

A Critical Analysis of the Role of Judiciary in Resolving the Issues of the Gender Base Violence In Pakistan:

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ABSTRACT

Gender-based violence, especially against women and transgender is one of the most emerging challenges being faced by the contemporary socialized world where Pakistan stands with no exception which designate some serious flaws in the existing system of adjudication and legislation. Thus, this research will analyze critically, the role of judiciary in resolving the issues of gender based violence in Pakistan by highlighting the loopholes in the existing system of adjudication to reform the policy of interpretation and adjudication to eliminate gender base violence. The Gender based violence against women and transgender has been well defined and well addressed only in the last few decades. One major achievement in this regard was the 1993 United Nations Declaration on the Elimination of violence against women, which offered the first official definition of gender-based violence. As far as the constitution of Pakistan is concerned, Article 25 of the 1973 Constitution guarantees equal protection of law to all citizens irrespective of sex. Further to eliminate gender based violence from Pakistan, The National Judicial Policy Making Committee (NJPMC) in October 2019 directed Pakistan's high courts to set up separate courts regarding gender based violence cases. All legislations in Pakistan regarding this subject would critically be evaluated in this study and to analyze the role of the judiciary in resolving the issue of gender-based violence in cases in Pakistan and as well as to investigate the existing legal framework to point out its lacunas.

KEYWORDS: Pakistan, women, transgender, Gender Based Violence courts, SCMR, PLD, NLR.YLR, YLRN, CLC, PCrLJ, GBV, VAW

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INTRODUCTION

The term “gender-based violence” was first officially defined by the United Nations as, “Any act 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 deprivations of liberty, whether occurring in public or in private life”.¹

Encyclopedia Britannica defines gender as an individual's self-conception as a man or woman or as a boy or girl or as some combination of man/boy and woman/girl or as someone fluctuating between man/boy and woman/girl or as someone outside those categories altogether. In Asia especially Pakistan and India are the major nations following this since time immemorial. Forced marriages, early marriage, failure to enforcement law are the major reasons for Gender Based Violence in both countries Pakistan and

¹Violence against women – particularly intimate partner violence and sexual violence – is a major public and clinical health problem and a violation of women's human rights. It is rooted in and perpetuates gender inequalities. Globally one in three women experience physical and/or sexual violence in their lifetime, mostly by an intimate partner. This is a stark reminder of the scale of gender inequality and discrimination against women. Sexual violence is "any sexual act, attempt to obtain a sexual act, or other act directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting. It includes rape, defined as the physically forced or otherwise coerced penetration of the vulva or anus with a penis, other body part or object." Available at <https://www.who.int/health-topics/violence-against-women> Last accessed, 01-10-2021.

India².

United Nation's High Commission for Refugees (UNHCR) defines gender-based violence in these words, "harmful acts directed at an individual based on their gender. It is rooted in gender inequality, the abuse of power and harmful norms". According to the UNHCR, the term "sexual and gender-based violence" also distinguishes individuals based on their gender from other types of violence. It includes violent acts such as honor killings, rape, physical and mental torture, mutilation, sexual slavery, forced impregnation, and murder.

The issue of gender based violence has been well defined and well addressed only in the last few decades as social activists and advocates of gender equality fight to reduce discrimination and harmful practices against women. One major achievement in this regard was the 1993 United Nations Declaration on the Elimination of violence against women, which offered the first official definition of gender based violence: "Any act of gender based violence that results in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or in private life".³

In Islamic Societies', violence is perceived not only as physical harm, but includes various forms of violence directed at women because they are women. These include segregation in the workplace and limiting women's access to wealth, gender stereotyping in the media and education, verbal aggression and humiliation, control of women's finances and income, forced veiling, and restricted access to education and health. Gender-based violence is thus analyzed in its various forms and localities, encompassing both the public and private spheres: within the family, the general community at work, and in various state institutions.⁴

Gender-based violence is a problem in every country; in the world as a whole, there may be over a billion women who have experienced domestic violence from their husbands or male partner. For many women, such violence is a regular occurrence and is seen as normal by many women and men. This research uses scientific data collected by household surveys, and from crime statistics; it investigates not only the prevalence of violence, but also attitudes to such violence the extent to which a woman, or her partner, consider domestic violence against women to be acceptable or even appropriate in certain circumstances.⁵

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Gender-based violence is an umbrella term for any harm that is perpetrated against

²<https://www.britannica.com/search?query=genderbased+violence> Last accessed on 04-10-2021

³Djamba, Yanyi K., and Sitawa R. Kimuna, eds. *Gender-Based Violence: Perspectives from Africa, the Middle East, and India*. Springer, 2015.

⁴Salhi, Zahia Smail, ed. *Gender and violence in Islamic societies: patriarchy, Islamism and politics in the Middle East and North Africa*. Bloomsbury Publishing, 2013.

⁵Simister, John. "More than a billion women face 'Gender based violence'; where are most victims?." *Journal of Family Violence* 27, no. 7(2012):607-623.

⁶Gender-based violence can include sexual, physical, mental and economic harm inflicted in public or in private. It also includes threats of violence, coercion and manipulation. This can take many forms such as intimate partner violence, sexual violence, child marriage, female genital mutilation and so-called 'honour crimes'. Available at <https://www.unhcr.org/gender-based-violence.html>. Last accessed, 05.10.2021

a person's will and that results from power inequalities based on gender roles⁷. Most global estimates of gender-based violence implicitly refer only to the experiences of cisgender, heterosexually identified women, which often come at the exclusion of transgender and gender non-conforming (transgender) populations. Those who perpetrate violence against Transgender populations often target gender nonconformity, gender expression or identity, and perceived sexual orientation and thus these forms of violence should be considered within broader discussions of GBV. Nascent epidemiologic research suggests a high burden of GBV among transgender populations, with an estimated prevalence that ranges from 7% to 89% among transgender populations and subpopulations. Further, 165 transgender persons have been reported murdered in the United States between 2008 and 2016. GBV is associated with multiple poor health outcomes and has been broadly posited as a component of syndemics, a term used to describe an interaction of diseases with underlying social forces, concomitant with limited prevention and response programs. The interaction of social stigma, inadequate laws, and punitive policies as well as a lack of effective GBV programs limits access to and use of GBV prevention and response programs among transgender populations. This commentary summarizes the current body of research on GBV among transgender populations and highlights areas for future research, intervention, and policy.

As far as the issue of Pakistan is concerned, Human Development Index 2021 ranks Islamic Republic of Pakistan on 154th out of 189 countries and it lies in the category of countries that have Medium human development index. Gender Empowerment Measure ranks the country on 82nd position out of 177 countries.⁸ World Economic Forum ranked Pakistan at 153 out of 156 countries on the global gender gap index in its 2020 Report.

Human Rights Commission of Pakistan (HRCP) registered a rise in complaints of domestic and online violence, indicating the increased vulnerability of women during the pandemic. HRCP recorded 412 cases of honor killing in 2020, involving 148 male and 363 female victims. At least 200 percent of transgender violence cases increased by the year 2020 and were documented across the country.⁹

As far as the constitution of Pakistan is concerned, Article 25 of the 1973 Constitution guarantees equal protection of law to all citizens irrespective of sex and sub-clause 3 of the same article allows the State to make special provisions for the protection of women and children.¹⁰

There are many legislations in Pakistan to protect the women and transgender from violence such as the Zainab Alert response and recovery Act, 2020; Punjab women protection authority act, 2017; Criminal law (amendment) (offenses in the name or pretext of honor) Act, 2016; Criminal law (amendment) (offense of rape) act 2016; Prevention of electronic crimes Act, 2016; Punjab protection of women against violence act, 2016; Punjab family courts (amendment) Act, 2015; Punjab marriage restraint (amendment) Act, 2015; Punjab land revenue amendment Act 2015; Punjab fair representation of women Act, 2014; The Punjab protection against harassment of women at the work place (amendment) act, 2012; The acid control and acid crime prevention Act, 2011; Prevention of anti-women practices act, 2011; The Pakistan transgender persons (protection of rights) act of 2018; and Anti-rape (investigation and trial) Act, 2021.

