Pakistan is a Muslim country that purports to live by Islamic laws. However, the culture of Pakistan is not entirely shaped by ISLAM because historically the area that now forms Pakistan has been influenced by various other religions and cultures. There is no unified Pakistan culture due to variations in traditions in the four provinces and in different regions within each province. Nevertheless, on a broad scale it is possible to collectively talk about the ideology attached to the nature of the relationship in a Pakistani family. This ideology stems from, or is justified by, Islamic thought. But this does not mean that problems faced in domestic life are determined by Islam. While Islamic ideology of the roles of sexes may lie at the base of gender relations in Pakistan, the actual position of women, as manifested by social and legal attitudes towards women, is the result of overlying pre-Islamic tribal cultural trends. For example, *Honour Killings* of both men and women are pre-Islamic tribal customs that are not sanctioned by Islam. The perpetrators often try to give Islamic legitimacy to pre-Islamic culture.

Ironically, some of the religious leaders try to legitimize the maltreatment of women by men in their homes by quoting Quranic verses. The most problematic Quranic text for many women is the following where Allah states: "As for those women on whose part you fear disloyalty and ill-conduct admonish them first, then refuse to share their beds, and then (as a final measure) beat them lightly. If they heed your call then do not treat them unjustly" (Q. 4: 34). At the outset it would do us well to remind ourselves that the Quran is the last document in which we can expect to stumble across apologetics of any kind. In its diversity of expression it represents the very spirit of divine freedom. It is in this spirit that the Quran addresses in the most pragmatic of ways the physical, spiritual, intellectual, emotional, psychological, and even biological natures of humankind. The verse, however, cannot be used to support narrow chauvinistic designs or to underpin notions of privileged masculine authority. Shaykh Seraj Hendricks in his article 'Authority and the Abuse of Power in Muslim Marriages' describes that this is a total misinterpretation of the Quranic text. (Later discussion can also be seen at <http://www.crescentlife.com/articles/islamic/>.) The Theory of 'modern enlightenment' by President Pervaiz Musharraf can be very useful to address the issue in a more pragmatic way.

Islam condemns atrocities, arrogance and humiliation in the name of honour or baseless allegations. Therefore, the last Prophet Mohammed (Peace be upon him) advised all men to be fair, kind and courteous towards women. "You must treat those (women) with all kindness, "The best among you is the one who treats his family best."

II. FORMS OF DOMESTIC VIOLENCE

Broad categories of domestic violence and child abuse include physical, sexual, psychological and emotional abuse. These types of violence tend to merge, and each abusive situation may involve different combinations of these types. Different classes of people may be subjected to different types of abuse. It is generally thought that victims of educated classes suffer more emotional and psychological abuse while those from feudal, tribal and lower classes are subjected to greater physical abuse. Forms of domestic violence and child abuse, other than beating, and that are common in Pakistan and that result in death or disfigurement include stove burning, acid burning and honour killing (locally known as *Karo-kari* murders of men and women allegedly involved in illicit relations). Forced marriages which include child marriages, *watta satta* marriages, Foregoing the right of marriage by a female (*Haq Bakhshwan*) and *swara* (giving of women in exchange of a compromise), are forms of domestic violence that incorporate elements of physical, psychological and emotional abuse. In addition there is the sexual abuse in the home which encompasses marital rape and incest.

We will try to focus on different forms of violence and child abuse according to the intensity of the violence from battering to honour killings. We have discussed the issue from the start of a marriage. Even the beginning is so violent that the end becomes automatically tragic. Most of the figures are from independent sources and can be challenged by official authorities. I have just included them to present their viewpoint to make this discussion more impartial.

A. Battering and Yelling

In the context of Pakistani society, yelling is not taken as a violent action by partners in a home. Even children take it as very normal that their parents are arguing in high tones. This happens even in light modes. 'Curtain Lectures' are given in the open theatre of the home in most of the cases. But battering is not that easily digested in all strata's of society. It has deep psychological consequences. According to a survey, battered mothers are eight times more likely to hurt their children when they are being abused than when they are safe from violence. We have discussed the issue from the start of a marriage.

