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### **The Punjab Protection of Women Against Violence Act 2016**

**Laiba Ahmed  
Research Intern**



## **The Punjab Protection of Women Against Violence Act 2016**

**By Laiba Ahmed**

### **Executive Summary**

Women make up half, 49%<sup>1</sup>, of the Punjab's population, yet this large and diverse group faces multiple forms of violence. These abuses are a gross violation of human rights and our nation's constitution. Though the Punjab Protection of Women Against Violence Act 2016 aims to curb the mistreatment of women, it fails due to several provisional and implementation-based factors. Hence, there is a need to amend the act in order to safeguard our women.

### **Violence Against Women**

Women in Punjab, fall victim to domestic, sexual, psychological, and economic abuse. The situation is so dire that according to the Global Gender Gap, Pakistan ranks as the sixth most dangerous country in the world for women, as of 2018.

Cases of domestic and sexual violence against women seem to be uncontrollably increasing; there was an alarming 200% increase from January to March of 2020<sup>2</sup>. Punjab, specifically, has seen a large number of barbaric cases against women being reported in the media. Cases of gang rape have also become common across the Punjab, such as the haunting gang rape and consequent murder of 7-year-old Zainab in Kasur, 2018<sup>3</sup>. In the days leading up to and after Eid-ul-Adha, the nation witnessed numerous alarming cases of femicide. These are but some of the cases covered by the media, countless more are officially recorded; the Punjab Commission on the Safety of Women indicated that in 2017 alone there were a recorded 746 honor killings, 24 stove burnings, nearly 1000 reported cases of rape, 230 cases of gang rape, and 31 cases of sexual harassment. What's tragic is that these numbers starkly underrepresent the actual incidents of domestic and/or

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<sup>1</sup> Pakistan Bureau of Statistics. "Population Census 2017-18." *Government of Pakistan*, 2018, <https://www.pbs.gov.pk/content/final-results-census-2017>.

<sup>2</sup> Khan, Amjad. "200% Increase in Crimes against Women in Pakistan in January-March." *SSDO*, Sustainable Social Development Organization, 2020, [www.ssdo.org.pk/post/200-increase-crimes-against-women-pakistan-january-march](http://www.ssdo.org.pk/post/200-increase-crimes-against-women-pakistan-january-march).

<sup>3</sup> DAWN. "Justice for Zainab: Timeline of the Kasur Rape, Murder Case That Grippped the Nation." *DAWN*, 30 June 2020, [www.dawn.com/news/1439587](http://www.dawn.com/news/1439587).

sexual abuse faced by women as only 1-2.5% of women in Pakistan seek help or tell anyone about the violence inflicted upon them<sup>4</sup>.

While the domestic and sexual abuse faced by women in Pakistan is still recorded, though inaccurately, there is little to no record of the psychological abuse faced. Psychological abuse is recognized as a “psychological deterioration of aggrieved person which may result in anorexia, suicide attempt or clinically proven depression” due to oppression or limited freedom of movement<sup>5</sup>. According to the WHO, psychological violence against women often manifests into physical abuse or serious mental health problems, like severe depression or anxiety. Women in Pakistan not only face psychological abuse from their partners but from other male and female family members, and society at large. Patriarchal practices - such as exchange marriages and burdensome extended family systems - cause the extreme marginalization of women. These factors contribute to the mental health burden being much higher among women than men in Pakistan.<sup>6</sup>

Lastly, women also face abhorrent economic abuse; defined as the “denial of food, clothing and shelter in a domestic relationship” or the unjust withholding of income<sup>7</sup>. In an interview, Salman Sufi, Director General at the Chief Minister’s Strategic Reforms Unit Punjab, claimed that as women have increasingly begun to join the workforce their financial independence is still curtailed because men believe they have a right to receive the woman’s earning. He also claimed that many women avoid reporting cases of domestic violence as they are monetarily dependent on male members of the household and cannot afford to pursue a case or risk losing their financial stream<sup>8</sup>. Economic abuse thus traps women in a vicious cycle of abuse.

### Root Causes

The causes for violence against women in the Punjab are deeply rooted social, politico-legal, and economic factors that work together to render women vulnerable.

Firstly, widespread patriarchal norms have created a social structure dangerous to women. Cemented cultural practices such as early marriages, bride-exchange, and honor killings are reflective of a mindset which continues to relate men’s honor to the freedom and liberty of women. This forces women to become focal points for men to exercise their control over to maintain their own/the family’s status and honor. Moreover, male dominated patriarchal structures in the home contribute to women being second class citizens not seen as deserving of safety. From an early age, male children are preferred and male members in the household have more rights than females

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<sup>4</sup> UNFPA. “Gender-Based Violence.” *UNFPA Pakistan*, 15 Dec. 2017, [pakistan.unfpa.org/en/topics/gender-based-violence-6](http://pakistan.unfpa.org/en/topics/gender-based-violence-6).

