

The Center for Peace and Development Initiatives, (CPDI) is an independent, non-partisan and a not-for-profit civil society organization working on issues of peace and development in Pakistan. It is registered UNDER SECTION 42 of the Companies Ordinance, 1984 (XLVII of 1984). It was established in September 2003 by a group of concerned citizens who realized that there was a need to approach the issues of peace and development in an integrated manner. The CPDI is a first initiative of its kind in Pakistan. It seeks to inform and influence public policies and civil society initiatives through research-based advocacy and capacity building in order to promote citizenship, build peace and achieve inclusive and sustainable development. Areas of special sectoral focus include promotion of peace and tolerance, rule of law, transparency and access to information, budget watch and Legislative Watch and Development.



Centre for Peace and
Development Initiatives

409-B, Nazim-ul-Din Road, F-11/1, Islamabad

t: +92 51 210 82 87, 211 23 15

f: +92 51 210 15 94 e: info@cpdi-pakistan.org



Centre for Peace and
Development Initiatives

Policy Brief

Elimination of Violence against Women and increase Access to Gender Justice

September 2011

Policy Brief

Elimination of Violence against Women and increase Access to Gender Justice

September 2011

Center for Peace and Development Initiatives (CPDI) would welcome reproduction and dissemination of the contents of the report with due acknowledgments.

Centre for Peace and Development Initiatives (CPDI)

409-B, Nazim-ul-Din Road, F-11/1, Islamabad
t: +92 51 210 82 87, 211 23 15, +92 51 431 94 30
f: +92 51 210 15 94
email: info@cpdi-pakistan.org
www.cpdi-pakistan.org

Disclaimer:

Every effort has been made to ensure the accuracy of the contents of this publication. The organization does not accept any responsibility of any omission as it is not deliberate. Nevertheless, we will appreciate provision of accurate information to improve our work.



Supported by

Table of Contents

<i>Background</i>	1
<i>Constitutional Provisions</i>	2
<i>Domestic Legislation</i>	3
<i>Why Women Suffer from Violence in Pakistan</i>	5
<i>Existing Gaps in Economic participation</i>	6
<i>Existing Gaps in Social participation</i>	6
<i>Existing Gaps in Political participation</i>	7
<i>Conclusion</i>	7

Background

Violence against women is prevalent in all societies and all countries in different shapes and forms. Violence affects women from all kinds of backgrounds every day and it causes traumatic physical and emotional pain. Violence not only affects women but it also erodes communities by reducing productivity and by disrupting societies.

Violence against women is a serious issue in Pakistan. According to Aurat Foundations's Annual Report 2010, about 8000 cases of violence against women were reported in the print media of Pakistan. Kinds of violence identified in the report are abduction/kidnapping, murder, domestic violence, suicide, honor Killings, rape/gang rape, sexual assault, acid throwing and burning. The figures reported in media are only the tip of the ice berg. There are thousands of cases which are never reported in media.

In Pakistan, violence against women is mostly not considered as a violation of human rights but rather as a normal aspect of lives. Women may be attacked and abused by strangers but often they are hurt by people who are close to them. Most of the women live in an atmosphere of control and fear and are bound to social norms and traditions. Women suffer immensely, especially in their homes, and face the most abusive forms of violence.

International and Domestic Platforms to eliminate violence against women

Pakistan has signed several international instruments to stop gender-based violence. These include:

- Convention to End all Forms of Discrimination Against Women (CEDAW),
- Beijing Platform for Action, 1995,
- Millennium Development Goals (MDGs),

At the domestic level the commitments include:

- Articles of the Constitution of the Islamic Republic of Pakistan
- National Plan of Action (NPA) 1998
- National Policy on Development and Empowerment of Women 2001
- National Strategic Framework for Family Protection.

Constitutional Provisions

The Constitution of Pakistan has several provisions for the protection and uplift of women.

Article 3 calls upon the State to eliminate all forms of exploitation.

Article 4 provides for the right of individuals to enjoy the protection of law and to be treated in accordance with the law. This article also clearly states that certain rights cannot be suspended. *Article 8* provides that any existing law or practice, inconsistent with or in derogation of the fundamental rights, shall be void. It further prohibits the State from enacting any law or policy, in conflict with Fundamental Rights except “any law relating to members of the Armed Force, or of the police ... charged with maintenance of public order ... for the purpose of ensuring the proper discharge of their duties ...”

