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## ***Gender Based Violence Reduction in Pakistan through increased Justice System Capacity: A Research Study***

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### ***ABSTRACT***

*Gender-based violence not only remains the issue in the present time; such violence is a part of history. People are so biased because of their cultural norms and lack of education relating to gender. When a son was born, they were happy and proud, but when a daughter was born, they considered it dishonored and unhappy. 1400 years ago, if a daughter was born, people would bury her alive. Such a high level of bias relating to gender existed in the past. And at the present time, gender discrimination also exists in society, and its different impacts arise that highlight the different effects on individuals, families, and society at large. Such violence exists at the workplace, at universities, and even at home. Such violence committed by a partner is called intimate partner violence (IPV).<sup>[1]</sup> Without giving the rights and dignity of all individuals, regardless of gender, to the prohibition of such violence, different constitutional and legal rights of women prescribe a reduction of gender-based violence, provide survivors with access to justice, and prevent future incidents of such violence. And the government also takes such steps to overcome them, giving awareness to the people who faced such violence for their rights and affirming the equal worth and dignity of all individuals. In Islam, respecting the rights of individuals without*

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<sup>1</sup>- Tahir, Muhammad, Aayesha Rafiq, Musab Yousufi, and Muhammad Kashif Sheik. "Eradicating gender-based violence against female-intimate partner in pakistan: A theoretical framework from islamic philosophy." *Academic Journal of Interdisciplinary Studies* 10, no. 1 (2021).



*any gender discrimination means respecting the rights and dignity of all individuals, regardless of gender. The verses of the Quran and hadith provide principles of kindness, compassion, and justice in relationships, including the treatment of women. They restrain violence and mistreatment, affirming the equal rights and dignity of all peoples without any gender discrimination.*

**Keywords:** *Gender-based violence, Pakistan, rights, justice, Islam*

### **Introduction**

Gender-based violence is a violation of fundamental rights of the people. Gender-based violence is present in every country in the world, has effects on every segment of society, and is prevalent among all ages of groups. Every day, women face different types of violence throughout the world, including physical violence, sexual violence, domestic violence, emotional violence, psychological violence, economic violence, being burned, disfigured with acid, beaten, threatened, and honor killings.<sup>[1]</sup>

Abuse of power, gender inequality, and lack of belief in equality of human rights are all reasons that increase the risk of GBV. Many causes of GBV were found, although they are associated with some reasons like poverty, breakdown of services, conflict and wars, displacement stress at home, cultural beliefs and practices, lack of access to education and resources, and a weak legal and justice system.<sup>[2]</sup>

According to data from the Pakistan Demographic and Health Survey, nearly one in every three women in Pakistan has experienced physical violence, and one in every five has experienced sexual violence.<sup>[3]</sup> Gender discrimination in Pakistan is clearly evident by the country ranking 141<sup>st</sup> out of 142 with respect to economic opportunities and political participation of women. Gender inequalities make women weak in society because of the of the belief that men are superior to women. Gender-based violence is a major serious human rights problem in Pakistan and is reported to be on the rise (Amnesty International, 2002; Human Rights Commission of Pakistan, 2003; Human Rights Watch, 1999).<sup>[4]</sup>

By increasing the justice in society, where all persons without any gender discrimination can live free from fear and violence. It requires maintaining commitment from governments, law enforcement agencies, policymakers, and civil society and training necessarily to effectively address GBV and give the rights and dignity of all peoples. Enhancing the effectiveness, accessibility, and response of the justice system can result in reducing GBV and supporting and protecting survivors through the enforcement of laws and the prosecution of offenders.<sup>[5]</sup>

### **Causes of gender-based violence**

Multiple cause that the sexual harassment ratio is increased in Pakistan because of many laws are to be introduced but still a lot of work is pending to be done. The laws are still not mature enough to stop harassment in Pakistan. Even laws are introduced, but women have no knowledge about them. It is the duty of governments and law enforcement agencies to inform women about such laws. Harassment is still a big issue, and women are not comfortable discussing such matters with their parents. In many cases, parents blame their daughters instead of supporting them.<sup>[6]</sup>

In more than 80% of cases, girls are scared to talk with their parents if someone is harassing or blackmailing them. There are no awareness programs in Pakistan to inform women against such harassment, so approximately 70% of women have some knowledge about harassment. We need to start awareness programs, educate our women and their families as well, and ensure the enforcement of the law and proper psychological support for survivors.<sup>[7]</sup>