B. Non-consensual Sex

The greatest risk of violence for women and children comes from the male family members i.e. husbands and in the case of children from their father or stepfather. Sexual abuse of women and children includes marital rape and incest. Marital rape is not a crime in Pakistan. Unwanted sexual attacks are seen as a part of the institution of marriage and the concept of exercising sexual choice does not exist in the majority of cases. In very few cases the status of women in the home and her status in the society do empower them to exercise this right but that is exceptional even in educated classes.

C. Stove Burning

Incidents of women catching fire and burning to death while cooking on kerosene stoves is a common form of domestic violence by husbands and in-laws of the bride. This can be equated with 'Dowry deaths' in India. It is always regarded as an accident but in the majority of cases it has been observed that it has been used as a means of getting rid of unwanted female partners by their male partners and in-laws, including females.

According to the 'State of Human Rights 2004' published by the Human Rights Commission of Pakistan (HRCP), "statistics compiled by the HRCP until the end of October 2004 indicated that 91 women fell victim to burnings out of which 43 were burnt after accidents involving stoves and 48 were set on fire. The causes of the burns in other cases were not reported. The majority of the victims were critically burnt. The accused were in-laws and husbands in most of the cases. It was also thought that in a large number of cases, accidents caused by stoves may in fact have been deliberate burnings. A First Information Report (FIR) was registered in 22 cases, while only nine accused were arrested."

D. Acid Attacks

It is a form of violence that takes place in the home and in the streets. In the first case the issue is domestic violence as the perpetrator is normally the husband or in-laws. In other cases the main motive is revenge. 'Private' cases of violence do not evoke the same response because there is a lingering feeling that the wife must have deserved it. HRCP opines that "acid attacks, a trend that is seen to be growing alarmingly over the past three years, continued to rise sharply in south Punjab. Figures compiled by HRCP showed at least 42 cases of acid attacks were reported from across the country up to the end of October 2004, mostly, over issues of a domestic and matrimonial nature. Thirty one victims were women and 11 men. An FIR was registered in ten cases while the accused were arrested in four cases". These domestic issues may vary from infertility to suspicion of illicit relations.

E. Honour Killing (Karo Kari)

Domestic Violence knows no bounds, with murder being its ugliest manifestation; a former or current partner is responsible for half of all the women murdered in England and the United States. Honour killing is where a man murders a woman of his family due to her 'immorality'- that is, her actual or perceived involvement with a man who is not her husband. Although the murderer in this can be any relative of the female but in so many cases husbands are also involved actively in this crime. Statistics collected by the HRCP up to the end of October showed that 464 women fell victim to honour killings, including Karo Kari. Three hundred and eighty four killings have been carried out on allegations of having illicit relations. One hundred and fifty one murders were carried out by husbands....."

LHRLA, a Karachi based NGO, claim that 790 people were declared Karo Kari, 762 among them killed, across the country during the first seven months of 2004.

Domestic violence is not only restricted to partners in wedlock. It also includes child abuse. Some of its forms are specific to children which we will discuss now.

III. CHILD ABUSE

Child abuse means physical, sexual and emotional abuse and neglect of a child by his/her (a) parents or (b) guardians. Generally, it is not believed that child abuse takes place by parents who are supposed to be the guardians and architects and most loving people of children in the world. Many people believe that parents who abuse their children are mentally ill. Studies show that only 10% of people suffer mental illnesses who abuse their children. The Daily Times reported a study by a non-governmental organization, Lawyers for Human Rights and Legal Aid (LHRLA) which suggests, from a newspaper scanning over the last five years, that a 280% increase in child abuse in Pakistan has taken place. The number of cases reported in the media went from 4530 in the year 2000 to 1612 in 2004.

A. Forms of Child Abuse

As we discussed above, physical abuse of children is coupled with emotional abuse. In the above discussion we have described child marriages and it is not a hidden fact that children are also sold by their parents due to economic reasons. Stories of camel jockeys as young as three years old trafficked from India and Pakistan are sufficient to shock any sane person.

1. Physical Abuse

Battering is the most common form of physical abuse. This is not limited to partners only. This generates anger in the children in the family even if they are just spectators. If they are also subjected to violence by their parents, the situation is worse. It commonly includes repeated verbal abuse of a child in the form of shouting, threatening, or degrading or humiliating criticism. An interview study of 300 parents in Lahore, Pakistan found 83 per cent reporting that they used corporal punishment — mostly slaps or kicks. About three per cent reported using sticks, belts and other implements.