Article 25 ensures equality before the law and equal protection of the law and states that there shall be no discrimination on the basis of sex alone.

Article 26 and 27 provide for equal access to public places and equality of employment.

Articles 11 and 37 (g) prohibits trafficking in human beings as well as prostitution.

Article 32 makes special provisions for the representation of women in the Local Government. *Article 34* directs the State to take appropriate measures to enable women to participate in all spheres of national life and community activities.

In addition *Articles 25(3) & 26(2)* allow the state to make special provisions for the protection of women and children.

Article 35 asks the State to protect the marriage, the family, the mother and the child.

Article 37 (e) directs the State to make provisions for securing just and humane conditions of work and ensuring that children and women are not employed in vocations unsuited to their age or sex, and for ensuring maternity benefits for women in employment.

Articles 51 and 106 provide for the reservation of seats for women in the legislatures.

There are a number of provisions for the protection and uplift of women but women in Pakistan are still suffering from discrimination in society. This is mainly due to lack of support structures addressing the needs of women. Such support structure includes facilities such as free legal and medical aid at the state level and presence of adequate number of shelter homes with all basic facilities for reintegration of victims in society. Lack of provision of one window services in cases of violence makes women suffer in distress. Traditions and customs may deprive women to marry out of choice, deprive them of their share of inheritance and may even take their lives in the name of honor.

Domestic Legislation

Although in Pakistan there are laws such as Child Marriage Restraint Act, 1929, Dissolution of Muslim Marriage Act, 1939, Muslim Family Laws Ordinance, 1961, Family Courts Act, 1964 and laws on inheritance to address the needs of women yet these laws are not adequate to address the problem of violence against women and to provide gender justice.

Recently amended laws include amendments of 2002 in the Code of Criminal Procedure 1898 to address the issue of stove burnings wherein the said law was amended by inserting section 174-A to prevent the cases of stove deaths in Pakistan. Another equally heinous crime against women is of acid throwing; unfortunately like fire burning this horrible crime has no preventive law to counter the crime. There is still no check on sale of acid in market. There is still a need to enact a comprehensive law to combat and prevent acid and burn crimes. The National Assembly has recently passed a law to prevent burn and acid crimes by making amendments in the Code of Criminal Procedure 1898 and Pakistan Penal Code by enhancing the punishment if the hurt is caused by burn or acid. This bill is yet to be passed by Senate.

In 2004, amendments were made in Pakistan Penal Code (PPC) and the Criminal Procedure Code (CrPC) through Criminal Law (Amendment) Act 2004.

- The Act amended to define *karo kari* as murder.
- It gave a definition of the crime of 'honour' killing in the law that was absent in the PPC.
- The 'honour' killing was included in the definition of *fasad-fil-arz* and a minimum penalty of 10 years was laid down as *tazir* (with a maximum of 14 years);
- The awarding of a penalty in cases where the right of *qisas* has been waived or compounded has been left completely at the discretion of the court.
- Where the penalty of *tazir* is waived or compounded in murder cases, the stipulation was made that the permission of the court was required subject to such conditions as it might deem fit. As such, the court was given complete discretion in terms of awarding a *tazir* penalty;
- Giving a woman in marriage or otherwise as *badli-i-sulh* has been

specifically forbidden and a punishment has been prescribed in the law;

- Power to suspend or remit sentences in the case of honors crimes has been taken away from provincial governments.
- Women Protection Act was promulgated in 2006; it excludes several provisions of the Hudood Ordinance and re-introduces them into PPC (Pakistan Penal Code, 1860). This Act provides 30 important Amendments in the existing Zina and Qazf Ordinance PPC, Code of Criminal Procedure and the 'Dissolution of Muslim Marriages Act 1939. Provisions reinstated in the PPC include those dealing with *Zina Bil- jabber* (rape), kidnapping, and inducing a woman to compel her for marriage, kidnapping/abduction in order to subject the victim to unnatural lust, selling/buying a person for prostitution, deceitful cohabitation, enticing, taking away or detaining a woman with criminal intent.

