Fighting Domestic Violence - Pakistan

1. Legal provisions

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# 1.1 What are the relevant statutes and codes?

The legislation in Pakistan must be based on the foundations of Sharia.[1] The following laws are relevant to crimes of domestic violence in Pakistan:[2]

Anti-Rape Act 2016

Anti-Honor Killing Act 2016

Punjab Protection of Women against Violence Act 2016

Punjab Marriage Restraint Amendment Act 2015

Sindh Child Marriage Restraint Act 2014

Domestic Violence Prevention and Protection Act, Sindh (2013) and Baluchistan (2014)

Khyber Pakhtunkhwa Deserving Widows and Special Persons Act 2014

Elimination of Custom of Ghag Act 2013 (Khyber Pakhtunkhwa)

Prevention of Anti-Women Practices (Criminal Law Amendment) Act 2011 (pertaining to forced marriages and inheritance deprivation in the name of custom)

Women in Distress and Detention Fund (Amendment) Act 2011

Right to Ownership (Women) Act 2011

Acid Control and Acid Crime Prevention Act 2011

Protection Against Harassment of Women at the Workplace Act 2010 (AJK 2011, Punjab 2012, Gilgit-Baltistan, 2013)

Women Protection Act 2006

In December 2006, the Protection of Women (Criminal Laws Amendment) Act was passed containing several clauses in the Pakistan Penal Code and the Criminal Procedure Code regarding sexual assaults on women and some modifications were made to the Zina Offense as well. In 2001, Section 174-A was added to the Criminal Procedure Code in an attempt to curb dowry-related violence.[3]

In August 2009, the National Assembly of Pakistan passed the Domestic Violence Bill that lays down provisions for the protection of and monetary compensation for victims and punishment in the form of fines or jail time for those who violate protection orders.[4]

# 1.2 What is the controlling case law?

In the country guidance case of *SM* (lone women — ostracism),[5] the upper tribunal held that, apart from the guidance given in *SM* with regard to lone female heads of a family, the existing country guidance in *SN* and *HM* (divorced women — risk on return)[6] and in *KA and Others* (domestic violence risk on return)[7] remains valid.

Although the law protects women, in practice, this is not systematically enforced because of deep-rooted social, cultural and economic barriers and prejudices. A woman's status — and, therefore, her ability to exercise her social, economic and human rights — varies according to her social position in terms of class, religion, education, economic independence, region and location (urban or rural), cultural and traditional values, caste, educational profile, marital status and number of children. Women face direct, cultural and structural violence through a deeply entrenched system of patriarchy in all tiers of public and private life.

The [Islamic laws](https://www.justice.gov/eoir/page/file/1250691/download?1502386956=&amp;response-content-disposition=inline;+filename=Domestic_Violence_Against_Women_Empirica.pdf&amp;Expires=1604421907&amp;Signature=QfHaf-Jp~ZahUVgeplKQKx~lo0ytDLBIb0USBqoxxs07TY9bKt7i5KdaDZyNmh79LuB-LKu1c0gNPATnE63AOQHdPMW1zQh9M8mt6spdBVG0VcHQsgRBhO5NffYkKXYK824Zup~7Uy9nhZ79xcHsIOm5fOtwe30spehovDTql~fLNW5PAy8wnIRzK1cIXpVxtq2mVyJqF0I-XSlG2AXnDynqui0oirKIFe-gC4eP0Nm5OW-~basDadVi9iYqA1giseKmfI1Mt3envAmUfVlLNHPvLS82ZqEAffUPGI3bwprJL~RcDzgMndkSPkHOQCri8oapE34pc0Lu25cA8HZpuw__&amp;Key-Pair-Id=APKAJLOHF5GGSLRBV4ZA) on women's rights give a broader framework that needs to be utilized in order to maintain the status of domestic violence against women.[8]

# 1.3 What are the specific parts of the court system that address domestic violence?

The Constitution of Pakistan and different laws prohibit discrimination based on gender but often lack proper enforcement by the authorities.[9]

The Constitution of Pakistan in several articles guarantees gender equality. For instance, Article 25 states: "All citizens are equal before law and are entitled to equal protection of law" and Article 27 states: "There shall be no discrimination on the basis of sex alone."

At the global level, Pakistan has signed several international commitments to protect basic human rights and ensure gender equality. These include:

United Nations Universal Declaration of Human Rights

Forward-looking Strategies for the Advancement of Women (Nairobi, 1985)

Programme of Action agreed at the International Conference on Population and Development (Cairo, 1994)

Education for All (Jometien, 1990 and Delhi, 1993)

United Nations Conference on Environment and Development (Rio de Janeiro; 1992)

World Summit on Social Development (Copenhagen, 1995)

Platform for Action signed at the Fourth World Conference on Women (Beijing, 1995)

UN Convention on the Rights of the Child

Pakistan has acceded to the Convention on the Elimination of All Forms of Discrimination against Women ((CEDAW) 1993)[10]

# 1.4 What are potential causes of action?

In Pakistan domestic violence includes the following:

intimate partner violence

honor killings

dowry

However, in practice, not all cases of domestic violence are reported. There are many reasons behind not registering the cases, as many of the victims are wary about the public perception and pressures of "honor" and fear, as well as the so-called reputation of their family. Generally, the police and judges are also reluctant to register cases involving women and consider them as family matters or problems that can be solved at the family level.[11]

It is important to note that an accused found guilty of committing acts of domestic violence will only receive a warning not to do certain acts based on the protection orders. The accused will not be subject to penalties for committing an act of violence. However, penalties for violation of protection orders include imprisonment of six months to one year and a fine of PKR 100,000 for the first breach, and a prison term of one to two years and/or a fine of not less than PKR 200,000 for the second and succeeding offenses.[12]

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