



Presentation on “Violence Against Women and Impediments in Access to Justice”

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Introduction:

- ⇒ Violence against Women is a global issue which has very long history;
- ⇒ Women are treated as a commodity and considered inferior to men since ancient times;
- ⇒ Women's rights are not considered as human rights completely;
- ⇒ Even nineteenth century laws also led to a woman's oppression by her husband. Most states enforced a common law, which stated a husband had the legal right to control his wife and all her possessions;

Scenario of VAW in Pakistan

- ➔ Pakistan is a developing country with great extremes in the distribution of wealth between social classes, high rate of illiteracy among women, socio-economic and cultural problems etc;
- ➔ Though Pakistan has a constitution which guarantees equality, however there is a significant disparity between these statements of principle and day to day reality;
- ➔ Problems faced by women in the present system are based on, patriarchal structure of society, social factors such as illiteracy, economic dependence on male partners within family, no value of their decision in family problems, cultural and social norms, socio-customary practices are prevalent in all spheres of every day life;

Prevalent Categories of VAW in Pakistan

Women are the victims of:

- ⇒ Murder
- ⇒ Domestic Violence
- ⇒ Human Trafficking
- ⇒ Physical and Sexual Abuse
- ⇒ Kidnapping
- ⇒ Rape and Gang rape
- ⇒ Acid thrown and burn


Socio-customary practices like:

- ➔ Karo Kari (Honor killing)
- ➔ Sawar
- ➔ Vani
- ➔ Women are also victims of discriminatory laws such as Hudood Law, Citizenship Act

Pakistan has signed and ratified number of International human rights and women rights instruments such as:

- ⇒ **Universal Declaration of Human Rights**
- ⇒ **International Convention on the Elimination of All Forms of Racial Discrimination;**
- ⇒ **International Convention on the Suppression and Punishment of the Crime of Apartheid;**
- ⇒ **Convention on the Prevention and Punishment of the Crime of Genocide;**
- ⇒ **Slavery Convention of 1926 as amended;**
- ⇒ **Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery;**

- ⇒ Convention on the Rights of the Child (CRC)
- ⇒ Signatory to the Stockholm Declaration and Agenda for Action against Commercial Sexual Exploitation of Children.
- ⇒ Optional Protocol to CRC
- ⇒ ILO Convention 182
- ⇒ SAARC Convention on Trafficking
- ⇒ Convention for the Suppression of the Traffic of Persons and of the Exploitation of the Prostitution of Others.
- ⇒ Convention on the Elimination of Discrimination Against Women (CEDAW)



However the government has signed various instruments but the desired goals and outcomes are not attained to protect women from violence which is increasing day- by- day.

**Magnitude of VAW
revealed by Madadgaar
Database based on Cases
Reported in various newspapers
in Pakistan**

MADADGAAR Pakistan's First Child Help Line

CASES OF VIOLENCE AGAINST WOMEN IN COUNTRY

Six Years DATA(Jan, 2000 - Dec, 2005) From MADADGAAR DATABASE

Nature of Violence / Abuse	2000 (Jan-Dec)	2001 (Jan-Dec)	2002 (Jan-Dec)	2003 (Jan-Dec)	2004 (Jan -Dec)	2005 (Jan -Dec)	Grand Total
Murder / Rape Murder	386	1422	1583	1636	1492	2070	8589
Rape / Gang Rape	404	576	984	1030	728	616	4338
Torture / Injury	317	1195	1570	1920	1601	2009	8612
KaroKari	Not Collected	736	803	1261	1353	563	4716
Burnt	Not Collected	311	240	380	310	180	1421
Corpse found	Not Collected	Not Collected	120	129	103	Not Collected	352
Abduction (Committed)	668	1194	1275	1759	1227	1213	7336
Abduction (Attempted)	14	61	129	118	54	64	440
Police Torture	Not Collected	64	97	140	182	202	685
Suicide (Committed)	481	723	766	967	753	643	4333
Suicide (Attempted)	157	330	346	445	574	609	2461
Trafficking	Not Collected	36	28	84	67	72	287
Grand Total	2427	6648	7941	9869	8444	8241	43570

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Impediments in Access to Justice

The situation becomes more worse when victims suffer from impediments in Access to Justice as:

- ➔ Victims of Domestic Violence have virtually no access to judicial protection and redress. Officials at all levels of the criminal justice system do not consider domestic violence a matter for the criminal courts.
- ➔ Domestic Violence is routinely dismissed by law enforcement authorities as a private dispute. 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 pressured by the police to reconcile with their abusive spouses or relatives.