2. Child Marriages

Child marriages, a common practice among the poor in the rural and tribal areas by definition seem to be acts of violence against the little couple who are married off at ages as young as five or six or even before that. The reasons for these marriages may be economic (when a child is sold off in marriage), *Watta satta* barter, compensation for the wrong doing of a family member (*Swara*), tribal custom, or simply concern for the well being of the daughter and the wish to see her settled as early as possible.

3. Emotional Abuse

Other types of emotional abuse are confinement, such as shutting a child in dark closet and social isolation, such as denying the child a friend. The normal reactions to such hurts should be anger and pain; however, since children in this hurtful kind of environment, are forbidden to express their anger and since it would be unbearable to experience their pain all alone, they are compelled to suppress their feelings, repress all memory of trauma, and idealize those guilty of abuse. According to a report by the Ministry of Social Welfare, an average of 10,000 children flee their homes every year after being maltreated or tortured by their schoolteachers, parents and other family members. As per a survey by the NGOs' Coalition on Child Rights (NCCR), on the basis of data collected from eight districts in the NWFP last year, some 404 children ran away from home to escape torture by family members and teachers.

4. Neglect

The most common form of child abuse is neglect. This emotional abuse destroys a child's self esteem. Physical neglect involves a parent's failure to provide adequate food, clothing, shelter, or medical care to a child. It may also include inadequate supervision and a consistent failure to protect a child from hazards or dangers. Emotional neglect occurs when a parent or caretaker fails to meet a child's basic need of affection and comfort and encourages him to engage in delinquency. Another form is depriving the child of his basic right to education, either by failing to enrol a child in school or by permitting him to skip school. In middle

and lower middle classes this behaviour is condoned by mothers and the father is not aware of the situation. Both do not address the issue and it often results in the child dropping out of school.

5. Discrimination

In Pakistan parents pray to God to have a boy in their home. One of the major arguments for polygamy and an increase in population is a desire to have a 'crown prince'. It is not difficult to understand in a male dominated society like Pakistan where gender inequality lies at the root of most serious crimes like honour killings.

This generates an inferiority complex in girls at home and results in the inappropriate growth of the personality of the child. It also affects the personality of boys at home, where they learn to dominate their sisters by virtue of their gender only. This is a time of shaping their behaviours. The lessons learnt from home are repeated in their whole life. This generates a reaction and anger in sensitive children which may cause their poor performance at home and in school and result in them leaving home in extreme cases.

6. Sexual Abuse

If Sexual abuse cannot be attributed directly to the parents then it definitely falls under the category of sheer neglect on their part as a failure to take care of their children allowing them to be exposed to such circumstances leading to this heinous crime. Sexual abuse of children has been defined as inappropriate sexual contact with a child, where the abused child is used as an object of sexual gratification.

Mona Koser, a sociologist, who has carried out research on child abuse, told IRIN that it was difficult for her to find accurate data because people were reluctant even to respond to introductory questions. "Child abuse is on the rise because of a lack of parental attention and sex education", she said. "There is a lot of repression of sexuality so this shows up in unhealthy forms. You rarely find healthy expressions of sexuality in everyday life [in Pakistan] so sexual abuse becomes very common", clinical psychologist Liaqat Tabssum told IRIN.

7. Incest

Incest cases are seldom reported. The response of the public, police and courts is poor. A large number of cases are kept under the carpet. The victims are 'advised' to be silent. It involves extreme shame and dishonour for the family so the victim is pressurized from all quarters to hush up. Some NGO's note that this issue is seldom recognized by the courts as well. The judiciary gives maximum benefit to the accused in the name of 'saving' the family unit. In addition, incest usually involves the defilement of young girls which, if publicly acknowledged, would destroy their chances of marriage.

According to a non-governmental organization 'SAHIL' in the first four months of 2003, 39 cases of incest were reported and only eleven were dealt with in the courts, seven out of eleven accused were acquitted by the courts due to a lack of evidence. In 36.6 % of cases the father was accused, in 10.8% of cases stepfathers, in 6.8% cases grandfathers, in 15.10% cases paternal or maternal uncles and in 11.9% cases other relatives.