The main cause of increasing gender-based violence is the protection of the offender because of their strong background or hold in society or the political approach and not doing a fair investigation or trial. When others see such matters, the people who act as gender-based violence and are not punished gain confidence from the others wrongdoers, and they also commit such violence related to gender or other violence.<sup>[8]</sup>

And some other causes that affect individuals in the form of GBV were found, although they are associated with some reasons like poverty, breakdown of services, conflict and wars, displacement stress at home, cultural beliefs and practices, lack of access to education and resources, and a weak legal and justice system.<sup>[9]</sup>

### **Effects of gender-based violence**

Gender-based violence has serious effects on survivors and their families. Such effects can range from physical harm to long-term emotional stress, and rape and sexual assault can result in unwanted pregnancies. The social and economic fallout from GBV can lead to a loss of livelihood and increased gender discrimination over time. Gender-based violence is also a barrier for women and girls to access life-saving services like food, shelter, healthcare, etc.<sup>[10]</sup>

GBV can have effects on the health and well-being of survivors; such effects are not only for a short period of time but have an impact on survivors for decades. The consequences of GBV extend beyond individual survivors, affecting families, communities, and broader society. Physical injuries, psychological issues, and social problems are common outcomes of gender-based violence. Moreover, GBV

undermines economic development by limiting involvement in the workforce and property issues.<sup>[11]</sup>

Effecting women's rights is a violation of human rights, but it also affects the rights of men and individuals of diverse gender identities. It shows various forms of violence; basically, gender-based violence infringes on the human rights that are prescribed in the UN Charter, including the right to life, liberty, and security of person, freedom from degrading treatment, and the right to access justice and remedies.

### **Existence of gender-based violence in society**

Gender-based violence exists in society and remains a issue that has significant negative effects on individuals at the workplace and on society as a whole. Unwelcome sexual desires from females at the workplace or other verbal or physical misconduct of sexual nature that creates a bad impact on the workplace environment. It is crucial for organization's and other workplaces to create clear policies and procedures in place to protect, prevent, and address sexual harassment.<sup>[12]</sup>

This includes giving knowledge and training to employees and supervisors on sexual harassment and also educating them on how to report incidents and the consequences of engaging in such behavior. Victims of such harassment must feel free and empowered to report incidents to their human rights department and other designated authorities. It is necessary for employers to take all such harassment reports seriously and conduct prompt investigations.

And build awareness in people, create a culture of respect for those who work in any place, and help prevent sexual harassment from occurring in society by promoting equality, diversity, and equality for all without any gender discrimination.<sup>[13]</sup>

Overcoming sexual harassment at the workplace requires a different approach that includes enhanced education, prevention of sexual harassment, and enforcement of policies and law designed to protect employees from harassment and gender discrimination at the workplace.<sup>[14]</sup>

Sexual harassment of students by university faculty is another serious issue in our educational institutions because, according to major research, universities report that one in ten female graduate students is being sexually harassed by faculty members. In Pakistan and all over the world, many universities face intense media scrutiny regarding students sexually harassed by faculty members of the university or college.<sup>[15]</sup>

Women are being harassed during their academic careers in scientific disciplines, which is currently a subject of significant public debate. Policymakers work to

detect serial sexual harassers where the answers provided by student surveys are least satisfactory. And during such surveys, strict confidentiality restrictions and block most university campuses where sexual harassment cases are reported.<sup>[16]</sup>

Harassment by university faculty to students during studies has a serious impact on their academic environment, social life, and in the university community. This harassment has many forms, including unwanted sexual advances, requests for sexual favors, bad comments or jokes of sexual nature, and any other form of misconduct with students. No check and balance of acts performed or done by university faculty make pressure on students that may cause fear for retaliation, harm their academic career, or professional aspects or disbelief from others if any complaint is made against a faculty member.<sup>[17]</sup>

Some cases also report reports by female faculty staff against the male faculty for being harassed and demanding to fulfil sexual desires, but at the end, in many cases, political or any other form of approach makes the disturbance to access justice by victims in Pakistan. The root causes of all such harassment are biases relating to gender and misconceptions given by society and cultural norms to the person that appear in the form of gender-based violence.

Universities must have a responsibility to maintain a safe and respectful learning environment for all, implement clear policies, conduct seminars in the universities for addressing and preventing such gender-based violence, and provide education and training on how to report in such situations. And they must ensure that the university authorities support and keep the complainant and services provided for those students who face such harassment confidential.