<sup>5</sup> Punjab Government. *The Punjab Protection of Women against Violence Act 2016*, 2016, [punjablaws.gov.pk/laws/2634.html](http://punjablaws.gov.pk/laws/2634.html).

<sup>6</sup> WHO. “WHO Pakistan Celebrates World Mental Health Day.” *World Health Organization*, World Health Organization, [www.emro.who.int/pak/pakistan-news/who-pakistan-celebrates-world-mental-health-day.html](http://www.emro.who.int/pak/pakistan-news/who-pakistan-celebrates-world-mental-health-day.html).

<sup>7</sup> Punjab Government. *The Punjab Protection of Women against Violence Act 2016*, 2016, [punjablaws.gov.pk/laws/2634.html](http://punjablaws.gov.pk/laws/2634.html).

<sup>8</sup> CFR. “Five Questions About Punjab's Protection of Women Against Violence Bill.” *Council on Foreign Relations*, Council on Foreign Relations, [www.cfr.org/blog/five-questions-about-punjabs-protection-women-against-violence-bill](http://www.cfr.org/blog/five-questions-about-punjabs-protection-women-against-violence-bill).

over food, shelter, clothing, rest, and other domestic factors needed for the growth of an individual<sup>9</sup>. Due to this social structure, men are endowed with authority over women which they then enforce through violent means.

Secondly, the politico-legal context in the Punjab sanctifies and allows violence against women. Legal attitudes towards women based upon pre-Islamic tribal practices, such as honor killings, are falsely enshrined in Shariah Law. The primary body which enables these misogynistic legal practices to date has been the Council of Islamic Ideology (CII). The CII is heavily male dominated and excludes the input of female Islamic scholars in laws that pertain to the safety of women, such as the 2016 law which allows a man to “lightly beat” his wife. In contrast, many feminist scholars differently interpret verse 34 of Surah Nisa, upon which this law was based, in a way that emphasizes the Quran’s teachings of men caring for women and avoiding violence.<sup>10</sup> Similarly, police forces in Punjab have a history of being male dominated and insensitive to the safety of women. Many women refrain from going to police stations where they fear further exploitation at the hands of policemen or very real fears of being turned away. The latter is mostly due to the practice of bribing or pressurizing police to not file abuse cases by powerful men. The situation is made worst given the general attitude of violence against women merely being a non-serious domestic matter<sup>11</sup>. Tragically, many women have come to see these structures yet another source of anxiety and an obstacle to their safety.

Thirdly, deteriorating economic conditions aggravate violence against women. Poverty often results in increased instances of domestic abuse as frustrations cause men to lash out at women due to their already vulnerable position<sup>12</sup>. The Punjab poverty rate is at an unacceptable 31%<sup>13</sup>. Additionally, education, particularly female education, becomes less of a priority as poverty prevails. Activists claim that the resultant low female literacy rates cause women to be unaware of their rights to equality and security, thus making them susceptible to violence against which they are unable to speak out or seek help. Proven by the fact that women in rural areas face higher degrees of physical, sexual, or psychological violence by a current or former husband than those in urban areas as illustrated below. To note, the average literacy rates in urban areas was 65.4% while in rural areas it was 37.7%.<sup>14</sup>

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<sup>9</sup> Qadir, Farah, et al. “Male Gender Preference, Female Gender Disadvantage as Risk Factors for Psychological Morbidity in Pakistani Women of Childbearing Age - a Life Course Perspective.” *BMC Public Health*, BioMed Central, 29 Sept. 2011, [bmcpublichealth.biomedcentral.com/articles/10.1186/1471-2458-11-745](http://bmcpublichealth.biomedcentral.com/articles/10.1186/1471-2458-11-745).