B. Some Reasons for Child Abuse

There are various reasons for abuse of children but a few are mentioned here:

1. Poverty is one main reason causing frustration and an inability of the parents to discharge their duties in an effective manner. Forced marriages, child marriages and giving away of daughters as a replacement of compromise stem from poverty. Child trafficking and bonded labour it's larger off-shoots.
2. Illiteracy is another big reason for abuse of children at home. Even educated people who are not aware of the subject keep on repeating the same cycle of violence which they have observed in their own childhood.
3. Social injustices, police tyranny, mental torture suffered by people in hospitals and district courts generate frustration in people, which makes them less caring parents.
4. Women who get married early and bear several children in a short span of time or those who are maltreated by their in-laws are most likely to abuse their own children.

5. Similarly, the ever-growing trend of violence in society and lack of appropriate laws to check domestic violence make children vulnerable to torture by their parents and other members of their family.
6. Religion is also used as a tool to justify disciplining children by parents. Obedience and respect to parents is always taken as keeping quiet for all kinds of atrocities by them.
7. Pakistan is a country situated in an area of wars for the last fifty years. Pakistan has had three wars with India and a long war in Afghanistan has been waged over the last three decades among different countries. India and China were also at war in the past. Being in one of the most dangerous battle grounds, having two nuclear neighbours, it has been in the eyeball of storms for the last five decades. There is no political stability and has been ruled by a military bureaucracy time and again. All this conflict has not allowed a sufficient peaceful time to develop a tolerant and prosperous society. This has directly affected the population and violent behaviour is common in many houses.

IV. LEGAL RESPONSE

A. International Obligations

Pakistan is bound to respond positively to implement the policies of CEDAW (1992) and the Beijing Declaration (2000) and platform of Action. In general Recommendation 19 (Para 11) of CEDAW it is clearly mentioned that “traditional attitudes by which women are regarded as subordinate to men or as having stereotype roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision”. These international binding agreements and so many other directives and laws are obligatory for the states to effectively deal with the issue of violence against women.

B. Constitutional Guarantees

In the present Constitution, Article 25 in the Chapter on Fundamental Rights of the Citizens states as follows:

- All citizens are equal before law and are entitled to equal protection of law.
- There shall be no discrimination on the basis of sex alone.
- Nothing in this Article shall prevent the State from making any special provision for the protection of women and children.

Article 9: “no person shall be deprived of life or liberty except in accordance with law”. Article 8: Any law, or any custom or usage having the force of law, in so far as it is inconsistent with the Fundamental Rights of citizens of Pakistan, shall, to the extent of such inconsistency, be void”.

C. Provisions of the Pakistan Penal Code to Confront Domestic Violence and Child Abuse

Domestic Violence is not treated under some specific law as a crime in Pakistan. Its different aspects are treated under different laws. As domestic violence ranges from minor injuries to causing death so all the laws related to injury and the death penalty are very crucial. It was in 1979 that *Hudood* Laws were enforced as part of the ‘Islamization processes’ of Gen Zia-ul-Haq in Pakistan. These laws included the *Zina* (Rape) ordinance and *Qazaf* (Allegation of adultery on the spouse) ordinance 1979 as well. Different categories of crimes and punishments ranging from criminal intimidation to murder are also available in the Pakistan Penal Code of 1860 but at this stage both the parties would have already decided to go their separate ways. When the parties go to a police station for registration of cases against each other then it is presumed that they are no longer in a spousal relationship, rather it is a sign of enmity and an end of all negotiation and mediation.

D. Family Laws

Family courts are established to resolve family disputes related to divorce in different circumstances. It also decides the issues related to custody of children in case of separation between the spouses. In normal conditions, the right of divorce rests with males in Islam; however, it can be given to women at the time of solemnizing the marriage. Even after that a wife can ask for *Khula* (a divorce claimed by the wife) through family courts. Under Family Laws if the husband treats the wife with ‘cruelty’ then she can get a divorce by the intervention of the court. Courts try to mediate the issue if both parties agree, otherwise the marriage can be dissolved. Similarly, issues of child care and non-provision of proper facilities of life for the wife and

children are the responsibility of the husband. If he fails to provide this, the wife can go to court for intervention. It is up to the court to decide whether she was treated with 'cruelty' or not.