⁷Wirtz, Andrea L, Tonia C. Poteat, Mannat Malik, and Nancy Glass. "Gender-based violence against transgender people in the United States: a call for research and programming." *Trauma, Violence, & Abuse* 21, no. 2 (2020): 227-241.

⁸Misceiv, Nenand. "United Nations Development Programme, Human Development Report 2020. The Next Frontier Human Development and the Anthropocene." *Journal of Philosophy* 21, no. 1 (61) (2021): 231-235. Human Development Report-2020, United Nations Development Programme (UNDP), New York,

⁹Bhatti, Shaukat Hussain, and Amir Nadeem. "Honor Killing Crimes in Pakistan: A Scenario Analyzed Under Legal and Human Rights Perspective." *State of Human Rights in 2020*, <http://hrcp-web.org/hrcpweb/wp-content/uploads/2021/05/State-of-Human-Rights-in-2020-20210503-KEY-ISSUES.pdf> Last accessed on 13.11.2021

¹⁰ Article 25 of the constitution

The purpose and objective of gender-based violence courts are to enable cases that concern gender-based violence offenses to be prioritized and conducted in a gender-sensitive manner. The gender-based violence Court applies to the victims of gender-based violence; these victims include women, children, and other vulnerable segments of society, this research is especially on the working and functioning of the gender-based violence courts to the extent of women and transgender.

Despite a lot of legislation and the establishment of gender-based violence courts, the issue of gender-based violence could not be reduced because of the lethargic procedure of justice, slow process of trial, approach system, and bribery. This research will critically analyze the role of the Pakistani judiciary in reducing gender-based violence by identifying gaps and lacunas in the delivery of speedy justice.

Research methodology:

The research uses documentary and textual legal analysis to answer the research question. The study predominantly benefits from descriptive and analytical methods of research. To achieve its goals the researcher will consult all types of relevant data such as books, encyclopedias, articles, Reports, Acts and case laws, etc. As legal research ought to be more neutral, objective, and near to positive orientation. Therefore, this research does not apply empirical research design to argue the issue of access to justice. However, empirical data from secondary research will appear throughout the research to highlight the issue of gender-based violence.

Role of Judiciary in resolving the issue of Gender Base Violence in Pakistan

The main objective of the research is to critically analyze the role of the judiciary in resolving the issue of gender-based violence and to analyze support of other institutions like the police, superior judiciary to gender base violence courts. To recommend some suggestions to reform the existing legal and judicial mechanism to reduce gender-based violence cases with respect to women and transgender in Pakistan.

This research will be carried out through Feminist theory which believes equal rights for women in every walk of life. It talks about women empowerment, education and right of expression. This theory advocates against male dominance and talks about safety of women if she turns down male's orders or wants to do something by her own will. It advocates human rights, social security, right to exercise her will independently. Feminism is against all kinds of social stigmas associated with a person on basis of his/her gender and it negates all kinds of subjectivity as well. Feminists demand equal treatment of women in relation to men and constitutional amendments to ensure this as females' right. This will be accomplished through studying the connections between the law and gender as well as applying feminist analysis to concrete areas of law. Feminist theories first emerged as early as 1794 in publications such as *A Vindication of the Rights of Woman* by Mary Wollstonecraft. Another aspect of woman's life that hindered their moral development, according to Wollstonecraft, was that they were socialized to remain in an 'infantile' state.

Constitutional Mandate and Rights Framework of Gender Base Violence Courts in Pakistan.

Access to justice is predicated on the efficacy of the judicial legal institutions and the law. Its foundational premise is certainty of the law that every individual is guaranteed due process, that the law and judicial-legal institution are fair, impartial and neutral, and equally accessible to all.

GBV is a complex issue. It has varied causes, its intersections reinforce the risks of violence, and its consequences are far-reaching. Jean Hampton states, when all women, regardless of their background, fear the threat of male violence (and modify their behavior so as to avoid it), this violence is not some private affair but a societal practice with a point. Where violence against women is common, every woman is victimized by the reality of this practice, insofar as where she lives, what she does, what activities she undertakes, and what her family life is like, are all affected either by the threat of such violence, or by the fact of it.

Yet, men and women are partners, one protecting the other. Men and women, according to the Qur'an, are *awliya*. The term *awliya* means alliance, mutual assistance, and mutual reinforcement. This *wilayah* unites men and women, each as a protector of the other. This vision of men and women protecting one

another fails when one in three women are affected by intimate partner violence. About 58% of all killings of women are committed by their family members. This makes the home the most dangerous place for women and families the most violent of peoples. The first Gender-Based Violence Court (GBV Court) provides an avenue for discharging the duties as awliya, men and women, each protecting one another. The Gender Based Violence Courts are special courts. The set-up of the GBV Court follows closely the procedures and guidelines set out by the Supreme Court under the *Salman Akram Raja v. Government of Punjab*,⁵³ as well as the provisions in the Criminal Procedure Code (CrPC), Pakistan Penal Code 1860 (PPC), and Qanun e-Shahadat Order 1984 (QSO).

The GBV Court adopts appropriate court procedures, efficient case management, and a conducive court environment. These courts are presided by specialized judges who are gender-sensitive and have comprehensive understanding of the various laws and of women's human rights as well as transgender laws. The Gender Based Violence Courts also have specialized prosecutors.

"The Believers, men and women, are protectors; One of another: they enjoin what is just, and forbid what is evil: they observe regular prayers, practice regular charity, and obey God and His Apostle. On them will God pour His mercy: for God Is exalted in power, wise".

At-Tauba 9:71, translation Yusuf Ali

Barriers to Gender Base Violence Victims In Accessing Justice

Pakistan ranks 151st out of 153 countries in terms of gender parity, which is the lowest in the South Asia region. Over the last decade, Pakistan has regressed in all categories determining the global gender gap. Access to justice is thus a far cry. Women continue to have little or no say in decision-making and be culturally denied their fair share of inheritance. Even with recent legislative amendments specifically responding to gender-based violence (GBV), there are still numerous hurdles toward achieving justice for women. Most women are unaware of their rights and those who are aware often lack support or face disapproval from family members in pursuing the justice system. Without family support and financial backing, many victims face serious difficulties in accessing the law. The deep-rooted patriarchal mindsets women have to face at every stage of the legal process are a further obstacle. These barriers start at home and exist throughout the entire justice system. To examine some of the obstacles to women reporting Gender Based Violence cases and accessing justice are as follows, lack of confidence in the police and judicial process, problematic interpretation and implementation of the law, lack of gender understanding, demystifying gender and sex and gender stereotyping, lack of sensitivity to gender based violence, understanding unconscious and implicit bias, risk factors of judges, emotional states and ambiguity, distracted or pressured decision-making circumstances for judges, low effort processing, social barriers which causes delayed reporting or non-reporting, coercion and resiling and fear of retribution, autonomy, mobility, financial Resources, shelter, interim Maintenance and housing etc.

