

United Nations  Nations Unies

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**United Nations Division for the Advancement of Women  
United Nations Economic Commission for Africa**

**Expert Group Meeting on good practices in legislation  
to address harmful practices against women**

United Nations Conference Centre  
Addis Ababa, Ethiopia  
25 to 28 May 2009

**GOOD PRACTICES IN LEGISLATION TO ADDRESS  
HARMFUL PRACTICES AGAINST WOMEN IN PAKISTAN**

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\* *The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.*

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Violence against women is a manifestation of historical unequal power relations between men and women, leading to the crucial social mechanism by which women are forced in to a subordinate position compared with men. Violence plays a major role in keeping women resource less, suppressed and economically exploited. A psychologist describes it as "a pattern of behavior in which one intimate partner uses physical violence, coercion, threats, intimidation, isolation and emotional, sexual or economic abuse to control and change the behavior of the other partner."

***“Violence against women and girls continues unabated in every continent, country and culture. It takes a devastating toll on women’s lives, on their families, and on society as a whole. Most societies prohibit such violence — yet the reality is that too often, it is covered up or tacitly condoned.” UN Secretary-General Ban Ki-Moon, 8 March 2007.***

***“No action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law” (Article 4 of the Constitution). “No person shall be deprived of life or liberty saves in accordance with law”, Article 9 of the constitution. [1]***

***“In a society where women are seen to be the embodiment of family honor they are often the first to pay the price of others suspicions, false accusations and for exercising their rights guaranteed under the constitution and international human rights law, to “freely to choose a spouse and to enter into marriage only with their free and full consent” CEDAW Article 16, clause 1 (b).***

I will try to elaborate the effectiveness of Legislation enacted to address harmful practices and the analysis of legal approach and reforms undertaken over time and reasons for such reforms. In Pakistan relatively the enacted laws against the alarming issue of violence are very recent; this is the reason that the effectiveness of those particular legal frame works or provisions cannot really be determined.

At this point, we should be mindful of the fact that religion has been central to all political discourses in Pakistan, and that is why, governments focused religion for public policy formulation. Pakistani laws could be broadly grouped in to three categories or classes- (1) Constitutional law based upon the basic concept of state which has been explained in “Objective Resolution” i.e. Sharia (religion), (2) Parliamentary enactments express the will of people and parliamentary legislative process caters the concerns and aspirations of people through their duly elected representatives, (3) Subordinate rules and regulations define the provisions of enacted laws and devise procedures for their effective enforcement and implementation.

Most of the time, rules and procedures are to be developed by respective ministries and administrative division, which due to their apathy towards essence of proposed law cannot understand its true spirit and hence the real purpose of enactment is forgotten.

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<sup>1</sup> Constitution of the Islamic republic Of Pakistan, 1973

**Background....**

It is estimated that as many as 80% of women in Pakistan experience domestic violence, ranging from beatings, to sexual violence or torture, to broken bones and very serious injury caused by pouring of acid or burning the victim alive. The victims of these abuses are trapped in a society where beatings from a male family member are acceptable and where independence and divorce are taboo. Often, these victims are trapped in a vicious cycle whereby they are abused twice over – once by their spouses and then by the very people they turn to for help – including policemen, judges and even mullahs (religious persons). In many instances, violence against a woman is used as a tool by the abuser to drive the victim to commit suicide. In other instances, accidents are engineered – typically by the tampering of a kitchen stove and its resulting explosion when used – to cause a victim's death. In hundreds of cases, petrol is poured over the victim and she is set ablaze, and claims to be yet another accident or suicide with plenty of family members ready to vouch as witnesses.

**Dilemma of Access to Justice ...**

It is again a dilemma with the women victims of violence, have virtually no access to judicial protection and redress. Very Seldom, one of the thousand women attempts to seek justice suffers mutilation—her nose, ears and hair are cut-off by angry revengeful husbands and lovers.

**A Patriarchal system in a patriarchal society...**

Unfortunately like many other under developed countries, criminal justice system does not consider domestic violence matter for the criminal courts. Domestic violence is routinely dismissed by law enforcement authorities as a 'private dispute' and female victims who attempt to register a police complaint of spousal or familial physical abuse are invariably turned away. Worse, they are regularly advised and sometimes pressurized by police to reconcile with their abusive spouses or relatives. Somehow, if a victim of violence succeeds to register her complaint even then the institutionalized gender bias blocks her way to get justice. Most often, the culprit is honorably acquitted of the charge for numerous lacunas in the justice and procedural system, though absolute victim! Still she is disbelieved and treated with disrespect by her own.