In case of serious disputes, the family court judge nominates a three member committee, one from both parties i.e. husband and wife and a local responsible person to settle the issue amicably. In the light of a report submitted by this committee, the judge finalizes the case. In this way public participation is also ensured and so many cases do not result in separation or divorce. Family courts have been successful in mediation in a large number of cases. In a situation when there are no alternatives available for victims by the state or by the private sector, victims are left with no option but to compromise on the situation.

E. Convention on the Rights of Children

In ratifying the CRC, governments committed themselves to protecting all the rights of the child - social and economic, as well as civil and political. Under the CRC, children are not only protected from abuses of state power, but from all forms of physical or mental violence or abuse while in the care of "parents, legal guardians or any other person who has the care of the child", including schools. The CRC affirms that every child has the right to an adequate education and standard of living. It establishes the right of the child to be free from sexual abuse and exploitation and the illicit use of drugs. It commits states to protecting children from economic exploitation and work that may interfere with education or damage their health.

The CRC clearly states in Article 28-2 and Article 37 that a child must be protected against all forms of physical and mental violence while in the care of parents or anyone for that matter. Article 37 of the CRC reads: "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment".

The CRC, to which Pakistan is a signatory, clearly forbids corporal punishment. The Law Ministry seems determined to push through the legislation. Parents and teachers need to be educated about the psychology of a child to curb child abuse.

F. Child Marriages Restraint Act 1929

Legally Child Marriages are prohibited under the Child Marriages Restraint Act, 1929 (CMRA). Although CMRA makes child marriages illegal, the punishment under this law act is minimal (one month imprisonment and/or a fine of Rupee 1000=16\$ app.) for marrying an adult person, the person who solemnizes the marriage and for the person who is the guardian/parent of the child. A conviction under this law does not serve to nullify the marriage.

G. National Commission on the Status of Women in Pakistan

The Government established a National Commission on the Status of Women in 2000. It has been tasked with:

- Reviewing and recommending the amendment of laws, rules and regulations that affect women's rights;
- Examining the policies for women's development and making recommendations for their effective impact and implications;
- Monitoring violence against women, especially domestic violence; and
- Collaborating with NGOs at the national and international level.

The Commission also has a complaint resolution role.

The National Commission on the Status of Women Ordinance 2000 established the Commission and set out its procedures. According to the Ordinance, the Commission shall consist of a Chairperson and between ten and twenty members appointed by the Federal Government. Members shall be from persons "of integrity and standing having substantial experience in law, legislation and knowledge and standing on socio-economic and legal problems of women". The majority of members shall be women, including one member from each Province, Azad Jammu and Kashmir, Northern Areas and at least one member from the minorities (Art. 3 (2)). At present, the commission is performing its duties well as per its constitution. Serious attention has been paid by the advisor to the Prime Minister for Woman's Welfare Issues to get the authorities to give a timely response to complaints by victims.

H. Recent Legislation

The most important step taken by the present government is increased (33%) representation of females in representative bodies from the council level to national assemblies. This is a sea change and it is expected to bring very positive results. The advisor to the prime minister for the welfare of women's affairs, being a woman, is also pursuing these issues earnestly at all levels.

As every journey begins with the first step and that step has already been taken by introducing the domestic violence bill in one of the four provinces. Member of the Punjab Assembly, Dr. Anjum Amjad, presented the bill on domestic violence in the assembly on October 14, 2003 but the MMA opposed it. With more women coming into parliament with a heavy mandate, recently a private bill against domestic violence has been introduced in the Punjab Assembly. All the bill needs is thorough support in terms of finance, judicial and legislature flexibility with transparent de jure accountability to curtail this injustice. The bill has not been passed yet.

The latest development in this scenario was seen on December 31, 2004 when a bill on honour crimes was passed. This bill amended the Pakistan Penal Code and detailed discussions were carried out before and after the bill was passed.

I. Criticism by Human Right Activists and Limitations of Laws

The Criminal Law (Amendment) Bill 2004 against honour killings, however, did not address the real issue of waiver or compounding in which the perpetrators were given the advantage of seeking forgiveness from the heir of the victim. The major flaw in the *Qisas* and *Diyat* law, which covers all offences against the human body, is that it makes such offences compoundable (open to compromise as a private matter between two parties) by providing for *qisas* (retribution) or *diyat* (blood-money). The heirs of the victim can forgive the murderer in the name of God without receiving any compensation or *diyat* (Section 309), or compromise after receiving *diyat* (Section 310).