There are certain actions and steps that can be taken immediately, and other short-term, medium-term, and long-term measures that can be implemented subsequently. The Gender Based Violence Courts are set up to make the complainant feel protected and able to speak the truth without fear. Similarly, police stations should provide an environment where the complainant is able to access justice on their own. In the short to medium term, the existing amendments to the PPC and Criminal Procedure Code (CrPC) must be implemented to provide protection for witnesses and shelter for the complainant. In the long run, it is expected that the judicial and prosecutorial training curriculum is reviewed and amended to make it more gender-friendly. The concerned authorities should also be trained regularly.

Gender-Based Violence against Women and Transgender

While both men and women suffer violence, the way they experience violence is vastly different, as is the way violence is experienced by transgender individuals. World Health Organization (WHO) data reveals that 31% of women (or one in every three women) aged 15–49 have been subjected to physical and/or sexual violence from a current or former husband or intimate partner, or sexual violence from a non-partner, or both in their lifetime.¹ Twenty-seven percent of women aged 15–49 who have been in a relationship report that they have experienced violence by their intimate partner.² In South

Asia, this figure has risen to 35%.³ Another study in Asia and the Pacific shows that 58% of all killings of women were committed by family members.⁴ This makes the home the most dangerous place for women.

Similarly, both men and women are killed in the name of ghairat(honor). The Pakistan Human Rights Commission recorded 1,096 female victims and 88 male victims of honor crimes in 2015.⁵ The female victims vastly outnumber the male victims. Similarly, victims of domestic violence, sexual harassment, Swara(giving of girls in marriage to settle disputes), and sexual assault are predominantly women.

In October 2019, the Law and Justice Commission of Pakistan, under the direction of the chairman of the National Judicial (Policy Making) Committee/Law and Justice Commission of Pakistan, issued a circular on a list of cases referred to the Gender-based Violence Courts

Sexual violence (PPC)

- 1 Rape 375 and 376 (1)
- 2 Gang rape 376 (2)
- 3 Rape of a minor 376 (3)
- 4 Rape by police or other official[s] 376 (4)
- 5 Sodomy (male or female and children) 377
- 6 Outrage of modesty and stripping 354 and 354A
- 7 Insulting modesty of women or sexual harassment 509
- 8 Gender-based abduction and kidnapping 362–374
- 9 Kidnapping of women to compel marriage 365B
- 10 Gender-based kidnapping of children under 14 364A
- 11 Gender-based kidnapping of a child under 10 369
- 12 Selling a person for prostitution 371A
- 13 Honor killing 300–302
- 14 Murder (femicide) and attempted murder 300–301, 324
- 15 Hurt resulting in death 315
- 16 All hurt cases 332, 337A to 337Z
- 17 Acid and corrosive substance attack 336B
- 18 Swara/Wanni/Sangchatti(the customary practice of giving of a woman or girl in marriage or otherwise compelling her to enter into marriage in consideration of settling a civil dispute or a criminal liability)310A
- 19 Forced marriage 498B
- 20 Prohibition of marriage with the Holy Qur'an 498C
- 21 Depriving women of inheritance 498A
- 22 Criminal intimidation 506
- A 23 Unauthorized access to, copying, or transmission of system/data 3,4
- 24 Electronic fraud or forgery 11, 12
- 25 Unauthorized use of identity 14
- 26 Unauthorized interception 17
- 27 Offenses against dignity or modesty of natural person/minor 18, 19
- 28 Child pornography 19A
- 29 Transmission of malicious codes 20
- 30 Cyber stalking 21
- 31 Spamming 22
- 32 Spoofing 23

PECA = Prevention of Electronic Crimes Act, 2016; PPC = Pakistan Penal Code 1860.

Note: The above list is not necessarily a closed list.

The federal government, in consultation with the respective chief justices, is required to designate gender-based violence judges to try PECA offenses.

Source: Law and Justice Commission of Pakistan.

GBV against women is a violation of their right to life and the prohibition against torture (see Chapter 5). In the case of *Opuz v Turkey*, the European Court of Human Rights found that further violence against the applicant and her mother was foreseeable given the applicant's ex-husband's past behavior. Prior to killing his mother-in-law, he ran over the two women with a car and stabbed the applicant seven times with a knife. The State's failure to take action in the face of numerous complaints violates:

- Right to life (the applicant's mother who was killed);
- Prohibition of torture and of inhumane and degrading treatment; and
- Prohibition of gender-based discrimination bearing in mind the general passivity of the judicial system and impunity enjoyed by aggressors of GBV in Turkey.

States (and State organs) are accountable for complicity in violence against women and transgender, whenever they fail to provide protection against GBV against women or whenever they create or implement discriminatory laws that may trap women in abusive circumstances. This includes laws that restrict women's right to divorce or to inheritance, or laws that prevent them from gaining custody of their children, receiving financial compensation, or owning a property. They all serve to make women dependent upon men and limit their ability to leave a violent situation.¹¹

In summary, GBV impairs women's and girls' human constitutional rights including the following:

- Right to life (interpreted as not merely alive but living with dignity)
- Right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment
- Right to liberty and security
- Right to equal protection under law
- Right not to be discriminated on the basis of sex
- Right to equality within family
- Right to highest standard attainable in physical and mental health
- Right to education
- Right to just and favorable conditions of work. it is incumbent on the Court to uphold these constitutional rights.

Furthermore, under Article 4 of the Constitution of Pakistan, every person has the inalienable right to enjoy the protection of the law wherever he or she may be. In particular, the Constitution mandates that no action detrimental to the life, liberty, body, reputation, or property of any person shall be taken except in accordance with the law. Article 14, on the other hand, declares that the dignity of a person is inviolable. The Supreme Court in dealing with the joint effect of Articles 4 and 14 declared:

[A woman's] right to dignity under Article 14 of the Constitution is an absolute right and not subject to law. Dignity means human worth: simply put, every person matters. No life is dispensable, disposable or demeanable. Every person has the right to live, and the right to live means right to live with dignity. A person should live as "person" and no less. Human dignity hovers over our laws like a guardian angel; it underlies every norm of a just legal system and provides an ultimate justification for every legal rule. Therefore, [the] right to dignity is the crown of fundamental rights under our Constitution and stands at the top, drawing its strength from all the fundamental rights under our Constitution and yet standing alone and tall, making human worth and humanness of a person a far more fundamental a right than the others, a right that is absolutely non-negotiable.

Manifestations of Gender- Based Violence: Sexual Assault, Acid Attacks, and Online Gender-Based Violence deals specifically with gender-based violence (GBV) committed by family members:

- (i) Domestic violence;
- (ii) Economic violence, including denial of women's inheritance rights;
- (iii) Femicide(killing of women) on the pretext of honor
- (iv) Offenses related to forced marriage of women and girls and what passes off as "marriage" of

¹¹*Opuz v Turkey*, Application No. 33401/02, [2009] ECHR 870.

women and girls.

The ideal family, which serves as a sanctuary for men and women, where they can be safe and cared for, is sometimes wrecked with violence. This must be considered an aberration, and not a norm to be tolerated. It is the aggressors and perpetrators that commit violence who shatters the family, and not the victim of violence. Judges need to heed that stopping violence in the family is necessary to preserve a family's integrity.