The state's accommodation of orthodoxy, whose agenda involves the control of women's autonomy and in particular women's subjugation within the family, has resulted in its continued resistance to challenging personal laws. Thus blatant and pervasive inequalities have been entrenched in the arena in which most women's lives are spent.

**History of preventive legislation in Pakistan:**

Since the creation of Pakistan several laws were enacted to counter violence and discrimination against women. The new country inherited some good pieces of law from the British i.e. Child Marriage Restraint Act, 1929 and Dissolution of Muslim Marriage Act, 1939. It was for the first time during 60s and 70s that several laws were enacted to end violence against women and some reforms were introduced in the conservative Muslim country founded in the name of religion i.e. the Muslim Family Laws Ordinance, 1961,<sup>[2]</sup> and the Family Courts Act, 1964.

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<sup>2</sup> The Muslim Family Laws Ordinance of 1961, restricted polygamy and provided more rights and protection for women. ....Section 4 of the Ordinance, after reinterpreting the tradition based on the Quran, had laid down that orphaned grandchildren may receive share from the property of their grand-parents. Section 5 had laid down that a Nikah be registered with the union council to be legally valid. Section 6 had laid down that no married man contract a second marriage without the

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The Constitution of Pakistan, 1973 went a step further to promote equality and end discrimination against women followed by the dark era of General Zia, who by every mean nabbed all reformative and preventive efforts and positive changes previously achieved. General Zia not only mutilated the Constitution of 1973, but also introduced the most infamous Hudood Laws, which have been misused against the women throughout.

The Hudood ordinance introduced in 1979 by General Zia-Ul-Haq during a campaign of Islamisation, made it almost impossible for a rapist in Pakistan to be prosecuted. The law stated that in order for a case to be considered rape, either the rapist had to admit committing the act or four male witnesses needed to testify. As this was seldom the case, the victims of rape were often accused and they themselves prosecuted for adultery (Zina, in Urdu).

In a country where sexual crimes are used as revenge and for settling disputes, where she represents family honor these Islamic laws were used against her. The sensitive nature of the sexual crimes and the social mindset surrounding them scored particularly grave consequences for its victims who were unable to get justice due to the flawed enforcement system. The net result of the introduction of Hudood laws was that a big number of women were detained in jails waiting for trails as the offence of Zina (adultery), which was non-bailable.<sup>[3]</sup>

#### **The ‘Protection of Women (Criminal Laws Amendment) Act, 2006**

Promulgated in 2006, omits 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, CrPC and the ‘Dissolution of Muslim Marriages Act 1939. Such provisions include those dealing with Zina Bil jabber (rape) kidnapping, 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. In short, the ordinance is now only about adultery (Section 5) while all other sexual offences are now part of PPC. At the same time a new section has been inserted in the CrPC (Criminal Procedure Code, 1898) according to which a complaint of Zina can only be lodged in the court of Session Judge, at the same time 4 witnesses in collaboration to be produced who testify seeing to the occurrence. This Act removes rape as a crime under the Ordinance and makes it an offence under S.375, 376 PPC <sup>[4]</sup> punishable with death and life imprisonment.

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permission of Arbitration Council which shall ensure that the man had good grounds for second marriage and had obtained his first wife's permission to do so. Section 7 had laid down that a divorcing husband shall send notice of divorce to the union council and supply a copy of it to the divorcee wife, after which an arbitration council would try for reconciliation between the two parties. Section 12 had banned child marriage and set a minimum age for the marriage of boys (18 years) and girls (14 years), although marriage ability is still adjudged many different ways in Pakistan. Family Courts Act, 1964 provides that the Family Courts established under Section -3- shall have exclusive jurisdiction to entertain, hear and adjudicate upon matters specified as (1) Dissolution of marriage, including “Khula” (2) Dower (3) maintenance (4) Restitution of Conjugal Rights (5) Custody of children, and their visitation rights (6) Guardianship (7) Jactitation of marriage (8) Dowry (9) Personal property and belongings of wife. More over a woman married under Muslim Law is entitled to obtain a decree for dissolution of her marriage

<sup>3</sup> Under criminal law a bailable offence is one where bail is granted as a right on the other hand a non-bailable is one where bail is not granted ordinarily except under certain conditions available in section 497 CrPC.

<sup>4</sup> Section 376 PPC added through Protection of Women (Criminal Law Amendment) Act 2006 ‘ Provides Punishment for Rape, (1) whoever commits rape shall be punished with death or imprisonment of either description for a term which shall not be less than 10 years or more than 25 years and shall also be liable to fine. (2) when rape is committed by two or more

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The ugly practice of converting Rape to Zina when rape is not proven has been abolished by a new section

(S. 5-A) [5] has been added in Ordinance prohibiting converting a case from one of rape to one of fornication and from fornication to one of Zina. (Ultimately, rape victims should not be worried about being accused of Zina if a rape is not proved. Similarly the rules of evidence for rape have also been changed and now the rules of evidence in rape cases will not be dealt by Qanun Shahadat of 1984 and not the Zina Ord. 'The Statutory rape' has been introduced by the Act and consent of women less than 16-year (14-year previously in PPC) is no more a defense.