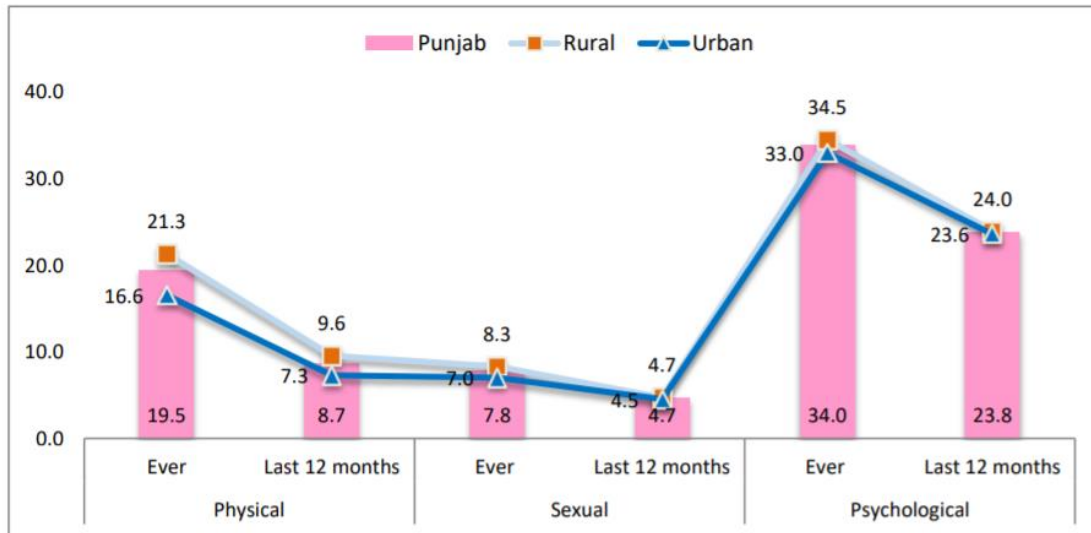
<sup>10</sup> Pakeeza, Shahzadi. “Domestic Violence Laws and Practices in Pakistan.” *VFAST Transactions on Education and Social Sciences*, vol. 3, 1 Dec. 2015, <http://vfast.org/journals/index.php/VTSE>.

<sup>11</sup> HRW. “This Crooked System.” *Human Rights Watch*, 27 May 2020, [www.hrw.org/report/2016/09/27/crooked-system/police-abuse-and-reform-pakistan](http://www.hrw.org/report/2016/09/27/crooked-system/police-abuse-and-reform-pakistan).

<sup>12</sup> UN Women. “Women and Poverty.” *UN Women*, [www.unwomen.org/en/news/in-focus/end-violence-against-women/2014/poverty](http://www.unwomen.org/en/news/in-focus/end-violence-against-women/2014/poverty).

<sup>13</sup> Pakistan Ministry of Planning, Development & Reform. “Multidimensional Poverty Index at National and Provincial level.” *Government of Pakistan*, 2016.

<sup>14</sup> Punjab Commission on the Status of Women. “Women’s Economic and Social Wellbeing Survey in Punjab 2017-18”. *Bureau of Statistics*, Planning & Development Department, Government of the Punjab, 2018.



### Implications of Violence Against Women

Violence against women is a cruel violation of human rights such as the right to “life, liberty, and security of persons”, as per Article 3, and the right to safety from “cruel, inhuman or degrading treatment”, as per Article 5, of the Universal Declaration of Human Rights. The Declaration also claims that everyone is entitled to equal protection and rights regardless of their gender in Articles 1 and 7.<sup>15</sup> Moreover, the denial of safety to women is unconstitutional as per Article 9 which claims “No person shall be deprived of life or liberty save in accordance with law”.<sup>16</sup> It is to be emphasized that given the recent wave of protests across the nation and over social media, instigated by the traumatic incidences leading up to Eid-ul-Adha, the women of Pakistan feel a collective indignation and fury over government inaction and public neglect of their safety. Women are demanding protection which can no longer be denied by the National and Provincial government. Additionally, violence against women restricts Pakistan from meeting its international commitments such as achieving gender equality as a Sustainable Development Goal by 2025 and commitment to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

### Government Response

Due to the discriminatory and unconstitutional violence against women, the Punjab Government introduced the Punjab Protection of Women Against Violence Act 2016, with the purpose of establishing “an effective system of protection, relief and rehabilitation of women against violence”. Violence refers to “abetment of an offence, domestic violence, sexual violence, psychological abuse, economic abuse, stalking or a cybercrime”. However, the act has failed to

<sup>15</sup> The United Nations. “Universal Declaration of Human Rights.” *UN*, 1948.

<sup>16</sup> Islamic Republic of Pakistan. “Constitution of the Islamic Republic of Pakistan.” *State of Pakistan*, 10 Apr. 1973, <https://www.refworld.org/docid/47558c422.html>.

significantly reduce violence against women due to provisional and implementational shortcomings.