It is incumbent on society to protect the weakest among us. Whether shrouded in the name of culture, erroneously justified in the name of religion or lapses in temper, the law is often the last resort to which victims appeal for violence to stop. In order to understand gender-based violence (GBV), it is critical to be cognizant of gender discrimination and gender equality. GBV is a manifestation of gender discrimination and its underlying cause is rooted in gender inequality. Special provisions are required to address GBV.

Interaction with Gender Based Violence Victims during the Criminal Process

This builds on the barriers to women accessing justice. The focus is on three issues:

- (i) What victims experience before the court in their communications with the police and medical personnel (first responders);
- (ii) Victims' need for protection and support;
- (iii) Availability of legal aid.

It explores the practices in Pakistan and international good practices of first responders, and how judicial officials may improve justice outcomes for victims, particularly through timely and effective protection orders.

If there is to be a real change for victims of GBV, first responders and the courts need to have a sound understanding of the complex issues that confront victims in pursuing their cases before the court, and how that can be improved. Judges, prosecutors, the police, medical officers, and lawyers must work together to achieve this. Protection orders are fundamental for women to feel safe to come forward to pursue their case.

Environment Of Gender Based Violence Court

Victims of gender-based violence (GBV) have now reached the court. A new set of challenges await them. Research reveals that women generally describe experiencing indifferent, insensitive, or harsh treatment by the police, prosecutors, and judges, who often minimize or trivialize, and dismiss the violence or blame the victims. Victims equate this to a "second assault" or "second rape," which can be more traumatic than the first." Women feel they are on trial by both the prosecutor and defense counsel. "[They] are rarely allowed to tell their story; the prosecution does not protect their reputation; and the discrediting information put forward by the defense often remains unchallenged." Similar views are expressed by women in Pakistan who were unwilling to pursue trial due to weak judicial procedures, fear of being re-traumatized, and not being given protection.

A combination of the Guidelines and the Practice Notes provides the best practice for courts in improving access to justice for the victims of GBV. Even if a particular province or territory has not formally endorsed them, it does not mean that the processes set out in those two documents cannot be followed. As indicated, they reflect practices and procedures that are already applied under other related laws, and in particular the directions in the Salman Akram Raja case. The Guidelines and Practice Notes do not imply that the court take an inquisitorial approach; it is of course not for the court to run the case. Instead, the court is urged to exercise its proper power to ensure that the processes that take place in the GBV Court are fair for all parties

Evidence And Credibility In Cases Of Gender Based Violence.

It connects interlocking elements affecting gender-based violence (GBV) claims and outcomes. These elements include the myths and stereotypes about women who have been subjected to GBV, negative societal attitudes about GBV claims, deficient evidence gathering, misconceptions about corroboration and virginity testing, and court processes and delays. These interlocking elements lead to high case attrition and offender impunity: Interlocking Elements Affecting Gender-Based Violence Claims and Outcomes.

Negative society attitudes to GBV claims pressure to withdraw Stereotypes and myths about women Justice system delays and court processes. Misconceptions about corroboration and virginity testing Mythwomen make false claims of Gender Based Violence. Stereotypewomen are not credible witnesses. It is extremely important that evidence is gathered in a prompt and efficient manner because thorough and rigorous gathering of evidence is necessary to support the victim's allegations. Evidence which falls short of this standard significantly contributes to low conviction rates. GBV crimes against women are usually perpetrated in private without witnesses. Although circumstantial evidence is obtainable and could be collected, oftentimes it is not. This lack of independent evidence may lead a judge to mistrust and doubt a victim's credibility and consequently, the case cannot be proven beyond a reasonable doubt. Impediments to justice as a result of poor evidence collection are compounded by court delays and fear of court processes allow for the accused to place pressure on the victim and her family. Even if the victim and her family are brave enough to make a complaint and pursue proceedings, they may later resile, resulting in acquittal of the accused. To redress this injustice, a combination of approaches is required starting with the police adopting a sensitive and empathetic approach to evidence collection and policing, and ensuring that a rigorous and timely investigation that obtains evidence and statements is conducted. Efficient gathering of evidence in Gender Based Violence cases, including circumstantial evidence to ensure that appropriate corroborating evidence is available to support the victim's case. It also clarifies that corroborating evidence for rape and GBV is not necessary for proving an accused's guilt if the victim's testimony is sound under evidentiary rules.

It also emphasizes how judges applying the same legal test can arrive at very different outcomes. This is because outcomes are very much contingent on the exercise of judicial discretion which, in turn, is highly dependent on the extent to which a judge may stereotype victims of GBV and witnesses. It is vital for judges to recognize their individual preconceptions and biases to ensure that they are not using stereotypes when applying legal principles.

Further, judges need to ensure that GBV victims are not exposed to character attacks concerning their irrelevant past sexual conduct, such as character attacks that insinuate or alleged 'easy virtue' or the myth that if she has had sex with a man, that she would have also consented to have sex with the accused. Also, virginity testing using a two-finger test is banned because not only is it a traumatic invasion and an affront to the reputation and honour of the rape survivor and violates Article 4(2)(a) of the Constitution but also because it cannot prove whether a girl or woman has had sex. Addressing these issues can have a significant effect on improving the extremely low conviction rates in GBV cases and reducing resiling and attrition

Judgment Writing In Gender Based Violence Cases.

Judgment writing in gender base violence moves from the courtroom to decision-making and sentencing which are two of the hardest jobs for a judge or court to undertake. This is because the decision and sentence must be just and contain reasoning that articulates the court's thought process and explain how the decision was reached. It is a two-part process. Firstly, the court must decide whether the accused is guilty, and secondly, the court must choose what the punishment should be while considering imprisonment and matters of compensation in their decision-making.

After handing down a guilty decision, the court must decide on a sentence which requires a reasoning process that takes into account specific compulsory elements such as the facts of the case, legal principles, and sentencing guidelines. Similar to the court's judgment, the sentence that is handed down must be clear and concise and contain all of the court's reasoning used in reaching its conclusion.

In summary, the language in a judgment provides a powerful way to denounce GBV and empower victims to feel confident and protected in coming forward to make complaints. Judgments should be gender-sensitive and nondiscriminatory. Judgments are highly influential and can change the mindsets and attitudes of those who read them.

Sentencing, Compensation, and Forgiveness In Gender Based Violence Cases.

Holding perpetrators accountable for gender-based violence (GBV) against women is fundamental to the principle of punishment. Accountability creates predictability and certainty, and

mandates that perpetrators will have to answer for violence against women (VAW).¹ Failure to hold perpetrators accountable sends a detrimental message to society that VAW is tolerated. The role of the court is to provide effective judicial remedies to any person whose rights or freedoms are violated. Effective judicial remedies should include both criminal and civil remedies. Resorting to remedies by appealing to the constitutional jurisdiction of the court is always available when there is no efficacious remedy available. At the outset, it is material to add here an observation of the Singh High Court: “domestic violence,’ targeting the weakest of society i.e., women and infirm old (parents), has been increasing abnormally. The aggrieved, normally, resorts to constitutional jurisdiction when there is no efficacious remedy available at [the] doorstep.”

Punishing the perpetrator and doing little else is insufficient in ensuring that the victim can rebuild her life (see section on Reparation below). The State must ensure that the perpetrator is unable to commit further crimes against the victim or society and, in addition, with regard to the victim, the State must ensure that she is safe and protected from further violence and is able to rebuild her life thereafter. The State’s obligation to provide effective judicial remedies serves as a means for citizens to hold States and organs of States accountable. Keeping in mind that the State has this obligation is important especially since the potential infringement comes not only in its misfeasance, but also through a duty-bearer’s failure to act (omission).