The law on protection of women against harassment at the workplace is in place since 2010 but its implementation has not been ideal. Further, there is a need for legislation on domestic violence to be in force so that both the spheres where women may be victimized come under the preview of legislation.

In 2009, a private members bill on domestic violence was passed by national assembly but it never became an Act as Senate did not take it up in given time frame of 90 days.

Some of the key features of the bill on domestic violence 2009 as passed by the National Assembly are.

- Definitions of "child", "domestic relationship" and "service provider"
- Comprehensive duty of Government to ensure effective implementation, including a recognized role of the National Commission on the Status of Women.
- Wide definition of Domestic Violence under Section 4
- Who can make the complaint (section 5): An aggrieved person or any other person authorized by the aggrieved person in writing in this behalf may present an application to the Court

- Section 7 gives the aggrieved persons the right to reside in household from which the aggrieved person shall not be evicted from the household without consent, whether or not he or she has any right, title or beneficial interest in the same.
- The remedies provided for Domestic Violence are Protection, Residence Orders, Monetary Relief and Custody Orders with the penalty for breach of the Protection Order on the first occasion being minimum 6 months and/or 100,000, and on second or more occasions minimum 1 year and/or 200,000.
- A Protection Committee will be formed to implement the Act consisting of one Police Officer male or female of the rank of Sub-divisional Police Officer, a female SHO and two women councilors from the Tehsil Council concerned and the Protection Officer who shall also act as the Secretary of the Protection Committee.
Analysis of prevalent laws addressing violence against women indicates to a reasonable level that there are still gaps in the laws which could be plugged-in with dedicated efforts. The main causes for lack of effectiveness of existing laws are lack of education and awareness, feudal structure of society and absence of political will on the part of government to implement these laws.

Another important factor in the ineffectiveness of the laws related to violence against women is the strong bias and corruption of the investigation agency, which has the whole authority to collect evidence and investigate the true causes behind any crime. Being a male dominant agency in a patriarchal setting, it is obvious that the agents would have a certain predilection and biases towards their own gender and against the opposite sex. The low rate of conviction in VAW related cases is also giving rise to violence.

Why Women Suffer from Violence in Pakistan

Women in Pakistan are excluded from economic, social and political arenas. This is partly due to the prevalence of discriminatory legislation. Other factors behind this exclusion include patriarchal values; traditional and cultural norms, lack of economic independence; limited or lack of access to education; under- representation of women in decision-making positions; and women's lack of knowledge of their legal rights. The belief of male superiority over women is inculcated from a very young age. The continued social exclusion of women is also an outcome of the low investments in the human capital of women at household and national levels.

Fields in which women are excluded	Means of exclusion
Economic participation	Gender discrimination in access to and control over resources such as land, property, agricultural inputs and access to livelihood opportunities; denial of inheritance
Social participation	Gender discrimination in access to essential public services such as education, health, water, energy social security and family support.
Political participation	Gender discrimination in participating in decision making processes, e.g. in political institutions and policy making.

Existing Gaps in Economic participation

In accessing decent jobs, Women in Pakistan experience greater challenges than men. It is reflected by higher unemployment rates among women. Indicators that track the gender dimensions of unemployment and underemployment are therefore important in monitoring the inclusion of women in both the formal and informal labour market. While there has been a slight increase in female presence in the formal sector, the informal sector remains dominated by women due to historically high levels of female illiteracy and gender segregated roles in the economy. Most women are therefore dependent on fields such as small-scale trading and agricultural production. For women, control over land, access to credit, technologies and extension of technical capacity are important to provide them some relief economically.

Existing Gaps in Social participation

The improved access of women and girls to social services such as education, health, water and sanitation and energy sources are key determinants of their ability to be able to engage in productive opportunities and to secure their overall well-being. Additional areas that need to be addressed include sexual and reproductive health, women's nutritional status, access to antenatal health services and emergency treatment for maternal health. Most deaths are due to poverty, shortage of qualified health personnel, inadequate health facilities, illiteracy and lack of knowledge on the importance of pre-natal care.