Amidst the most significant provisional failures is the act's inability to criminalize domestic abuse, instead the aim is to provide rehabilitation and relief mechanisms after the occurrence. By not punishing domestic abuse, the government's lenient stance on the matter is emphasized and thus domestic abuse is made socially tolerable. Another drawback is that physical violence is limited to domestic violence committed by relations of "consanguinity, marriage or adoption". This excludes abuse by in-laws - a major source of domestic abuse in Punjab - and violence committed by men from outside the household. Within such narrow bounds of physical abuse, one begins to wonder how this act could have ever protected women who suffered in the way Noor Muqaddam did<sup>17</sup>. Moreover, Section 2 defines a dependent child as "a male child who is below the age of twelve years and includes any adopted, step or foster child". This may prevent women from seeking aid in shelters as they will have to be separated from any child - including a girl child - not part of this age bracket. There is also an unacceptable 90 day delay between the registration of an abuse complaint and the court's decision, as per Section 4. In cases of domestic abuse, delays such as this elevate the vulnerability of the woman as she is still subject to interaction with her abuser. Unacceptable time lags are also present in the vague framing of Section 27 whereby it says that the government is to arrange for gender sensitive training of employees of the protection system at "regular intervals". No quota, timetables, or even contents of training sessions have been ascribed allowing the government to evade responsibility. At the crux of the matter, the very definition of woman is problematic as it does not include any specific reference to girls. Given that underage marriages, 29.9% in 2017<sup>18</sup>, and the abuse of young girls is still rampant there needs to be special provision for minors. Lastly, though psychological abuse has been defined in Section 2 of the act, there is no mention of provisions of psychological aid except brief and vague mentions of some psychological counselling required at the Violence Against Women Centers (VAWC) in Section 13. Similarly, there is no mention of how to protect and rehabilitate women from economic violence save a brief mention of monetary compensation owed by the abuser in Section 9. Cybercrime is not even mentioned in passing or defined despite being identified as a form of violence.

Implementation mechanisms for the act are equally insufficient. Section 13 details the setting up of protection centers and shelter homes which are all-encompassing in providing psychological, medical, and legal aid to rehabilitate victims effectively. Yet, to date only one VAWC shelter has been set up. And though there are 35 Dar-ul-Aman's, there is still a severe lack of access for women to these facilities as indicated by the fact that only 4.7% of women aged 15-64 had at least once been to a police station/women center<sup>19</sup>. Furthermore, some mechanisms have been non-starters due to their culturally limited enforceability. The order to use GPS anklet or wrist trackers in case of breaches of orders or extreme threats to the victim has been proven unimplementable

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<sup>17</sup> Editorial. "Noor Murder Case." *DAWN*, 25 July 2021, [www.dawn.com/news/1636806/noor-murder-case](http://www.dawn.com/news/1636806/noor-murder-case).

<sup>18</sup> National Institute of Population Studies. "Demographic and Health Survey 2017-18." Ministry of National Health Services, 2018, <https://dhsprogram.com/pubs/pdf/FR354/FR354.pdf>.

<sup>19</sup> Punjab Commission on the Status of Women. "Women's Economic and Social Wellbeing Survey in Punjab 2017-18". *Bureau of Statistics*, Planning & Development Department, Government of the Punjab, 2018.

due to patriarchal backlash of it being embarrassing for a man to be tagged “like an animal” and have his movement curtailed<sup>20</sup>. This mechanism also fails due to the investment in technology and resources it necessitates. The functioning of district women protection committees has also been an ineffective process. As detailed in Section 11, these committees were to function on a voluntary basis with no remunerations, fees, or charges owed, to co-opted members. Critics have raised concerns over how effectively a committee largely constituted by un-paid labor with no fixed contracts can function. Many argue that such members will not remain duty bound to delivering aid to victims<sup>21</sup>. Moreover, the committee’s ability to accept donations is also being questioned as a possible channel for accepting bribes and hush money from powerful abusers. It is probably due to these faults that no such committee has yet been set up.

### Recommendations

Due to all the above mentioned shortcomings, urgent amendments to the act are needed.

Implementation wise, it is necessary to criminalize domestic violence. Section 3 of the KPK Domestic Violence (Prevention and Protection) Act 2021 can be looked at in which domestic violence is punishable by a prison sentence, ranging from 1 year to 5 years, or a fine, depending on the case. The act’s vague definition of the abuser being any “family relationship” can also be adopted in order to allow women to report violence from relations such as in-laws.<sup>22</sup> Physical abuse outside domestic relations must also be accounted for and penalized. Moreover, based upon international legal practice in custody law where maternal preference is granted, the scope for children residing with women in shelters should be broadened to allow women the right to their children. The Punjab Act can draw from the Baluchistan Domestic Violence (Prevention and Protection) Act 2014 by specially defining domestic abuse against children below the age of 18 and creating more cushioned social services for their rehabilitation. From the Baluchistan Act, the much shorter 30-day complaint reviewal period can also be adopted.<sup>23</sup> It is proposed that additional sections be added to the act. Firstly, there is a need for a section detailing the amount and durations of gender sensitive training for police and social service staff needed to increase government accountability and capacity to provide mental health aid. Secondly, there is a need to provide for rehabilitation in the form of economic empowerment for women. Algeria’s policy of launching various targeted initiatives to support HIV vulnerable women by providing vocational training, access to microcredit, and literacy community centers, can be adopted for areas with high cases of domestic and/or sexual abuse<sup>24</sup>. Lastly, given the rise of cyber abuse measures to deal with cyber stalking, non-consensual sharing of personal images, hacking of personal accounts for blackmail or privacy invasion, and more need to be created.