Often, the victims are the most vulnerable members of the family or community. In either case, if and when the case reaches a court of law, the victim's family may 'pardon' the murderer (who may well be one of them), or be pressurized to accept *diyat* ('blood-money') as compensation. The murderer then goes free. Impunity has been the single most important factor encouraging honour killings. As the Criminal Law Amendment Bill does not address the issue of waiving and compounding, the perpetrators will continue to be able to escape punishment.

Insufficient penalties are given by the Child Marriages Restraint Act 1929. It does not nullify a child marriage. The fines are too small i.e. \$16 and just one month imprisonment in no way helps to prevent child and forced marriages.

Marital Rape is not covered under any law. Hudood laws need to be amended as these are discriminatory laws directed against women. These laws do not cover the incidence of rape for minor girls under the age of twelve years. Similarly in the absence of four witnesses, the victim has the possibility of turning into the accused. The female has to face charges of adultery if she fails to prove that she has been raped.

V. RECOURSE FOR VICTIMS

A. First Information Report

Section 154 of the Criminal Procedure Code of 1898 clearly defines the procedure to launch a complaint to the Police about a cognizable crime in Pakistan. The victims have twenty four hour access to police stations and they can register a First Information Report (FIR) under section 154, free of cost. A verbal report over the telephone by any person is also sufficient to get the police involved. The legal proceedings of FIR can also be done on verification of these reports. It is only after registration of FIR that the law comes into motion and an investigation starts. After the completion of investigation the case is sent to the prosecution department which scrutinizes the case and the case goes to the courts which decide the case according to the available evidence.

B. Quick Response Centres/Hot Lines

In the last five years greater stress has been given to improving the law and order situation and protection from terrorist attacks. This has, indirectly, resulted in equipping the police force with new

techniques and improved their response to all crime. Police manage Rescue 15 and Madadgar (meaning helper) managed by a non-governmental organization LHRLA) are steps in these directions. The response units Rescue 15 (mainly in urban areas) respond to information provided about heinous crimes that they receive by phone but also address the issues of domestic violence and child abuse and public complaints of all types. 'Madadgar' is a private hotline available only in Karachi to address the issues of women in the city. These centres have special information about missing children and they help in finding lost children.

C. Shelters

Government run shelters are available in limited numbers which admit women and children referred by courts and other departments including the police. Due to limited capacity, and an ever increasing population and victims of a different nature, these shelters are unable to actually serve as Dar-ul-Aman (House of Peace). This has resulted in the establishment of shelters by non-government organizations. Due to increased pressure of victims and their helplessness the need for more shelters is on the rise.

There is no place available for children suffering from parental abuse and society views it as a 'private matter'. The situation has worsened due to a lack of financial resources and other material constraints for the people who want to help the victims. When the cases of child abuse are reported, law enforcement agencies are also left with no option but to rely on the relatives of the children. In emergency situations community members voluntarily come forward and local leaders, religious leaders or representatives are the available sources for the safety of victims.

D. Reporting of Cases

The society, in general, does not think that domestic violence is a crime and due to extreme poverty and the subordinate culture of women in society, there are not many alternatives available to them. Where these facilities are available it is observed that the divorce ratio is increasing, especially in urban areas. One of major reasons is the violent attitudes of husbands against their wives. As divorce is considered a stigma for a woman in society so women, despite these sufferings, prefer to live with it. In this situation the social set up condones domestic violence. Even if the cases are referred to the police, both sides want to settle the issue one way or another. According to a police officer, they just try to pressurize the other party by getting the support of the law enforcement agency.

In practice, when cases of domestic violence are reported to a police station then it is normal to treat it as a non-criminal case. Police officers try to patch up the matter by consultations with elders of the locality or by elders of both families of the spouses. In most of the cases, this solution works. It becomes imperative for the police to do it because there is no other standard of practice available to support the victim or to proceed against the offenders. Normally, the efficiency of a police station is measured by the number of criminal cases handled by that station so it is normally taken as a non-police job and a service which will not be recognized by anybody including the victims. As a result the focus from victim is shifted to hush up the matter. This results in secondary victimization in most of the cases.

E. Legal Aid

In the form of public prosecutors, the government is bound to provide legal help to the victim if he/she cannot afford the expenses. But victims do not rely on them and for better results they prefer private attorneys. Human Rights organizations and NGOs working in this area also claim to provide free legal aid to some victims.