And furthermore, universities must hold faculty members accountable for their acts and behaviors towards students when allegations of sexual harassment occur. This may involve investigations, sanctions, and, in severe cases, termination from employment. It is the responsibility of the university to prioritize the well-being and safety of their students and to properly work to protect the students from sexual harassment and any form of gender-based violence, providing full support mechanisms for survivors of such harassment. By taking such initiatives, universities help ensure that all students, without facing any problems or threats of sexual harassment, complete their education.<sup>[18]</sup>

### **Constitutional and legal rights of women in Pakistan**

Human rights provide that every person on earth is entitled to fundamental rights without any form of gender discrimination, religion, politics, language, or any other form of status. The constitution of the Islamic Republic of Pakistan provides fundamental rights to every citizen of Pakistan without any gender discrimination, religion, etc. The establishment of the constitution of the Islamic Republic of

Pakistan in 1973 is embedded in Islam, a religion that provided equality for all mankind 1400 years ago.<sup>[19]</sup>

Allah S.W.T. said in the Quran:

O mankind, we have created you male and female, in your nation, and tribes that may you know one another. The best of you in the sight of Allah is in the best conduct in life; Allah is knower-aware.<sup>[20]</sup>

Women have a vital role in the development of society in every phase of life, side by side with men. In urban areas, women work in every field of life, like social and economic. But in rural areas, the situation is heinous, like ant women, forced marriage, rape, honour killing, acid attacks, etc. If some efforts are made to raise awareness regarding women's dignity, rights, and respect, they are given by the constitution of the Islamic Republic of Pakistan (1973) and by other laws of the land.<sup>[21]</sup>

Laws are born with the birth of man. Many rights are provided by the state to its citizens without any gender discrimination, religion, colour, or any other form of status. Every person is equal before the law. And many constitutional and other legal rights are prescribed thereunder. The constitution of Pakistan provides fundamental rights from Article 8 to 28 for every citizen of Pakistan, including the right to enjoy their life.<sup>[22]</sup>

The constitution has guaranteed twenty-one fundamental rights, which are as follows:

- 1) Rights of life and liberty (art. 9).
- 2) Safeguard as to arrest and detention (Art. 10).
- 3) Right to a fair trial (10-A).
- 4) Slavery, forced, laboured., prohibited (11)
- 5) Protection, retrospective and double punishment, and self-incrimination (art. 12, 13).
- 6) Freedom of movement, freedom of assembly, association, trade, business, or profession, and freedom of speech and right to information (14, 15, 16, 17, 18, 19, 19-A).
- 7) Freedom of religion and safeguard against taxation for religion and safeguard as to educational institutions in respect of religion (20, 21, 22).
- 8) Protection of property and property rights (23, 24).
- 9) Equality for citizens and education, and no discrimination in access to public places (25, 25-A, 26).

Safety if there is discrimination in the service and preservation of language, script, and culture.<sup>[23]</sup>

### **Legal rights**

According to Pakistan penal code (PPC) 1860, sections 30 and 310-A protection for women marriage in the form of badal-i-Sula shall be punished by rigorous imprisonment. And Section 332 protects the female from pain that causes harm, disfigurement, defacement, or dismemberment of any organ of the body, which is said to cause hurt. And 336A provides a remedy for any substance that is deleterious to the human body to come into contact with; to inhale is said to cause harm by a dangerous substance.

Section 336B also provides that a person causing harm by dangerous means shall be punished with imprisonment. According to Section 354, a person who commits assault on a woman or uses criminal force against her may face two years of imprisonment. And 354A provides that if any person assaults or uses criminal force against women or stripes her clothes in a manner that exposes her to public view, she shall be punished with a with a death sentence. Or imprisonment for life.

Section 365-B provides punishments: if any one kidnaps or abducts the women for the purpose of rape, they shall be punished with life imprisonment; if any person takes any minor girl to another place or seduces her, they shall be punished, which may extend to 10 years and a fine; and many other sections prescribe in the Pakistan Penal Code (PPC) 1860 for the protection of women's rights and dignity and the prevention of such gender-based violence.