The Act has made certain changes in procedure by converting the offences of Zina, Qazf [6] and fornication into non-cognizable offences, taking away the cognizance of Police, which to some extent reduces opportunities for people to use Police machinery as a tool to harass others and also reduces chances, by making difficult for people to bring forward false charges. All the three offences are now bailable and now the accused (women) will not have to spend long periods of times in prison waiting for the trial. Soon after the Amendment an estimated of 1300 women are released from the prisoners all over Pakistan.

Section 496- C [7] PPC makes false accusations and evidence under fornication a crime punishable by up to 5-year imprisonment. And if a charge of Zina is not proved by the complainant Qazf will have to be registered against the complainant and the false witnesses. This may be another deterring tool to prevent persons from labeling innocents with false allegations. However, without reforming the criminal justice system, the targets can not be achieved.

The first discrimination with the women under the Hudood Ordinance is that a girl is considered adult at the age of 16 or on attaining puberty; contrary a boy is considered adult at the age of 18 or at attaining puberty. This Ordinance provides both punishments as Hadd [8] and Tazir [9] (in cases offence is not proved as hadd). In hadd the punishment is fixed and very stringent rules of evidence i.e.

persons in furtherance of common intention of all, each of such persons shall be punished with death or imprisonment for life.

<sup>5</sup> Section 5-A of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979, provides "No case to be converted, lodged or registered under certain provisions: No complaint of Zina under Section 5 read with 203 A of CrPC, 1896 and no case where the allegation of rape is made shall at any stage be converted into a complaint of fornication under Section 496B PPC, 1860 and no complaint of zina under section 5 of the offence of zina (Enforcement of Hudood) Ordinance, 1979 or an offence of similar nature under any other law for the time being enforced.

<sup>6</sup> Qazf: Section 3 of the Offence of Qazf (enforcement of Hadd) Ordinance, 1979 provides the definition of Qazf, "Whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes an imputation of Zina concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm the reputation, or hurt the feelings or having, of such person, is said, except in the cases hereinafter excepted, to commit Qazf.

Zina: Section 4 of Zina (Enforcement of Hudood) Ordinance, 1979, provides Zina as "A man and a woman are said to commit Zina if they willfully have sexual intercourse without being married to each other.

<sup>7</sup> 496-C PPC added through Protection of Women (Criminal Law Amendment) Act 2006, ' Punishment for false accusation of fornication: who ever brings or levels or give evidence of false charge of fornication against any person, shall be punished with imprisonment for a term which may extend to 5 years and shall also be liable to fine no exceeding ten thousand rupees.

<sup>8</sup> Had is an Arabic work means Limit "The Limits prescribed by God" According to Zina Ordinance Section 2 (b) Hadd means punishments ordained by the Holy Quran (The Muslim Holy book) and Sunnah (Traditions of the Holy Prophet Mohamamd PBUH).

<sup>9</sup> Tazir means under Section 2 (g) of Offences Against Property (Enforcement of Hadd) Ordinance, 1979, any Punishment other than hadd.

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evidence of four adult male Muslim witnesses (truthful and abstain from major sins) a female and a non-Muslim can not become witness.

By the promulgation of Hudood laws Zina was converted from an offence against an individual to an offence against the state. By doing so, anyone could have made a complaint to the police (being cognizable offence [10] against anybody else. Its very negative impact on the accused was that before he was considered guilty he would have been sent to jail for the offence was non-bailable. On the other hand the law of Qazf (false witness) did not act as any deterrent. It was a weak law because it did not apply automatically after the failure of complainant to prove the allegations and a separate case was to be instituted for Qazf. Furthermore, the offence of Qazf was made bailable and non-cognizable. The result was shocking, with the promulgation of Hudood laws the number of women prisoners jumped hike from as few as 70 in 1980 to as many as 4,500 in 1990.[11]

This situation continued until the introduction of the 'Protection of Women (Criminal Laws Amendment) Act, 2006. This Act omits 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', CrPC and the 'Dissolution of Muslim Marriages Act 1939. Such provisions include those dealing with Zina Bil jabber (rape) kidnapping/inducing a women 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. In short, the ordinance now deals only with adultery (Section 5) while all other sexual offences is now part of PPC. At the same time a new section has been inserted in the CrPC (Criminal Procedure Code, 1898) according to which a complaint of Zina can only be lodged in the court of Session Judge,[12] at the same time 4 witnesses in collaboration to be produced who testify seeing to the occurrence.[13]

The Act removes rape as a crime under the Ordinance and makes it an offence under S.375 [14] and 376 [15] PPC punishable with death and life imprisonment.