Resiling and Attrition Of Witnesses In Gender Based Violence Cases.

Resiling and attrition, their relationship to evidence and credibility, why they occur, and the best ways to reduce them. Regrettably in Pakistan, the most likely outcome of gender-based violence (GBV) cases that manage to reach the District and Sessions Court is acquittal, mostly due to resiling of witnesses. In 2017, there were 7,219 GBV cases decided by courts across Punjab, of which 315 cases resulted in convictions (4.37%) and 6,904 (95.63%) in acquittals. In addition to these cases, there were 5,949 cases consigned to record. Cases consigned to record are cases deemed concluded for reasons other than conviction or acquittal, e.g. cases where the complainant, victim or witnesses had resiled or where the accused could not be found or had absconded. When added to the acquittal numbers, this results in convictions being only 2.39% of the total cases. The highest numbers of those consigned were for rape (1,806) and assault to outrage the modesty of a woman (1,165).

If the police, prosecutors, and judges each take positive steps to better understand stereotypes of female GBV victims and improve their responses to GBV offenses in all aspects of their work, as discussed above, this will promote and enable fair, impartial, and just outcomes for Gender Based Violence victims. If judges and prosecutors take a strong stance on resiling statements, it gives greater credibility to the justice system. It could be seen that they are not prepared to accept manipulation of the court system by litigants and witnesses. Instead of simply accepting the false situation and getting the ideal family, which serves as a sanctuary for men and women, where they can be safe and cared for, is sometimes wrecked with violence. This must be considered an aberration, and not a norm to be tolerated. It is the aggressors and perpetrators that commit violence who shatters the family, and not the victim of violence. Judges need to heed that stopping violence in the family is necessary to preserve a family’s integrity. It is incumbent on society to protect the weakest among us. Whether shrouded in the name of culture, erroneously justified in the name of religion or lapses in temper, the law is often the last resort to which victims appeal for violence to stop.

If there is to be a real change for victims of GBV, first responders and the courts need to have a sound understanding of the complex issues that confront victims in pursuing their cases before the court, and how that can be improved. Judges, prosecutors, the police, medical officers, and lawyers must work together to achieve this. Protection orders are fundamental for women to feel safe to come forward to pursue their case. A combination of the Guidelines and the Practice Notes provides the best practice for courts in improving access to justice for the victims of GBV. Even if a particular province or territory has not formally endorsed them, it does not mean that the processes set out in those two documents cannot be followed. As indicated, they reflect practices and procedures that are already applied under other related laws, and in particular the directions in the Salman Akram Raja case. The Guidelines and Practice Notes

do not imply that the court take an inquisitorial approach; it is of course not for the court to run the case. Instead, the court is urged to exercise its proper power to ensure that the processes that take place in the GBV Court are fair for all parties.

The efficient gathering of evidence in Gender Based Violence cases, including circumstantial evidence to ensure that appropriate corroborating evidence available to support the victim's case. It also clarifies that corroborating evidence for rape and GBV is not necessary for proving an accused's guilt if the victim's testimony is sound under evidentiary rules. This also emphasizes how judges applying the same legal test can arrive at very different outcomes. This is because outcomes are very much contingent on the exercise of judicial discretion which, in turn, is highly dependent on the extent to which a judge may stereotype victims of GBV and witnesses. It is vital for judges to recognize their individual preconceptions and biases to ensure that they are not using stereotypes when applying legal principles. Further, judges need to ensure that GBV victims are not exposed to character attacks concerning their irrelevant past sexual conduct, such as character attacks that insinuate or alleged 'easy virtue' or the myth that if she has had sex with a man, that she would have also consented to have sex with the accused. Also, virginity testing using a two-finger test is banned because not only is it a traumatic invasion and "an affront to the reputation and honour of the rape survivor and violates Article 4(2)(a) of the Constitution" but also because it cannot prove whether a girl or woman has had sex. Addressing these issues can have a significant effect on improving the extremely low conviction rates in GBV cases and reducing resiling and attrition.

In summary, the language in a judgment provides a powerful way to denounce GBV and empower victims to feel confident and protected in coming forward to make complaints. Judgments should be gender-sensitive and nondiscriminatory. Judgments are highly influential and can change the mindsets and attitudes of those who read them.

Sentencing, Compensation, and Forgiveness In Gender Based Violence Cases.

Holding perpetrators accountable for gender-based violence (GBV) against women is fundamental to the principle of punishment. Accountability creates predictability and certainty, and mandates that perpetrators will have to answer for violence against women (VAW).¹ Failure to hold perpetrators accountable sends a detrimental message to society that VAW is tolerated. The role of the court is to provide effective judicial remedies to any person whose rights or freedoms are violated. Effective judicial remedies should include both criminal and civil remedies. Resorting to remedies by appealing to the constitutional jurisdiction of the court is always available when there is no efficacious remedy available. At the outset, it is material to add here an observation of the Singh High Court: "domestic violence," targeting the weakest of society i.e., women and infirm old (parents), has been increasing abnormally. The aggrieved, normally, resorts to constitutional jurisdiction when there is no efficacious remedy available at [the] doorstep." ² Punishing the perpetrator and doing little else is insufficient in ensuring that the victim can rebuild her life (see section on Reparation below). The State must ensure that the perpetrator is unable to commit further crimes against the victim or society and, in addition, with regard to the victim, the State must ensure that she is safe and protected from further violence and is able to rebuild her life thereafter. The State's obligation to provide effective judicial remedies serves as a means for citizens to hold States and organs of States accountable. Keeping in mind that the State has this obligation is important especially since the potential infringement comes not only in its misfeasance, but also through a duty-bearer's failure to act (omission).

Institutional Practices, Evaluation, and Monitoring In Gender Based Violence Cases.

Addressing gender-based violence (GBV) is not confined solely to the courtroom. To thoroughly address GBV, the justice system must cooperate as a collective unit so that courts, the police, and the prosecution are united to work together to eliminate GBV in Pakistan. The justice system must also collaborate and work with civil society and organizations that provide legal aid, medical and psychological services, counselling, and shelters to victims. As outlined in earlier chapters, the State has the overriding duty to investigate human rights violations, and GBV is a serious violation of human rights. Investigation of complaints needs to be without delay, thorough, impartial, and effective. The State

needs to ensure that police and medical service providers have the requisite resources, and are sufficiently trained in collecting necessary evidence to facilitate and secure successful prosecutions.

In addition, it is essential that courts have sufficient resources to efficiently deal with cases and receive training on gender-sensitive approaches to interacting with victims who bring their cases to court. These three agencies—the court, the police, and the prosecution—need to take proactive and effective action to investigate GBV cases, provide protection to GBV victims, and punish any false practices that subvert the justice system.

When considering the effectiveness of the court system, often it comes down to the effectiveness of individual courts. For example, some of the best practices are honed by individual judges within a district who are committed to achieving better outcomes for victims of GBV who come before them. GBV best practices within these institutions require champions within the court to drive improvements to address GBV. These practices should also be shared between judges during training programs or through publications contributed to by judges and shared among them. Similarly, these approaches should be adopted by the prosecution agency and the police. Champions are also needed within each of the agencies to help drive change together and significantly improve safety and support for GBV victims to successfully pursue their rights in court.