Additionally, further sections are also available for the protection of women, like Section 366-B, which prohibits any person who imports any girl outside of Pakistan with intent to illicit intercourse, and Section 367-A, which protects against kidnapping, any unnatural lust, or putting herself in danger of being subjected, shall be punished with death. Sections 371-A and 371-B provide whoever sells and buys hires or obtains possession of any person with the intention that such person shall at any time be employed or used for prostitution.<sup>[24]</sup>

Section 375 defines the crime of rape, and according to Section 376, a person who commits rape shall be punished with death. Many other provisions of this code describe offences and their punishments regarding women. Like sections 493, 496-A, 496-B, 496-C, 498-A, 498-B, 498-C, and section 509. According to the criminal procedure code (CRPC),. Section 52, 167 clauses 5, 6, and 7, 203-A, and 203-B and Section 203-C.<sup>[25]</sup>

Different laws available for the protection of the rights of women are given below:

- 1) Offences of Qazaf (Enforcement of Hadd) Ordinance, 1979.

- 2) The Dissolution of Muslim Marriage Act, 1939.
- 3) Muslim family laws ordinance, 1961.
- 4) The West Pakistan Family Courts Act, 1964
- 5) The Guardians and Wards Act, 1890.
- 6) Child Marriage Restraint Act, 1939.
- 7) Dowry and Bridal Gifts (Restriction) Act, 1976.
- 8) Married Women Property Act 1874.
- 9) Mine maternity benefit Act, 1941.
- 10) The maternity benefit ordinance, 1958.

**The government initiates steps to reduce gender-based violence.**

Gender-based violence highlights a serious issue that aims to harm individuals based on their gender, especially women, and is one of the most common and dangerous violations that happens globally and also in Pakistan. The population of Pakistan is over 229 million and will rank fourth among the most dangerous countries for women in 2021. In 2016, Punjab, the most populated province of Pakistan, had a conviction rate of 4% in rape cases. <sup>[26]</sup>

In Pakistan, approximately according to a survey, people experience physical violence. 70% to 90% of married women have experienced physical violence from their husbands, which is called intimate partner violence (IPV), and other male relatives during their lives. Here, some actions must be taken by the government of Pakistan to prevent gender-based violence and provide protection for the survivors of such violence. <sup>[27]</sup>

The government adapted a framework from national policy for the elimination of gender violence against women and girls. The government is promoting an awareness programme in society and in different universities and colleges to enhance knowledge regarding the consequences of gender-based violence, its survivors, and its impacts on society. There must be a reduction of gender-based violence through increased justice system capacity. <sup>[28]</sup>

The government of Pakistan has taken multiple steps to reduce gender-based violence through legislative reforms that aim to reduce gender-based violence and protection against harassment of women at the workplace Act (2010), the Criminal Law (Amendment) Act (2016), and the government's national action plan for human rights, which aims to especially reduce GBV. <sup>[29]</sup>

Through an awareness programme, give knowledge to the public regarding gender and also educate them to promote gender equality. Also training the law enforcement agencies and judicial officers on how to address gender-based violence and how to collect evidence and follow legal procedures. The



government must collaborate with NGOs and other civil society groups to address GBV, provide services, make policies for prevention, and respond to such violence against women and girls.<sup>[30]</sup>

Gender-based violence is a serious issue that exists in society to prevent such violence because its impacts are very worst on individuals. Through international commitments that provide legal and human rights for women's and girl's all over the world, that must be implemented measures to fulfil its obligation and address GBV. It's the duty of the state to protect their citizens from any type of violence.

**Existence of international law to reduce gender-based violence:**

International effort to be put into eliminating all types of inequality and abuse, the platform for action to be initiated by governments to address and eliminate violence's, and different measures to be taken to improve the status of women in society and to establish equality with men without any gender discrimination in all fields of human life, under the United Nations Charter.<sup>[31]</sup>

There are many international laws and agreements that aim to reduce gender-based violence and promote gender equality.

- 1).United Nations declaration on the elimination of violence against women, 1993:This declaration recognises violence against women and girls as a violation of human rights as prescribed in the UN Charter.
- 2).Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): It was adopted by the United Nations General Assembly in 1979. The purpose of CEDAW is often to describe the international bill of rights for women and girls. The state parties must take some steps to eliminate gender-based violence and discrimination regarding gender.
- 3).Beijing Declaration and Platform for Action (1995):Fourth world conference on women in Beijing and make decisions for empowerment of women and reduction of GBV.
- 4).United Nations Security Council Resolution 1325 (2000):This resolution is passed if there are any impacts of armed conflict on women and girls' lives and calls for prevention and peace.
- 5).Istanbul Convention (City of Europe Convention on Preventing Violence Against Women and Domestic Violence) This was adopted in 2011 by the Council of Europe.
- 6).Sustainable development goals: Many international laws and agreements provide guidance for development and implementing policies regarding gender-based violence.