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<sup>10</sup> Cognizable offence under section 4 (n) is an offence where the police can arrest a person or initiate investigation without a warrant from the magistrate. A non cognizable offence is one where the police can not arrest a person or start investigation without the permission of magistrate.

<sup>11</sup> Human Rights Watch report 1999

<sup>12</sup> Section 6 Proviso 2 of the Ordinance 1979, Provided that an offence punishable under section 7 shall be triable by a Court of Sessions and not by or before a Magistrate authorized under section 30 of the said Code and an appeal from an order of the Court of Sessions shall lie to the Federal Shariat Court."

<sup>13</sup> Complaint in case of Zina Section "203 A of Criminal Procedure, 1898, " No court shall take cognizance of an offence under section 5 of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 except a complaint lodged in a Court of competent jurisdiction.

<sup>14</sup> Section 375 PPC added through Protection of Women (Criminal Law Amendment) Act 2006 " Rape: A man is said to commit rape who has sexual intercourse with a woman under circumstances falling under any of the following descriptions: (1) against her will; (2) without her consent (3) with her consent, when the consent has been obtained by putting her in fear of death or of heart; (4) with her consent, when the man knows that he is not married to her and that the consent is given because she believes that the man is another person to whom she is or believes herself to be married; (5) with or without her consent when she is under sixteen years of age.

<sup>15</sup> Section 376 PPC added through Protection of Women (Criminal Law Amendment) Act 2006 ' Provides Punishment for Rape, (1) whoever commits rape shall be punished with death or imprisonment of either description for a term which shall not be less than 10 years or more than 25 years and shall also be liable to fine. (2) when rape is committed by two or more persons in furtherance of common intention of all, each of such persons shall be punished with death or imprisonment for life.

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The practice of converting rape to Zina when rape is not proven has been abolished by a new section (S. 5-A) [16] inserted in Ordinance which prohibits converting a case from one of rape to one of fornication and from fornication to one of Zina. After this Act a rape victim should not be worried about being accused of Zina if a rape case is not proved. Similarly the rules of evidence for rape have also been changed and now the rules of evidence in rape cases will be dealt by Qanun Shahadat of 1984 and not by the Zina Ordinance. 'The Statutory rape' has been introduced by the Act and consent of women less than 16-year (14-year previously in PPC) is no more a defense.

The Act has made certain changes in procedure also by converting the offences of Zina, Qazf [17] and fornication into non-cognizable offences, taking away the cognizance of Police, which to some extent reduces opportunities for people to use Police machinery as a tool to harass others and also reduces chances, by making difficult for the people to bring forward false charges. All the three offences are now bailable and now the accused (women) will not have to spend long periods of times in prison waiting for the trial. Soon after the Amendment, an estimated of 1300 women are released from the prisoners all over Pakistan.

Under the new Amended Act Section 496-C PPC makes false accusations and evidence under fornication a crime punishable by up to 5-year imprisonment. It also provides if a charge of Zina is not proved by the complainant Qazf (case for false allegations) shall have to be registered against the complainant and the false witnesses. This may be another deterring tool to prevent persons from labeling innocents persons with false allegations. However, without the complete abolition of the Hudood Laws and reforming the criminal justice system the desired targets can not be achieved.

#### **The Criminal Law (Amendment) Act 2004 [18]**

In the name of Honor 1013 women had been killed in 'honour- related crimes' in the country during the year 2008 with 810 cases of honour crime committed in Sindh, 563 in Punjab, 320 in the North West Frontier Province and 40 in Balochistan.

The statement of objects and reasons of the Bill states that the "issue of honour-killing and other honour crimes committed in the name of '*karo-kari, siah-kari, Tora Tor*' in NWFP, and similar other customs have always been a matter of concern to human rights organizations and the public which assumed more significance in the recent years".

<sup>16</sup> Section 5-A of the Offence of Zina (Enforcement of Hudod) Ordinance, 1979, provides "No case to be converted, lodged or registered under certain provisions: No complaint of Zina under Section 5 read with 203 A of CrPC., 1896 and no case where the allegation of rape is made shall at any stage be converted into a complaint of fornication under Section 496B PPC, 1860 and no complaint of zina under section 5 of the offence of zina (Enforcement of Hudood) Ordinance, 1979 or an offence of similar nature under any other law for the time being enforced.