For a deep understanding of the issue, the researcher has consulted judgments of the higher courts of the relevant cases like ‘Tayyaba Bibi’s case (PLD 2020 SC 146); Zainab Bibi’s case (2018 SCMR 1372); Salman Akram Raja’s case (2013 S C M R 203); Abdul Zahir’s case (2000 SCMR 4067); Muhammad Akram Khan’s case (PLD 2001 SC 96); Muhammad Ali’s case (1999 SCMR 2781); Muhammad Ameer’s case (PLD 2006 SC 283); Mst. Noor Jahan’s case (2016 S C MR 986); Khurshid Bibi’s case (PLD 1967 SC 97); Rahimullah’s case (1974 SCMR 305); Ghulam Ali’s case (PLD 1990 SC 1); Rafique Bibi’s case (2006 SCMR 512); Shirn Munir’s case (PLD 1990 SC 295); Fahimuddin’s case (PLD 1991 SC 1074); Ghulam Farid’s case (2016 S C M R 862) & Fazal Jan’s case (PLD 1992 SC 811); Inquilabi Labour Party’s case (NLR 1993 SCJ 397); Hafiz Abdul Waheed’s case (PLD 2004 SC 219); Umer Din’s case (2017 Y L R Note 378); Kausar Bibi’s case (2017 C L C 1601); Irfan Ali Sher VS. The State (Petition No.324/2019) Supreme Court of Pakistan; Sadaf Aziz Vs. Federation of Pakistan (2021 PCrLJ 205); National Commission on Status of Women Vs. Govt. of Pakistan through Secretary Law & Justice (2019 PLD 218 Supreme Court); Asif Saleem Vs. Chairman BOG University of Lahore (2019 PLD 407) Honorable Lahore High Court; Muhammad Javed Vs. State (2012 YLR 695) Federal Shariat Court; Zarmeen Abid Vs National Database and registration authority, Islamabad (2022 PLD 39 LAHORE-HIGH-COURT-LAHORE); Fazal Dayan VS State (2021 YLRN 106 PESHAWAR-HIGH-COURT); Faiz Ullah Vs Punjab Public Service Commission (2021 PLC(CS) 1091 LAHORE-HIGH-COURT-LAHORE); Ghulam Mustafa Vs Judge Family Court (2021 CLC 204 LAHORE-HIGH-COURT-LAHORE); Mian Asia Vs Federation Of Pakistan through Secretary Finance (2018 PLD 54 LAHORE-HIGH-COURT-LAHORE); Khaki Vs. Rawalpindi Supreme Court of Pakistan (2009) PLD 2013 SC 188 etc.

Moreover, the researcher studied a number of articles, books and reports on the topic and found the following material relevant to the topic. Kidwai, Rubeena, in her dissertation ‘Domestic violence in Pakistan: The role of patriarchy, gender roles, the culture of honor and objectification/commodification of women’¹¹, (Alliant International University, Los Angeles, 2001) utilized Galtung’s (1990) theory of cultural violence to address cultural factors that may be related to domestic violence and wife abuse in Pakistan. It discusses the role of patriarchy, gender role ideologies, culture of honor, and sexual objectification and commodification in domestic violence, as proposed by western theory and research. These concepts are then expanded and applied to the Pakistani culture in order to understand domestic violence and wife abuse in Pakistan.

"Woman Changing Woman: Feminine Psychology Re-Conceived through Myth and Experience Paperback, July 1, 1993 By Virginia Beane Rutter "Offering a compelling vision of psychotherapy as a sacred space for women's rites of passage, Jungian analyst Virginia Beane Rutter brilliantly illuminates the emotional lives of women." Woman-to-woman therapy," writes Beane Rutter,

"is the ritual container for the lost feminine in our culture." Modeling on intrinsically female pattern of change, woman-to-woman therapy is a process involving stages of containment, transformation, and emergence. It is a place for a woman to uncover and make conscious the motivating stories and myths in her individual psyche. Here, a woman has the opportunity to listen to her own voice perhaps for the first time. Feminist theory which believes equal rights for women in every walk of life. It talks about women empowerment, education and right of expression. This theory advocates against males dominancy and talks about safety of women in all over the world¹². International Center for Research on Women in 2004 published a report titled, "Violence 10. Against Women in India, A review of trends, patterns and responses"¹² quoted South Asia as the most gender sensitive region in the world where 44 percent of world's illiterate females reside and are being sold for sex bondage by their families. The report presented bleak picture of domestic and general violence against women in India stating that 21 percent women face violence at the age of 15 and 9 out of 10 has been beaten by husbands.

B. R. Sharma and Manisha Gupta in their article "Gender Based Violence in India: A Never-ending Phenomenon" published by Journal of International Women's Studies, Volume 6, Issue 1 on Nov-2004¹³ presented a grim picture about gender-based violence across India. The article recorded steep rise in torture against women as high as 278% increase during the period of ten years (from 1989-99), rape incidents increased by 69% in the same period and molestation by 24%. Sexual harassment recorded a consistent growth of 86% during the period 1995 to 1999.

Sarah Bott, Andrew Morrison and Mary Ellsberg in their paper, "Preventing And Responding To Gender-Based Violence In Middle And Low-Income Countries: A Multi Sectoral Literature Review And Analysis World Bank Policy Research Working Paper 3618, June 2005"¹⁴ outlined reasons, outcomes and factors as well as consequences of Gender based violence but the work misses specific details with reference to Pakistan and India. Though, authors mentioned 'Justice' as the first recommendation and governmental pressure to pursue the case.

Preventing and Responding To Gender-Based Violence in Middle and Low-Income Countries: A Multi Sectoral Literature Review and Analysis World Bank Policy Research Working Paper 3618, JUNE 2005¹⁵. Worldwide, patterns of violence against women differ markedly from violence against men. For example, women are more likely than men to be sexually assaulted or killed by someone they know. The United Nations has defined violence against women as "gender-based" violence, to acknowledge that such violence is rooted in gender inequality and is often tolerated and condoned by laws, institutions, and community norms. Violence against women is not only a profound violation of human rights. Mona Mehta and ChitraGopalakrishnan in article "We Can': transforming power in relationships in South Asia", published by Oxfam GB in 2007¹⁶ wrote about the victimizing women in Indian society. It is said that one in every two women in South Asia faces violence in her home. One out of five married women experience domestic violence In India and in Pakistan.

Perspectives on domestic violence: case study from Karachi, Pakistan, WHO Report, EMHJ - Eastern Mediterranean Health Journal, 2008¹⁷. There is no adequate profile of domestic violence in Pakistan although this issue is frequently highlighted by the media. This case study used qualitative and

¹²National Research Council. Advancing the federal research agenda on violence against women. National Academies Press, 2004

¹³B. R. Sharma and Manisha Gupta in their article "Gender Based Violence in India: A Never-ending Phenomenon" published by Journal of International Women's Studies, Volume 6, Issue 1 on Nov-2004.

¹⁴Preventing And Responding To Gender-Based Violence In Middle And Low-Income Countries: A Multi Sectoral Literature Review And Analysis World Bank Policy Research Working Paper 3618, June 2005.

¹⁵Bott, Sarah, Andrew Morrison, and Mary Ellsberg. "Preventing and responding to gender-based violence in middle and low-income countries: a global review and analysis." (2005).

¹⁶ Mona Mehta and ChitraGopalakrishnan in article "We Can': transforming power in relationships in South Asia", published by Oxfam GB in 2007.