F. Victim Support Programme

Victims, as far as they are in government owned shelters, are provided all necessities by the government and their security and participation in the criminal proceedings is the responsibility of the state. However, no compensation is paid to them for any loss they have borne during this hardship. If victims are in a critical condition and do not want to go back or they do not have a safe haven, they are supposed to be protected by government owned Dar-ul-Aman (House of Peace), under the law. In the majority of cases these complainants are only witnesses as well.

G. Witness Protection Programme

There is no witness protection programme available which is directly needed in the prevalent social settings. In very high profile cases, the government may take such steps for the victims or witnesses.

VI. DUE PROCESS FOR PERPETRATORS

It is important to recognize that abusive relationships are painful for both parties. These relationships are usually highly reactive and drama driven, therefore mutually abusive on some level. Clear-cut lines are hard to draw, and the victim/abuser dichotomy is an oversimplification. Abusers don't make a conscious choice to be abusive, just as victims don't make a conscious choice to be victimized; they are generally doing the best they can - given the emotional and psychological issues they face. However, it is a choice to the extent that everyone is ultimately responsible for their own actions... whatever the underlying cause may be. Accountability is a concept that both have to learn.

The rights of perpetrator and his/her access to appellate authorities are never impeded by any means. If he/she is arrested then he/she cannot be detained more than 24 hours by the police and for further detention and interrogation and collection of evidence permission from the court is compulsory. One can argue about the problems faced by them in the criminal justice system but these problems are faced by all people who come across the system, they are not specific to perpetrators. Rather, it is generally believed that the police and courts favour these perpetrators due to the social status of these perpetrators or for some other ulterior motives.

Although, some vocational and academic activities are available in prisons these are not specifically aimed at addressing the psychological mindset of perpetrators or convicts. A systematic and organized plan of psychiatric treatment for offenders has not been established so far.

VII. CONFRONTING DOMESTIC VIOLENCE AND CHILD ABUSE

It is imperative to develop an integrated strategy to combat domestic violence and child abuse as both issues are connected to the same place - home. So far the issue had been handled from a gender perspective now its time to act preventively with the support of the criminal justice system and on a long term basis from the parameters of public health as proposed by the World Health Organization. A long term strategy should be adopted to achieve the targets and in the meantime it is incumbent upon all concerned to implement a short term strategy in order to prevent further damage to individuals and society.

A. Long Term Strategy

- Social Development and poverty alleviation are two sides of the same coin. By improving the social conditions, peace in homes can be restored.
- Education for all is a key to resolve all basic issues in all societies; the Government should stress universal primary education. Parents should be bound to educate their children and penal sanctions should be included in law for violators.
- There should be an integrated national strategy coordinated with different departments of the judiciary, social welfare departments, law enforcement agencies and with the participation of the public to devise such plans which ensure the proper treatment of victims and provide them sufficient support to settle their disputes and improve life.
- New Legislation should be made to criminalize domestic violence and child abuse. The state should promulgate relevant laws which bind the state organs to specifically intervene in cases of domestic violence and child abuse of any nature should become a 'public issue'. Like Japan and Malaysia, an easy procedure is needed for reporting and mandatory reporting for people who are directly involved with children and women at risk.
- The State should ensure that a structural imbalance in society does not destabilize the family units. As mentioned in the constitution of Pakistan, there should be no discrimination on the basis of gender and women and children should be given equal rights and opportunities in all policies. The Ministry for Women's Development should go out of their way to monitor its programme and to ensure proper implementation of its programmes.
- Viable alternatives should be provided to victims by helping them to establish themselves and shelters should work as safe havens. These centres should be equipped with better facilities and there number should be increased.

- Perpetrators Treatment programmes should be launched. Their supervision by local elders and a report to a local committee about their behaviour should be the basis of a lenient view taken by the court of their misconduct with their partner. Chances should be given to them to improve their conduct in their home.

B. Short Term Strategy

A short term strategy should be implemented until the macro level goals are achieved. It should aim at preparing the ground for meeting the goals as envisaged in the long term strategy. From state authorities to an individual, all should be committed to this action plan. The different roles of state, society and individuals are given below.