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<sup>20</sup> Farooq, Omar and Hassan, Daniyal. “Women’s Protection Bill - A Case of Men’s Insecurities.” *DAWN*, 12 May 2016, [www.dawn.com/news/1245591](http://www.dawn.com/news/1245591).

<sup>21</sup> Ashfaq, Abira. “Don’t Celebrate the Punjab Women’s Violence Bill Just Yet.” *DAWN*, 27 Feb. 2016, [www.dawn.com/news/1242109](http://www.dawn.com/news/1242109).

<sup>22</sup> KPK Government. “The Domestic Violence (Prevention and Protection) Act 2021.” *KPK Provincial Assembly*, Pakistan, 2021.

<sup>23</sup> Baluchistan Government. “The Baluchistan Domestic Violence (Prevention and Protection) Act 2014.” *Baluchistan Provincial Assembly*, 2014.

<sup>24</sup> MGD. “Delivering on Commitments.” *MDG Fund*, [www.mdgfund.org/node/492](http://www.mdgfund.org/node/492).

Implementation wise, there is a critical need to improve women's access to the protection and rehabilitation services available to them. The Punjab Government has taken important steps to do so via the toll-free Women's Hotline and the recent Punjab Police Women Safety App. Yet, awareness amongst women of the laws and services available to them is needed and can be provided by a media awareness campaign, such as the one to end child domestic work<sup>25</sup>, and a female led door-to-door information campaign, such as that of the female polio workers<sup>26</sup>. Moreover, further VAWCs need to be planned for; currently four across Faisalabad, Lahore, Bahawalpur, and Rawalpindi are planned for by 2023<sup>27</sup>. VAWCs are crucial for their provision of mental health services. For the establishment of the district committees, the Punjab can look to KPK wherein such committees are functioning to eradicate gender-based violence<sup>28</sup>. Most importantly, there is a need to increase cultural acceptance and support for these measures. This can be done by engaging local ulemas to raise awareness and champion the mechanisms under the act, such as the VAWCs. The CII also needs to be reformed in order to make it more female friendly. This can be done by incorporating female Islamic scholars to champion the rights of women. Increasing the visibility and voice of female scholars has been proven to positively impact female empowerment, as exemplified by the New Zealand's Islamic Women Council<sup>29</sup>.

## Conclusion

The detailed recommendations need to be enforced as soon as possible as the Punjab Protection of Women Against Violence Act 2016 fails to curb the barbaric, unjust, and discriminatory abuses against women.

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<sup>25</sup> Idara-e-Taleem-o-Aagahi. *Campaign to End Child Domestic Labor*, [www.itacec.org/Campaign-to-End-Child-Domestic-Labor](http://www.itacec.org/Campaign-to-End-Child-Domestic-Labor).

<sup>26</sup> User, Super. "Polio in Pakistan: Eradicate Polio from Pakistan." *Polio*, [www.endpolio.com.pk/polioin-pakistan](http://www.endpolio.com.pk/polioin-pakistan).

<sup>27</sup> The Nation. "Another 4 Violence Against Women Centres to Be Established in Punjab." *The Nation*, The Nation, 8 Mar. 2020, [nation.com.pk/08-Mar-2020/another-4-violence-against-women-centres-to-be-established-in-punjab](http://nation.com.pk/08-Mar-2020/another-4-violence-against-women-centres-to-be-established-in-punjab).

<sup>28</sup> KPK Commission on the Status of Women. "UN Women." *KPCSW*, [kpcsw.gov.pk/un-women/](http://kpcsw.gov.pk/un-women/).

<sup>29</sup> New Zealand History. "Islamic Women's Council New Zealand (IWCNZ)." *RSS*, [nzhistory.govt.nz/women-together/islamic-womens-council-new-zealand-iwcnz](http://nzhistory.govt.nz/women-together/islamic-womens-council-new-zealand-iwcnz).