<sup>17</sup> Qazf: Section 3 of the Offence of Qazf (enforcement of Hadd) Ordinance, 1979 provides the definition of Qazf, "Whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes an imputation of Zina concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm the reputation, or hurt the feelings or having, of such person, is said, except in the cases hereinafter excepted, to commit Qazf.

Zina: Section 4 of Zina (Enforcement of Hudood) Ordinance, 1979, provides Zina as "A man and a woman are said to commit Zina if they willfully have sexual intercourse without being married to each other.

<sup>18</sup> Section 299 clause (ii) of PPC inserted through Criminal Law (Amendment) Act, 2004, "offence committed in the name or on the pretext of honour" means an offence committed in the name or on the pretext of karo kari siva kari or similar other customs or practices;"

A new proviso to Section 302 PPC, inserted through Criminal Law (Amendment) Act, 2004 "Provided that nothing in this clause shall apply to the offence of qatl-i-amd if committed in the name or on the pretext of honour and the same shall fall within the ambit of clause (a) or clause (b), as the case may be."

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The main causes are lack of education and feudalism, low rate of conviction and nominal punishment of 5 years. Keeping in view the concession of law, the killer always committed the crime as 'his right and a matter of pride and honour'. In penal code the exception clause of 'sudden and grave provocation' gravely benefited the culprit. This exception says that in certain cases (scenes) a man loses the power of self-control and thus he commits murder of a person.

Another very important factor is the strong bias and corruption of the investigation agency, which is the sole pedal to collect evidence and investigate the true factors behind the crime. This concession was extensively and lavishly used by husband, brother, father and other relatives-both by in-laws and own blood.

This biased favor tremendously harmed the social fiber of the society and restrained the women and girls from social, political and economic empowerment, the Criminal Law Amendment Act, 2004 is the amendment of the Pakistan Penal Code (PPC), 1860 which enhances punishment for the offence of murders carried out in the name of honour. However, the word 'honour killing' has been replaced with 'honour crime' to make it mild and acceptable to various sections of the society.

Vide Amendment to Sections 299 and 302 PPC the offence is added in the category of **Qatal-i-Amad** (willful and intentional killing). The punishment for the honor killing has been enhanced from 14 years to 25 years.

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

#### **Exchange marriages: Criminal Law (Amendment) Act, 2004 [19]**

The harmful practice of exchange and early marriages in Pakistan throughout remained concern for the human rights activists. Exchange marriage is known as Watta Satta where two families agree to marry each other girls. The reason behind this practice is poverty-where both the families can not afford to give dowry article to their girls. Another cause of the exchange marriage is the wish of a father or brother to marry a second wife at the cost his own minor daughter or sister. In order to deter this abuse, the legislature has outlawed exchange marriages through 'Amendment 2004' in the Pakistan Penal Code.

#### **Child Marriages: Child Marriage Restraint Act, 1929 [20]**

Early marriage is a very serious human rights violation because of it pushes a child into an adult's responsibilities and activities. It takes away a child's right to education, puts a child's health at risk, robs a child's her or his childhood and exposes a child's to sexually transmitted diseases. It also takes away a child's right to make choice in life. The child-wife suffers beating and torture and in many cases is sold, trafficked or used for prostitution and sexually abused both by her older husband, other members of his family and even his friends, section 3 was promulgated to tackle this issue.

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<sup>19</sup> "310A. Punishment for giving a female in marriage or otherwise in badal-i-sulh.-Whoever gives a female in marriage or otherwise in badal-i-sulh shall be punished with rigorous imprisonment which may extend to ten years but shall not be less than three years."

<sup>20</sup> Section 3 (a) of the Child Marriage Restraint Act, 1929 "child means a person who, if male, is under eighteen years of age, and if a female, is under 16 years of age.



**Practice of Vani/Swara (*Badl-i-Sulh*) ... (exchange of female for settlement of dispute)**

The practice of Swara and Vani is a common feature of tribal areas. During the reconciliation between two tribes in blood feud enmity settlement, girls are chosen to settle the scores. In such marriages, no dowry, maintenance is considered. She may be a second or third wife to an aged man or else. The fundamental logic behind this practice is to inflict humiliation on the girl's family.

The main cause which gave birth to this practice was the local Jirgas providing justice to the deceased family with the concept of badal (revenge), which is still growing stronger in Pashtuns. Through an Amendment in the "Criminal Law Act, 2004, in Section 310 PPC this practice was banned. Though the practice has been declared illegal but it is still continued and every day innocent girls fall prey to this evil practice.