- ➔ The institutionalized gender bias that pervades the criminal justice system, women alleging rape are often disbelieved and treated with disrespect, indeed harassed outright, by officials at all levels.
- ➔ These women were forced by the system to contend with abusive police, forensic doctors who focus on their virginity status instead of their injuries, untrained prosecutors, skeptical judges, and a discriminatory and deficient legal framework.
- ➔ Lack of access to justice for all

Legal System

- Pakistan is a country where parallel judicial systems operates.
- Litigation is a lengthy and expensive process, and beyond the means of the marginalized and ignorant women & children sufferers of severe violence;
- The 1973 Constitution of Pakistan is a contradictory instrument. On the one hand, Article 25 of the Constitution guarantees equality of rights to all citizens irrespective of sex, race, and class and empowers the Government to take affirmative action to protect and promote human rights. On the other hand, there are several discriminatory laws that have a negative impact, especially on women.
- Role of Judiciary - often the law is not applied equally and Judgements often reflect gender biases

Jails

- The massive overcrowding in Pakistan's prisons, and the frequency of inmates who are under trial, stems from a number of fundamental flaws in the criminal justice system. These include the failure of police to complete investigations within the time periods prescribed by law, the restrictive application of bail laws, the frequent adjournment of hearings, understaffed and under utilized parole and probation departments, and a dearth of free legal representation.

Role of Police Officials

- ⇒ Law enforcement agencies in Pakistan are singled out in International human rights reports. There is a climate of impunity associated with all forms of police abuse. The police are accused of bribery, corruption, liaising with the criminal underground and ill treatment of defendants in custody.
- ⇒ In Police Stations across the country, as in other South Asian states, the use of torture is routine to extract confessions.

Pathetic plight of women police station & cells

- ➔ Former Prime Minister, Ms. Benazir Bhutto, inaugurated the women police station (WPS) on 2nd June 1994. The general public received it very well, particularly the women in Karachi.
- ➔ The recruited female staff did not receive proper training as they are not trained even in writing FIR.
- ➔ Female officers mostly perform protocol duties.
- ➔ The WPS meant exclusively for women in need. Alas that has turned out to be a fond hope! The harsh and insensitive attitude by WP towards victims bring the station in line with the ordinary police stations. Due to the deteriorating image of WPS, aggrieved women avoid registering cases there.

Gaps and Loopholes in the System

Delays

The report on the criminal justice system in 1997 by the Pakistan Law Commission, referred to the "serious abnormal delays" in both civil and criminal cases. A common complaint by Pakistani lawyers is the inadequate supply of information by the prosecution. A defendant, in the interests of justice is entitled to know the strength of the evidence against him as well as the offence with which he/ she is charged. Such exchange of vital information may reduce the number of adjournments, but criminal cases should not be adjourned unless it is necessary in the interests of justice to do so.

Absence of Witnesses

- ⇒ Delay in the effective disposal of criminal cases is frequently caused by the non-attendance of witnesses who are sometimes intimidated outside court and inside if no arrangements are in place to ensure that they sit away from defendants. It is not surprising that witnesses are often reluctant to attend court.

System's negative impact

- ➔ Due to the negative impact of prevailing system lawyers often hold profoundly negative gender and class stereotyped ideas about women's ability (especially inmates) to understand their own cases; they neglect to discuss matters pertinent to their cases with them.

Non-availability of documents

- ➔ Many women did not have in their possession their own nikahnamas and divorce decrees. Often such decrees are essential to defend themselves against Zina charges.

Government's Positive Steps

In different timings the government has taken some steps for the promotion and protection of women's rights which includes:

- ⇒ Setting up of a permanent women commission for uplift of the women status in country;
- ⇒ Introduced 33% reserved seats for women in parliament;
- ⇒ Involvement of women in city government;
- ⇒ Initiated discussions and taken steps against discriminatory socio- customary practices;
- ⇒ Cooperation with Civil Society Organizations;
- ⇒ Promulgation of Prevention of Human Trafficking Ordinance;