¹⁷Rabbani, Fauzia, F. Qureshi, and Narjis Rizvi. "Perspectives on domestic violence: case study from Karachi, Pakistan." EMHJ-Eastern Mediterranean Health Journal, 14 (2), 415-426, 2008 (2008).

quantitative methods to explore the nature and forms of domestic violence, circumstances, impact and coping mechanisms amongst selected women victims in Karachi. Violence was a continuum: all the women reported verbal abuse, often escalating into physical, emotional, sexual and economic abuse. The husband was the most common perpetrator. Women suffered in silence due to sociocultural norms, misinterpretation of religious beliefs, subordinate status, economic dependence and lack of legal redress. Besides short-term local measures, public policy informed by correct interpretation of religion can bring about a change in prevailing societal norms.

James Brandon and Salam Hafez in article "Crimes of the Community Honour-based violence in the UK, Published by Centre for Social Cohesion, 2008 Pagination(London)"¹⁹ described honor, killing in the name of honor, forced marriage and abuses after it, female genital mutilation in different societies of the world and factors that lead to failure in changing the existing customary laws. This book has not given any details about violence happening outside these domains nor its talk about violence against children or other groups like trans-genders.

International Gay and Lesbian Human Rights Commission in its 2008 report²⁰¹⁸ through a case study narrated human rights abuses and violence against Transgender community only across Pakistan and India. Though, the report recommended Pakistani and Indian authorities to protect and promote the right of all women but this can't sum up the whole subject with a much wider scope.

Jennifer R. Wies and Hillary J. Haldane in their book "Anthropology at the Front Lines of Gender-Based Violence Published by Vanderbilt University Press in the Year 2011"²¹ comprehensively wrote about the gender-based violence is a broad and accessible volume, with a truly global approach to understanding the lives of front-line workers in women's shelters, anti-violence organizations, and outreach groups. Often written from a first-person perspective, these essays examine government workers, volunteers, and nongovernmental organization employees to present a vital picture of practical approaches to combating gender-based violence and various institutions working against it in different parts of world but it offers limited knowledge about Pakistan and India its criminal procedures in gender based violence cases.

Gender-based explosions (the nexus between Muslim masculinities, jihadist Islamism and terrorism)" by Maleeha Aslam-2012²². First colonized and now living under political oppression, experiencing marginalization and feeling dejection and humiliation, many Muslim men in and outside Muslim countries have no opportunities to prove themselves as "honorable" or practice "masculinity" inculturally prescribed ways. Troubled and troublesome, many turn to militant jihadist networks to achieve self-actualization and heroism. Terrorist networks, acting as surrogates to national liberation and antiauthoritarian movements, further complicate these dynamics. Maleeha Aslam argues that gender is a fundamental battleground on which al Qaeda, the Taliban, and their types must be defeated. Issues of regressive radicalism, literalism, and terrorism can only be solved through people-centered interventions. Therefore, governments and civil society should promote an alternative culture of growth, self-expression, and actualization for Muslim men. To achieve sustainable counterterrorism results, Aslam recommends emphasizing masculine behavior within the context of Muslim tradition and expanding the scope of required interventions beyond those confined to Islam. The book also includes empirical data from a pilot study conducted on Pakistani Muslim masculinities

John Simister in his book "Gender Based Violence: Causes and Remedies (Family Issues in the 21st Century: Social Issues, Justice and Status) Hardcover by Nova Science Publisher May 25, 2012"²³¹⁹. This book analyses domestic violence against women, inflicted by the woman's husband or cohabiting partner. The main focus is on physical violence and sexual and emotional violence is also discussed. The term used to describe such violence is "Gender Based Violence". Gender Based Violence is a problem in every country; in the world as a whole, there may be over a billion women who have experienced

¹⁸Wibowo, Anggie Brosasmita. "IGLHRC (International Gay and Lesbian Human Rights Commission): Perjuangan Gay Rights Movement Mencapai Kesetaraan HAM di Filipina." PhD diss., Universitas Gadjah Mada, 2014

¹⁹Simister, John. Gender based violence: causes and remedies. Nova Science Publishers, Incorporated, 2012.

domestic violence from their husband or male partner. For many women, such violence is a regular occurrence, and is seen as normal by many women and men. This book uses scientific data collected by household surveys, and from crime statistics; it investigates not only the prevalence of violence, but also attitudes to such violence the extent to which a woman, and/or her partner, consider domestic violence against women to be acceptable or even appropriate in certain circumstances .provided statistical data of many countries where Gender based violence happened between 1999 to 2003 period, unfortunately, it is lacking Pakistan's data. The book largely focuses on the violence against women and suggests remedies to culminate only this part of violence.

Ligia Kiss and others in their paper, 'Gender-Based Violence and Socioeconomic Inequalities: Does Living In More Deprived Neighborhoods Increase Women's Risk Of Intimate Partner Violence? Department Of Global Health and Development, London School Of Hygiene 14and Tropical Medicine, 36 Gordon Square, London and Department Of Preventive Medicine, Medical School, University Of Sao Paulo, Sao Paulo, Brazil-2012'²⁰ discussed the consequences of violence unleashed upon women living in low level areas narrowing down the wide scope of gender-based violence. This research is based upon the data collected from neighborhoods of Brazil's capital city, Sao Paulo and data mining was done by the researchers only from the women of one community i.e. women living in neighborhoods.

Gill Allowed in his book explores theories of masculinity emerging from French feminist theories of gender and from French feminist practice concerning violence towards women, highlighting both the commonalities and the specificities of the French case²⁵. She discusses the particular concern of French theorists with seduction, their rejection of the term "gender" and the centrality of the difference debate. In the first part of the book, Allowed separately examines feminist theories of gender and sexual difference and the problem of male violence. She goes on to consider the developments which are taking place on the borderline between the two, examining the way in which these developments have contributed to an understanding of masculinity. Readdressing problems and debates that will be familiar to English-speaking readers, the text exposes cultural differences and similarities in the ways in which these problems are approached and it provides a detailed account of the changes in both feminist action and theory in France in recent years.; This analysis of feminism in France should be of interest to student and scholars in French studies, European studies, gender studies and cultural studies.

PakeezaShahzadi, 'Domestic violence laws and practices in Pakistan', VFAST Transactions on Education and Social Sciences, Volume 3, Number 1, January-December, 2015²⁶. The fundamental values of a country are reflected in its legal system that is encompassing the normative and social structure. The comprehensive legal structure in Pakistan treats domestic 15violence by taking into consideration two most important components, i.e. the constitutional law and the legal frame work designed in the light of implementation of Shariah principles. In this Article, the legal treatment of domestic violence in Pakistan is examined to conjecture about the attitudes of variant mind-set to gender issues under the law in Muslim societies. The response to domestic violence is articulated in the values infused in constitution or law making or while devising fundamental values promulgated in the implementation of shariah. The legislation must be based on the foundations of Shariah's philosophy in Pakistan to demonstrate that implementing shariah Laws as per social change will promote awareness of women rights in the country.

²⁰Kiss, Ligia, Lilia BlimaSchraiber, Lori Heise, Cathy Zimmerman, Nelson Gouveia, and Charlotte Watts. "Gender-based violence and socioeconomic inequalities: Does living in more deprived neighbourhoods increase women's risk of intimate partner violence?" *Social science & medicine* 74, no. 8 (2012): 1172-1179. ²⁵Allwood, Gill. *French feminisms: Gender and violence in contemporary theory*. Rout ledge, 2012.