The higher judiciary has also taken numerous suo-moto actions in response to such practices threatening innocent girls every day. The Supreme Court of Pakistan banned the harmful traditional practice of early marriages, Vani/swara (badl-i-sulh) but the subordinate judiciary is still far away from being sensitized regarding these alarming issues. The subordinate judiciary frequently accepts Compounding and compromises in murder cases without probing into the case

**Stove Burning .....**

One of the most pervasive forms of domestic violence is 'stove burn' or burn cases. According to a report of Progressive women Association of Pakistan an average of 3 women die from 'stove death' everyday in Pakistan". A stove-death is pre-planned and premeditated murder at the hands of husband or in-laws and its frequent targets are daughters-in-law and wives. The major cause of the stove deaths are: (1) failure to give birth to son; (2) disobedience of husband; (3) suspicion or allegations of adultery; (4) failure to give dowry; (5) desire to marry again; (6) animosity or disobedience of mother-in-law; and (7) due to a daughter or sister's wish to marry a man of her own consent.

Medical experts say that in a genuine stove accident, the burn injuries are confined to arms, legs and abdomen and the burn injuries never exceed 30% of the body. Contrary to the fact in all stove deaths the injuries range upto to 85% of the victim's body. In all stove deaths the perpetrators fabricate similar stories-the stove explodes and then burns the victim's clothes. Again it is a strange phenomenon that the stove always targets young housewives (daughter in law or wives). Few years back the government has amended PPC by inserting section 174-A to prevent the cases of stove deaths in Pakistan. <sup>[21]</sup> Though the organization has been working nationally since last 15 years on this issue

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<sup>21</sup> Section 174-A PPC "(1) Where a person, grievously injured by burns through fire, kerosene oil, chemical or by any other way, is brought to a medical officer on duty designated by the provincial government for this purpose or, such an incident is reported to the officer incharge of police station, such medical officer on duty, or, as the case may be officer incharge of police station, shall immediately give intimation there of to the nearest magistrate. Simultaneously the medical officer on duty shall record the statement of the injured person immediately on arrival so as to ascertain the circumstances and cause of the burn injuries. The magistrate shall also record the statement in case the injured person is still in a position to make a statement. (2) The medical officer on duty, or as the case may be, the magistrate,, before recording the statement under subsection 1 shall satisfy himself that the injured person is not under any threat or duress. The statement so recorded shall be forwarded to session judge and to the district superintendent of police, the officer incharge of the police station, for such action as may be necessary under this code.. (3) if the injured person is unable, for any reason, to make statement before the magistrate, his statement recorded by the medical officer on duty under subsection 1 shall be sent in a sealed cover to the magistrate or trial court if it is other than the magistrate and may be accepted in evidence as a dying declaration if the injured person expires.

Procedure: Magistrate shall also record the statement in case the injured person is still in a position to make a statement. (2) The medical officer on duty, or as the case may be, the magistrate,, before recording the statement under subsection 1

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but unfortunately there are no burn centers which are meant for the poor. The pattern of the data collected so far shows this issue is basically of white collar and low economic strata. This section introduced has many lacunas and many drawbacks to it and does not address this issue.

**Acid Throwing:**

Acid throwing is a horrible form of gender violence which causes deaths and disfigurements in Pakistan. This tactic is used mostly against the women and girls on large scale in Pakistan. The purpose behind the act is to permanently disfigure the victim for reasons like the prevention of the girl to marry somebody else than the culprit, personal vengeance, enmity to permanently punish the women or girl. The impacts of acid throwing are long lasting and in case the victim survives death, she has to bear a disfigured body for the rest of her life. Unfortunately like fire burning this beastly crime has no preventive law to counter the crime furthermore the sale of acid is still not checked in the open market.

**Marriage to Quran (*Haq Bakshish*)**

Marriage to Quran also known as (*Haq Bakshish*) is another inhuman and anti-women practice widespread in the Sindh province of Pakistan. This type of marriage is held in a ceremony formally marrying the girl to the holy book. These young girls are compelled to dedicate themselves to memorizing the Holy Quran. A girl places her hand on the Quran and takes an oath that she is married to it until death. The girls married to the Quran throughout their life remains virgin and are restrained from having relationship with a man or to marry. This phenomenon has caused much controversy throughout Pakistan as the government and human rights activists are seeking a complete ban on this practice. On the contrary some religious and influential families are encouraging the practice of 'marriage to Quran' as virtue.

**Women Prisoners:**

According to information issued by the ministry of interior that more than 1587 women and girls charged under different laws (murder, smuggling, Hudood Ordinance) are languishing in jails all over the country. Out of the total 1364 female alone are in the Punjab, Sindh 102, NWFP 84 and Balochistan 37. The number of women in death cell is 42 out of them 24 alone are in Multan jail while the remaining are languishing in other jails. Out of the total 267 are under age or minors. The situation of women due to the unhygienic food, environment, mental stress, sexual harassment and low diet is deploring to the alarming degree.