- ⇒ Ratification of SAARC Convention on Human Trafficking;
- ⇒ Signed the SAARC Social Charter that aimed at promoting welfare of the people of South Asia and accelerating economic growth followed by social progress;
- ⇒ Amendments in the West Pakistan Family Ordinance 1964 under Amendment Ordinance No. 55, 2002;
- ⇒ The Govt: provides access to micro-credit for women such as Pakistan Poverty Alleviation Fund, First Women Bank etc

Initiatives taken by LHRLA for the Protection of Women

- ➔ Provision of free legal aid to the survivors
- ➔ Establishment of Madadgaar Helpline and documentation center
- ➔ Legal Empowerment of the populace
- ➔ Initiated work on Trafficking in women and children

Recommendations:

International Protocols & Conventions

- Govt: should develop mechanism for strict implementation of UN/International/Regional Protocols & Conventions being ratified by the country.

Judiciary

- Upper and lower judiciary should make efforts for early disposal of cases as Justice delayed Justice Denied.
- The Supreme Court of Pakistan under article 184(3) of the Constitution should take up the issue of women protection and monitor government's action in this regard.
- Higher judiciary should encourage the Public Interest Litigations (PILs).

- All provincial high courts should establish a monitoring cell to check the cases of violence against women;
- Training of judges, other court officials, law enforcement personnel and shelter or care homes in dealing with women must be declared mandatory;
- Causes of delay in case proceedings should be addressed properly;
- A Lady Ombudsman should be appointed to check the violence against women and redress their problems with independent judicial powers;

Police

- A police Ombudsman should be appointed to redress the problems of aggrieved people against police;
- Police Department should establish monitoring cell at city and provincial level to check the reported cases of violence against women;
- Police should collect national statistics to create a profile of the women victims of violence and also the perpetrators;
- Government should constitute an independent commission to investigate the cases of those police officials who have criminal records;

- Those police officials having criminal records should be sacked immediately;
- The case investigation process is outdated and the police department should take measures to adopt latest mechanisms of investigation and develop a separate team to investigate the matter with regard to violence against women and children;
- The government must ratify the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. And earnestly assume its obligations, especially in regard to the establishment of adequate redress mechanisms in cases of torture;

Legal Aid

- Government should recognize the proper implementation of Article 9 of the Constitution of Pakistan, which says “No person shall be deprived of life or liberty save in accordance with law”, and take the provision of legal aid as Right to Life;
- Government should make arrangements to provide free legal aid at district level;
- In cases of capital punishment, the relevant courts should make sure the provision of free legal aid;

Jail and Remand Home

- There is a need of trained and sensitized staff for women prison;
- Frame Code of Conduct for Jail and Remand Home officials;
- Government should make sure the proper implementation of jail manual;
- Regular transport facilities for women prisoners needs to be provided;

Civil Society Organizations (CSOs)

- The CSOs should launch awareness campaigns on laws for the protection of women especially in rural areas of the country;
- CSOs should form watch groups to monitor the role of police and judiciary especially cases pertinent to violence against women;
- CSOs should move from a paradigm of reintegration and rehabilitation to an approach that protects and promotes the human rights of women in the country.

- ⇒ Discrimination on the basis of gender needs to be addressed at grassroot levels;
- ⇒ Strong networking with all service providing GOs and NGOs to help the victims/survivors of violence;
- ⇒ CSOs should develop unconventional shelters with the help of government.

Donor Agencies

- ⇒ Donor agencies should allocate funds for those organizations, providing services to the women victims of violence;
- ⇒ Research on various dimensions of violence against women should be encouraged;
- ⇒ Allocation of funds for crises centers, shelters, provision of free legal aid, police/judiciary trainings should be prioritized;

- ➔ There should be strong interaction and coordination among government and civil society organizations in the form of national network to combat the situation;
- ➔ There is need to develop clear guidelines for police intervention and protection in cases of domestic violence;

- ➔ Government should repeal Hudood laws, the Offence of Zina Ordinance,
- ➔ The Government should ensure that law enforcement personnel are trained to eliminate discrimination against women in their responses to cases of violence against women

- ⇒ Adequate mechanisms should be established for citizens to obtain justice when victimized by police torture;
- ⇒ The govt: should give judicial powers to the Women Commission on the Status of Women and allocate proper resources for them.

The image features a landscape background. The top portion shows a bright, hazy sky with some light clouds. Below the sky is a thin, dark horizon line. The middle section is a bright, glowing yellow gradient that fades into a dark grey gradient at the bottom. The text "Thank you for attention" is centered in the dark grey area.

**Thank you for
attention**