These are some internationally steps initiated for the purpose of eliminating gender-based violence from the world and providing knowledge for equality for human beings. No one is above the law; every person is equal before the law. And educate our women about their rights; many women do not even know their rights, and also enforce strict laws and conduct proper investigations by law enforcement agencies to access justice for survivors.

**In Islam, the prohibition of gender-based violence is:**

In Islam, Quran verses and the hadith of the prophet Muhammad teach humanity the importance of respecting the rights and dignity of all people without any discrimination based on their colour, religion, gender, or any other form of status. Islam gives equal rights to all people in the world. Islam teaches us to treat women kindly and gives all their rights, like inheritance rights, dower rights, etc.  
[32]

Quran verses address gender-based violence:

Quran 4:19: O you who have believed, it is not lawful for you to inherit women by compulsion. And do not make it difficult for them to take part in what you gave them unless they commit a clear act of immorality. And live with women's kindness. For if you do not like them, perhaps if you dislike one thing, Allah makes it better.

Quran 30:2: And among his signs in this that he created for you mates from among yourself that you made dwell in tranquilly with them, and he has put love and mercy between your hearts verily in that are signs for those who reflect.

Hadith, Abu Dawood (2142):

It was narrated from Abu Hurairah that the prophet Muhammad said: Treat women kindly, for woman was created from a rib, and the most crooked part of the rib is its top. If you try to straighten it, you will break it, and if you leave it, its crookedness will remain. So, treat women kindly.

Sahih Muslim (1218a): It was narrated from Abu Hurairah that the Prophet Muhammad, peace be upon him, said: The most perfect man of the believers in the faith is the one whose character is good and who is kindest and loves his wife.  
[33]

**Discussion**

First of all, we focus on the causes of why gender-based violence exists or is committed in our society because people do not know the consequences of such an offense. If you educate yourself on the root causes of violence and the steps to be taken to stop sexual harassment and victim blaming because of our society, and our cultural norms also criticize the victims, we must stop rape culture.

Multiple causes of gender-based violence exist in our society. When families are pushed into poverty, stress in the household can increase. For instance, IPV, a breakdown of services, and the collapse of community structure and the rule of law mean women can find themselves without social support and protection systems in the state. Conflict and war are another cause of the rising number of conflicts globally. <sup>[34]</sup>

weak legal and justice system because when the legal system of the framework ineffective, the justice system fails to adequately protect victims of GBV, and a lack of accountability can precipitate cycles of violence. Different laws also exist for the protection of women and girls from any type of violence and the prevention of such violence through increased justice system capacity. And through an awareness programme, we solve this issue that impacts our daily lives around the world. <sup>[35]</sup>

By improving the capacity of the justice system to reduce gender-based violence and making a clear statement by the government officials that if any violation of gender-based violence occurs, such behaviour is unacceptable and shall be met with consequences, and also by making changes.

Legal reforms must be needed at this stage when sexual harassment and other violence are increasing day by day, as well as training on what we need to do. The law always exists, but how to implement it is the big problem faced. The best management system and proper performance need to be introduced in the police. The police and prosecution departments play a vital role in investigating and accessing justice. A gender-based violence court must be established in different areas of Pakistan that deals with GBV matters, solves them, and grants justice to the survivors.

### **Conclusion**

Gender-based violence is a serious issue that exists in our society. It's had impacts on an individual's life and their families for a very long period of time. Gender-based violence includes not only sexual violence but also physical violence, psychological or emotional violence, economic violence, harmful traditional practices in our societies in our customs traditions, intimate partner violence, and the serious issue that exists in our society, child marriage. Multiple steps have been taken by each country and the United Nations to eliminate gender-based violence.

Gender-based violence is not only a matter of law but also a moral duty of every person for societies all over the world. It needs efforts put in by governments to change the cultural norms through increased awareness of the rights of women

and girl's and also educate women about their rights given in the constitution and other legal rights for the protection of women in Pakistan.

In conclusion, addressing gender-based violence needs to combine efforts put across the different departments, including healthcare, education, community support, and enhancing the capacity of the justice system. It must also provide human rights, promote gender equality, and create awareness among all individuals in society.

Training the law enforcement agencies, prosecutors, and judges must give them the them the knowledge and skills to maintain and handle these cases effectively and control gender-based violence. Established gender-based violence courts for handling relevant cases of GBV. These courts can provide justice and support for survivors and complete the litigation process in a in a timely manner.

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