**Domestic Violence Bill, 2009**

Domestic Violence has been left to be legitimized by terming it as private and personal matter in Pakistan. It involves physical, sexual, emotional, social, economic and physiological abuses. On

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shall satisfy himself that the injured person is not under any threat or duress. The statement so recorded shall be forwarded to session judge and to the district superintendent of police, the officer incharge of the police station, for such action as may be necessary under this code.. (3) if the injured person is unable, for any reason, to make statement before the magistrate, his statement recorded by the medical officer on duty under subsection 1 shall be sent in a sealed cover to the magistrate or trial court if it is other than the magistrate and may be accepted in evidence as a dying declaration if the injured person expires.

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official basis there is a need to provide legal mechanism for protection of victims of domestic violence in line with international Covenants, standard and promises. According to Aurat Foundation about 7733 incidents of violence against women recorded in 2008 in Pakistan including 472 cases (220 honour killing only in Sindh) of honor killing, injuries and mutilation of body parts.<sup>[22]</sup>

Though a good start at least domestic violence is recognised crime and it has a definition now, in the later stages the effective role of this Act will depend on the formal enforcement procedures, laws of evidence and the actual working of courts and the level of sensitization on gender issues.

### **Sexual Harassment Bill, 2009**

Harassment is a key challenge to women and girls, begins from home by her in-laws, flows to her door-steps and accompany her every where in shape of classmate to teacher, from officemate to boss and from a salesman to a fellow passenger. Harassment is that devil that remains with a girl and women like her shadow being with her even in darkness. After a consistent pressure from the international community and human rights agencies a new Section 509-A PPC has been added to the PPC replacing the ambiguous wording (violation of modesty of women) in Section 509 PPC. In this proposed Amendment the punishment prescribed is imprisonment up to 3 years or fine up to five hundred thousands rupees (6172 \$).<sup>[23]</sup>

### **Protection against Harassment at the Workplace Bill, 2009**

Section 2 (g) of the Act defines harassment, provides procedure for complaint, inquiry, penalties in case of harassment of female workers at working places. Though the Bill is serious effort to cure the environment at working places for women still the procedure provided by the Act is suffering from visible shortfalls, some of them are:

The complaint is to be referred to a designated person at the office, which is not workable in small offices and units.

The committee dealing with the harassment is also internal and again chances are there that the same person (boss) may be the culprit and member of the committee at the same time.

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<sup>22</sup> Domestic violence Bill, 2009 section 4 Domestic violence means an act, omission or commission or any conduct or the respondent which; (a). Harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and' includes physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or (b) Harasses, harms, injures or endangers the aggrieved person with a view to coerce her. or any other person related to her to meet any unlawful demand for any dowry; or other property or valuable security; or (c) Threatens the aggrieved person or any person related to her by any conduct mentioned in clauses (a) and (b); or (d) Otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

<sup>23</sup> Section 509- A inserted through Criminal Law (Amendment) Act, 2009. Whoever makes sexual advances, or demands sexual favors or uses written or verbal or physical conduct of a sexual nature which intends to annoy, insult, intimidate or threaten the other person or commits such acts at the premises of work place, or makes submission to such conduct either explicitly or implicitly a term or condition of an individual's employment, or makes submission to or rejection of such conduct by an individual a basis for employment decision affecting such individual, or retaliates because of rejection of such behavior, or conducts such behavior with the intention of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment, shall be punished with imprisonment which may extend to three years or fine up to five hundred thousand rupees or with both

The Bill is ambiguous in the sense that it provides a more civil and ineffective look to the offence. <sup>[24]</sup>

### **Family Courts Amendment Act, 2009**

The Law and the Constitution of Pakistan (Article 23) allow the citizens of Pakistan equal rights to acquire, hold, own and dispose of property but at the same time making Constitution to be dictated by the (Article 227) means the Islamic laws. As a result the Law of inheritance in Pakistan is governed by the Muslim Personal Law, which assigns women a differential status. Though the Islamic law provides, compare to men, lesser share to women even then it is a common practice in Pakistan that women are generally denied and deprived of their shares in the ancestral property. There is no remedial law that is specifically available for such victims. Now, via this Amendment a new subsection (9) in section 3 of the Family Courts Act, 1964 has been inserted wherein the women who are deprived of their inheritance can recourse to the family court for relief.