Yanyi K. Djamba and Sitawa R. Kimuna in their book "Gender-Based Violence Perspectives from Africa, the Middle East, and India 2015th Edition, Kindle Edition"²¹ wrote extensively about the case and plight of women in different parts of the world including Ethiopia, Cameroon, South Africa, Middle East and India. Authors narrated factors, risks, health factors as well as domestic and political violence. This book talks about spousal violence and its generation to generation transmission in India as well but it did not state about the situation in Pakistan.

Faith-Based Violence and Deobandi Militancy In Pakistan" By Jawad Syed, Edwina Pio, Tahir Kamran, Abbas Zaidi – 2016²². "This book is a landmark in scholarship on Islam, Pakistan and militancy. It will provide necessary insights into the genesis of violence in the name of religion and sect which scholars, ordinary readers and decision-makers can use to understand why Pakistan's name is often in the headlines for the wrong reasons." Abbas Zaidi has worked as a journalist and teacher in Pakistan, Brunei Darussalam and Australia. He is based in Sydney, where he tutors in media studies and academic writing at various universities.

Abrar-ul-haq and others in their papers, "Domestic Violence against Women: Empirical Evidence from Pakistan"²³ told an empirical story of Pakistani women's plight as a subject of violence. They presented their case with up to date data collected from authentic and credible sources. But, the research has not mentioned about the courts established to eliminate this menace from the country. Furthermore, Authors only talked about violence against women and pleaded their case on basis of the rights granted to women by Islam and stance of feminists in this regard. Navpreet Kaur and Roger W. Byard in their article "Bride burning: A unique and ongoing form of gender-based violence" published in October 2020²⁴ by Journal of Forensic and Legal Medicine wrote extensively about dowry-related biases and violence against women in India. The article states that some 7634 women died due to dowry harassment in 2015 only which makes approximately 21 cases per day in India and it counts fire burning as one of the major death causes in these cases. However, the researcher could not find any book which addressed the issue from the perspective of the role of the judiciary in resolving the issue of gender-based violence in Pakistan, hence, this research is unique in its nature and will be a useful document to help out judiciary lawmakers to reform the existing legal and judicial system to reduce gender based violence in Pakistan. Fundamentally, the research will investigate the role of the judiciary in resolving the issue of gender-based violence, especially with reference to women and transgender in Pakistan. Among others are:

1. Are the laws dealing with the issue of gender-based violence quite enough to eliminate gender based violence in Pakistan?
2. Whether or not the judiciary is playing an effective role in resolving the issue of gender-based violence?
3. What are the interpretative trends in the substantial laws related to gender-based violence?
4. What are the major hurdles in the way of speedy trial and access to justice for the victim of gender-based violence?
5. How and under what mechanism the existing legal and judicial system be reformed to overcome the issue of gender-based violence in Pakistan?

²¹Djamba, Yanyi K., and Sitawa R. Kimuna, eds. *Gender-Based Violence: Perspectives from Africa, the Middle East, and India*. Springer, 2015.

²²Syed, Jawad, Edwina Pio, Tahir Kamran, and Abbas Zaidi, eds. *Faith-based violence and Deobandi militancy in Pakistan*. Basingstoke: Palgrave Macmillan, 2016.

²³Ashraf, S., M. Abrar-ul-Haq, and S. Ashraf. "Domestic violence against women: Empirical evidence from Pakistan." *Pertanika Journal of Social Sciences & Humanities* 25, no. 3 (2017): 1401-1418.

²⁴Kaur, Navpreet, and Roger W. Byard. "Bride burning: A unique and ongoing form of gender-based violence." *Journal of forensic and legal medicine* 75 (2020).

There are certain actions and steps that can be taken immediately, and other short-term, medium-term, and long-term measures that can be implemented subsequently. The Gender Based Violence Courts are set up to make the complainant feel protected and able to speak the truth without fear. Similarly, police stations should provide an environment where the complainant is able to access justice on their own. In the short to medium term, the existing amendments to the PPC and Criminal Procedure Code (CrPC) and Anti rape Act must be implemented to provide protection for witnesses and shelter for the complainant. In the long run, it is expected that the judicial and prosecutorial training curriculum is reviewed and amended to make it more gender-friendly. The concerned authorities should also be trained regularly.

Conclusion

This research is unique in its nature and will be a useful document to help out judiciary, lawmakers to reform the existing legal and judicial system to reduce gender based violence in Pakistan. This research will discuss the role of gender-based violence courts along with their purposes to explore result-oriented progress of the Courts in light of existing jurisprudential principles and laws related to gender-based violence cases and objectives. A critical evaluation of the role of the Pakistani Judiciary in matters relating to gender-based violence regarding women and transgender is very logical research and utmost intellectual effort to discover dispensation of justice to the general public through effective laws. The role of gender-based violence courts is a subject that needs to be studied thoroughly to understand public safety through constitutional guarantees and gender-based violence laws. This study has also analyzed role of gender-based violence courts and its working methodology as well as their impacts on the legal and social system of Pakistan and facilitate a better understanding of Court's work related to Gender-based violence cases by highlighting the significance, and characteristics, and wisdom behind certain decisions. It will increase society's confidence on the progress of the Courts.

The study has highlighted the issues faced by the transgender community in Pakistan as multifaceted and are all rooted in the social exclusion of the community from mainstream Pakistani society. The study has concluded with policy and advocacy recommendations for the government and CSOs respectively. Policies and laws addressing "minorities" should be inclusive of gender and sexual minorities. Laws on physical assault and sexual violence should provide coverage to the transgender community; not just men and women. The offence of damaging hair, titled as "Arsh" under the Pakistan Penal Code, needs to be put to use in cases of head shaving of transgender women. Ambiguity over the third gender should be removed. Traditional modes of income for the transgender community should be decriminalized; this would reduce exploitation and ensure legal recourse in cases of economic injustice. Pakistan's feminist movement and women's rights bodies like NCSW should take up issues of transgender persons. Social empowerment of the transgender community will automatically impact their issues positively, and hence needs to be supported. Political will and commitment for ensuring rights for transgender persons needs to be sought. Healthcare provision for transgender persons, and for transgender specific issues, needs to be ensured; along with proper training of medical professionals. Law enforcement agencies need to be sensitized and trained effectively to deal with issues faced by transgender persons, and assist them in finding a legal recourse.

GBV is a complex issue. It has varied causes, its intersections reinforce the risks of violence, and its consequences are far-reaching. Jean Hampton states, When all women, regardless of their background, fear the threat of male violence (and modify their behavior so as to avoid it), this violence is not some private affair but a societal practice with a point. Where violence against women is common, every woman is victimized by the reality of this practice, insofar as where she lives, what she does, what activities she undertakes, and what her family life is like, are all affected either by the threat of such violence, or by the fact of it.²⁵

The GBV Court adopts appropriate court procedures, efficient case management, and a conducive court environment. These courts are presided by specialized judges who are gender-sensitive and have

²⁵Hampton, Jean. "Punishment, feminism, and political identity: A case study in the expressive meaning of the law." In *Gender and Justice*, pp. 455-477. Routledge, 2017.

comprehensive understanding of the various laws and of women's human rights. The GBV Courts also have specialized prosecutors.

Credit Author Statements.

Saima Waheed :As Ph.D Scholar collected the data,analysed, did writing and developedMethodology.

Dr.Naseem Razi: As a supervisor, supervised the whole work and did necessary changes and give suggestion during the whole research.

Compliance with ethical standards.

It is declared that all authors don't have any conflict of interest. Furthermore, informed consent was obtained from all individual participants included in the study

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