Existing Gaps in Political participation

The lack of effective participation of women in decision-making at all levels, from household to community and national, is a major gap and a hurdle in achieving gender equality and women's empowerment. Their participation influences the extent to which gender equality concerns and women's specific issues are mainstreamed in the national development agenda, including poverty reduction strategies and resource allocation mechanisms. Therefore, assessing women's power to influence policymaking, legislation enactment, institutional setting, planning, and resource allocation is a key indicator and is an issue which needs to be addressed.

Conclusion

Having a society free from gender based violence is not without taking into account the role of women. Women should not be treated as objects whose existence is defined by their relationship to men. Rather, they should be treated as entities in their own right as human beings having the right to live, work, contribute and earn. The reality is this that women are as capable as men in any task not involving excessive physical activity unless the men of Pakistan do not react against the patriarchal patterns of society. Gender inequality between men and women is a product of society's patriarchal attitude and has nothing to do with knowing or thinking powers of women. Violence against women sustains its momentum because of gender inequality. Illiteracy, ignorance and poverty are also very much related with violence against women. There is a strong and urgent need for mobilizing and adequately utilizing all allied sectors of society for formulating policy and programs.

Recommendations for Policy Makers CSOs and Government officers to provide Gender Justice and to Eliminate Violence Against women

Violence against women is perpetrated when legislation, law enforcement and judicial systems condone or do not recognize domestic violence as a crime.

Recommendations for Policy Makers

Basic objective of any legislation is to provide justice. Our laws, especially the laws pertaining to women, despite being in place fail to deliver justice due to lack of proper implementation. Procedural technicalities along with inefficiency and unwillingness of the implementers are one of the basic reasons for the failure of state in provision of prompt

Justice to the victims of violence. It is imperative that these technicalities may be simplified and effective measure may be taken for reducing the inefficiency and lack of will of the implementers.

1. Discriminatory laws should be abolished and effective legislation be enacted because in presence of discriminatory laws violence against women cannot be combated effectively.
2. There is an immediate need for enactment of law to prevent Domestic Violence.
3. It is an established fact that adverse sufferers of poverty are women. Women have limited access to health, education and have no social standing even in their respective social milieu. Some steps have been taken by the government for the socio-economic uplift of the women but more measures need to be taken in this regard by bringing the informal sector of employment within the preview of labour laws and providing effective social safety net where needed.
4. Provide support for education in the fundamental rights and empowerment of women and girls by taking measures for free and compulsory education and making schools in areas easily accessible for them
5. Programs and policies aimed at improving the economic independence of women should be framed and implemented in all provinces of the country;

Government officers and Judiciary

1. Create one window facilities which include provision of medical doctor, police officer, lawyer, psychologists and temporary homes.
2. Delayed trials and prolonged litigations seriously harm the justice system. A victim seeking fair trail faces innumerable hurdle like delays, perjury, and non availability of witnesses etc. The Investigation Authorities and the forensic laboratories need to be equipped with the technology needed for investigation.
3. Take measures to combat impunity with regard to violence against women and girls, in particular by closely monitoring all case proceedings relating to VAW.
4. Devise trainings for police officers and judicial staff in matters relating to violence against women and girls and its causes and consequences.

5. Remove hurdles and gaps in the procedure of acquiring share in inheritance.

Recommendations for CSOs and Media

1. Enhancing awareness regarding VAW mainstreaming of the gender issues through integration into all sectors of national development.
2. Though the representation of women on different political platforms has increased significantly during the last decade but there is still a need to sensitize women and men especially the ones in important positions to realize their responsibility and play a positive role in securing justice and equality for the women folk.
3. There is a dire need to change the prevalent stereotypes regarding male and female in our society. Such stereotype images need to be erased from the memory of our generations. Both community and service providers should be educated and trained to treat both male and female as human being equal in capacity and maturity deserving equal opportunities and equal respect.
4. Support those who are threatened or who are the victims of specific and targeted repression, harassment or violence.
5. Developing community networks in order to provide care and support to people who are victims of violence.
6. Promote and support policies and campaigns to raise awareness of gender equality and to combat violence against women, especially campaigns to raise awareness specifically targeting men and boys.
7. Support campaigns in the field of awareness-raising and communication, focusing on gender equality and measures to combat violence against women and girls through the elimination of the gender stereotyping which contributes to violence against women and girls.