1. Role of State

- There is need to conduct a nationwide survey to systematically assess the real situation of DV and CA. Government departments like police, health and social welfare departments should be tasked to record the cases and coordinate, regardless of any action taken by the state, in all cases. After gathering concrete data, necessary steps can be taken.
- Criminalizing domestic violence and child abuse is highly desired. Implementation of existing laws in their true spirit is highly recommended to achieve the desired results. There is a need to amend the Hudood laws as recommended by the National Commission for the Status of Women. Clauses like compounding deliberate murder and injury should be amended.
- Members of the judiciary, at the lower level, who deal with cases of domestic violence on a regular basis should be sensitized.
- Training of police officers and a coordinated effort by the police and the Judiciary through already established Criminal Justice Committees in the districts can bring fruitful results for victims.
- NGO'S are already working in this sector and with their collaboration new horizons can be explored. This private-public venture can improve the situation. At the moment the issue is owned by NGO's only. This should be changed and the Government should collaborate with NGO's to achieve their common goals.
- Victim friendly practices (free legal aid and/or establishing more women police stations, children response centres) should be adapted by establishing legal desks in rescue centres of the police and other departments of the district government. Incentives should be given to the workers to achieve better results.

2. Role of Society

- The importance of awareness campaigns cannot be underestimated and it is due to these raised voices that the situation is improving in Pakistan. People are more aware of the subject and in the urban classes and educated families there is a growing sense of treating the partners with care and affection, which is the basis of a happy married life.
- It will be pertinent to mention here that NGO's and the Pakistani media have played a vital role in highlighting this issue and enlightening the public at large. The media can play a vital role and with the increased number of TV channels the situation is further improving. It should present programmes and talk shows which sensitize the people about domestic violence and child abuse and about ways and means to counter it.
- The role of religious leaders cannot be underestimated. They can work as a catalyst if the true dimensions of the issue are brought to their notice. It is by winning partners from all strata of society which will yield a better output.
- Community participation should be ensured and citizens, supported by government, should come forward and take up the challenge of treatment of offenders and victims under the supervision of experts. They are the ultimate losers and gainers in this situation.

3. Role of the Individual

- Every citizen is bound to refrain from domestic violence and is responsible for his or her own behaviour and should also report to the responsible agencies any knowledge they have of potential victims i.e. in their neighbourhood or workplace.
- As mentioned in the domestic violence law in Japan, medical officers or other people giving any kind of aid to victims should also be brought into the network of early reporting as a measure to intervene by state authorities.

VIII. CONCLUSION

Domestic violence and child abuse remains one of the least legally addressed topics in Pakistan. The number of domestic violence cases is alarming and there is no concrete information or data available which can gauge the magnitude. The home is a private place and every abuse inside the four walls is considered to be out of the realm of the law. Cultural and religious beliefs are used as a cover to legitimize the maltreatment by abusers. Different interpretations of quaint injunctions are given to get social approval for battering and physical abuse of partners and children.

Domestic violence is a structural rather than causal problem, says Human Rights Watch in its report 'Crime or Custom?' on the issue of violence. 'It is the structure of the family that leads to or legitimizes the acts, emotions, or phenomenon that are identified as causes of domestic violence under the causal analysis. This family structure is a "structure that is mirrored and confirmed in the structure of society, which condones the oppression of women (and men) and tolerates male (female) violence as one of the instruments in the perpetuation of this power balance". In order to change this structure, in the words of Ms. Nathalie Kimaro, a High court judge of Tanzania, 'It is imperative for people to bring a change in their attitude (towards the issue)'.

There is a dire need to bring the abuse of partners and children by their parents and guardians out into the public and make them accountable. This daunting task can be achieved by devising an integrated strategy in society. From awareness raising plans to proper implementation of existing and new laws, all requires a political will by the government and political parties. 'The failure to uphold the fundamental rights of people guaranteed under the Constitution is at the heart of the crisis, not lack of provisions in the Pakistan Penal Code to combat domestic violence and child abuse'.

The most neglected part is treatment of offenders and protection of their rights, rehabilitation and intervention by the state and society at the intermediate stage. This process should be started as soon as possible with the active participation of social welfare organizations, departments and the public. It is time to address the issue on a war footing to save future generations in Pakistan. Neglecting the perpetrators, who are in the majority, will result in a recurrence of the problem.

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