### **Muslim Family Laws (Amendment) Act, 2009**

Through this Bill an amendment in (section 9 subsection 3) is proposed in the existing Muslim Family Laws Ordinance, 1961. The purpose of the Bill is to enable the women (divorced) who have passed iddat <sup>[25]</sup> but is breast feeding to an infant out of the previous wedlock to have the right to maintenance for two years from her past husband or in case of his death from the infants grand parents or from late husband's property as directed by the Holy Quran. <sup>[26]</sup>

### **The crux of continuous failure to counter VAW:**

**Lack of implementation:** In every society and legal system the sole objective of the law must be to achieve justice, unfortunately Pakistan's laws fail in their true spirit when it comes to implementation and providing justice to the victims. In the long run it has been witnessed that procedural technicalities, weaknesses and inefficiency of the players of the criminal justice are some of the main reasons why victims do not get justice.

**The medico legal evidence** is major piece of evidence in establishing the guilt of the accused and it is the foundation to establish the guilt of the perpetrator. There are no laid down rules for the medical examination of rape victims and no standard procedure to be followed in a uniform manner.

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<sup>24</sup> Section 2 subsection (g) of the Protection against harassment at Working place Bill, 2009 defines Harassment as “ Any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitude, causing interference with the work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment.

<sup>25</sup> Iddat is a period of chastity which is bound to be observed by a Muslim woman, after the termination of her marriage (either by death of her husband or by dissolution). It is defined (literally) as numeration and legally it means ‘waiting for an opportunity. The main object of this abstinence is to ascertain whether or not she is pregnant by the deceased husband. The duration of Iddat in case of dissolution of marriage on divorce 3 lunar months and in case of husband's death 4 lunar months.

<sup>26</sup> Section 9 Subsection (3) A wife who is divorced and has passed the iddat period but is breast feeding the infant from the past wedlock the wife can claim maintenance for breast feeding the infant for the period of two years from her past husband, if the husband dies, from his property or legal heirs as the case may be.

**Trial process:** delayed trails and prolonged litigations is another factor seriously harming the justice system. A female victim seeking speedy justice and fair trial faces delays, the unchecked perjury, illegal compounding of offences outside the court room and non availability of witnesses.

**Execution of the court orders:** It is observed that even if a court decides a case in favor of female it takes years and years to execute the order of the court.

**Gender sensitive Approach:** Ensuring that government agencies adopt a gender sensitive approach to development in preparing needs based participatory and implementable programs and projects.

**Reformation of Investigation Agency:** The Investigation Agency and the Forensic laboratories need to be reformed by equipping them with latest technology for investigation.

**Adoption of International Fair standard of Trail:** The International Fair Standard of trail is to be adopted and the entire judicial and non-judicial staff should be trained accordingly.

**Abolition of the Huddood laws:** The Hudood laws, Qisas and Dyat and other such discriminatory laws need to be abolished because without the abolition of the these pieces of law - the target of ending violence against women- can not be achieved.

**Multi-sectoral Approaches:** Developing multi-sect oral and inter disciplinary approaches: for women's development, with horizontal and vertical linkages at every level.

**Mainstreaming gender issues:** Mainstreaming gender issues through integration into all sectors of national development.

**Political Reforms:** Though during the last decade the representation of women and their appointment as ministers at Federal and Provincial levels has been jumped hike and today women enjoy 33% representation in local Government and 20 % in the Parliament. But due to their environment prevailing in the country very seldom these women parliamentarians have spoken for women rights. Its biggest example is the passing of Nizam-i-Adal Regulation, 2009 by the parliament without a single objection from the female parliamentarians. In addition, in many areas of Pakistan even today women are deprived of their right to vote in general elections, which is their fundamental right guaranteed by the Constitution of Pakistan 1973.

**Economic Reforms:** Majority of the people of Pakistan especially women are suffering from extreme poverty. Due to the unfavorable situation created by the war on terror, notorious policies of religious extremists and lack of availability and access to education, health and professions of their own choice, they are down rotten. The government has taken some steps in this regard but lack of uniformity and consistency in the policy, corruption and gender based inequality has fenced all the way out for women segment of the society.

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**Social Reforms:** According to a report of a reputed organization working for the women rights, more than 7500 women were subjected to violence-from burying them alive to burning them alive; from cutting their nose to mutilation of their genital; from abusive language to sexual harassment- but still the nation is not ready for a change.

To bring about a change a greater focus is required on socialization practices that lead to equalitarian attitudes and practices not violent ones.

**Stereotypes** about women and men in the family can limit how much people think that the fulfillment of rights for women is an issue. For example, where women are thought of primarily as tender, nurturing, and self sacrificing, then arguments follow that opportunities to care for others should be enough for them. Where men are expected to be tough, their violence will be tolerated, even encouraged.

In the development process, such stereotypes must be challenged, not used as the basis for policy, program planning and delivery. New approaches, to support processes that result in respect, protection and fulfillment of human rights for women as well as men, will be critical if violence-free families are to predominate.

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