

A Review of The Punjab Protection of Women against Violence Act 2016

“There is not much difference between a sadist and a moralist. Sadists don't need any excuse to do violence. Moralists prepare a moral or religious excuse before they let out their violent energies.”

— Shunya



Several groups predisposed to maintain gender inequality in Pakistan have frequently expressed unease over legislation enacted in support of the protection and empowerment of women. Particularly, a sizable portion of the religious right has frequently fought reform vehemently under the guise of safeguarding the nation's ideology. The status quo has historically been supported by louder voices than those pushing for reform, and as a result, diverse governments have historically bowed to those voices. Naturally, the enactment of the PPWVA has also aroused considerable debate, but the Punjab Government (hereafter referred to as "the Government") has so far appeared steadfast in refusing to comply with it. In order to combat violence, the PPWVA establishes a system of protection and rehabilitation for women who are caught up in it.

Introduction

Legislation in pursuance of the protection and empowerment of women in Pakistan has often caused discomfort amongst various circles inclined to preserve gender inequality in the country. In particular, a large section of the religious right has often vociferously opposed reform on the pretext of defending the ideology of the country. Voices supporting the status quo have usually been louder than those calling for reform, and thus various governments have historically yielded to them. Unsurprisingly, the passage of the PPWVA has also courted much controversy, but the Punjab Government ('the Government') has thus far appeared resolute in not submitting to it. The PPWVA is not strictly a penal statute; rather it aims to counter violence by establishing a protection and rehabilitation system for women trapped in abusive relationships. It covers a broad range of violence including sexual, psychological, economic, stalking and cybercrime. The PPWVA hinges on various non-traditional measures to extend protection to women being abused, such as cuffing the abuser with a GPS tracker for monitoring movement, and these measures have arguably played a key role in driving the

criticism of the Act. This legislative review critically examines the principal arguments against the PPWVA, and then proceeds to analyze the need to promulgate this Act in the current circumstances. Following this, the review critically examines various provisions of the PPWVA to gauge its potential effectiveness, and where possible, makes recommendations to overcome some of the existing loopholes in it. Lastly, given the above discussion, the review highlights some of the measures necessary to secure the future of the PPWVA.

Arguments against the PPWVA

Most of the criticism of the PPWVA is leveled against the modern notions of protection and empowerment of women in the context of marriage for allegedly being against Islamic principles. The Council of Islamic Ideology ('the CII'), a body tasked with making recommendations to the legislature for ensuring that laws conform with the Islamic principles, took the lead in declaring the PPWVA to be un-Islamic on the grounds of it being contrary to the teachings of Islam.¹ The Act was seen as an attempt to impair Shariah and secularize the Islamic State.² Several leading religious scholars and representatives of top religious political parties also expressed their resentment along similar lines over the passage of the PPWVA. In expressing such views, reliance has impliedly been placed on Verse 4:34 of the Qur'an, which states:

Men are qawwamun (in authority) over women, because God has preferred some over others, and because they spend of their wealth (to maintain them). Righteous women are obedient and guard in (their husbands') absence what God would have them guard. Concerning those women from whom you fear nushuz (disobedience/rebellion), admonish them, and/or abandon them in bed, and/or wa-dribuhunna (hit them). If they obey you, do not seek a means against them, God is most high, great.

This verse has since long been in the limelight in the context of domestic violence against women. On the one hand lies the traditionalist interpretation of this verse, according to which the imperative 'hit them' means that the use of force is permitted in case of necessity and as a last resort to save marriage.³ On the other hand lies the reformist interpretation, according to which the aforementioned imperative merely implies parting ways in case of an irreconcilable dispute between the spouses.⁴ Given the contemporary realities, the reformists are against the use of force by husbands.⁵ However, most individuals condemning the PPWVA appear to be

¹ Shyema Sajjad, 'When Will Pakistan's Clergy Celebrate Our Women?' Dawn (7 March 2016) <<http://www.dawn.com/news/1244113/when-will-pakistans-clergy-celebrate-ou...> accessed 20 March 2016; Reuters, 'CII Rules Women's Protection Law 'un-Islamic'' The Express Tribune (3 March 2016) <<http://tribune.com.pk/story/1058773/top-pakistani-religious-body-rules-w...> accessed 20 March 2016.

² Newspaper's Staff Correspondent, 'Religious Parties can Derail Govt, Fazl tells Sana' Dawn (2 March 2016) <<http://www.dawn.com/news/1243017/religious-parties-can-derail-govt-fazl-...> accessed 18 March 2016; Kalbe Ali, 'Religious parties reject women protection bill' Dawn (6 March 2016) <<http://www.dawn.com/news/1243896/religious-parties-reject-women-protecti...> accessed 19 March 2016.

³ Newspaper's Staff Correspondent, 'Religious Parties can Derail Govt, Fazl tells Sana' Dawn (2 March 2016) <<http://www.dawn.com/news/1243017/religious-parties-can-derail-govt-fazl-...> accessed 18 March 2016; Kalbe Ali, 'Religious parties reject women protection bill' Dawn (6 March 2016) <<http://www.dawn.com/news/1243896/religious-parties-reject-women-protecti...> accessed 19 March 2016.

⁴ Ibid, 189.

⁵ Ibid

following the traditionalist interpretation as they take the imperative ‘hit them’ in its literal sense, and refuse to interpret it in the context of verses and ahadith that advocate protection and empowerment of women. For instance, Verse 2:228 of the Quran states, ‘Women shall have rights similar to the rights against them, according to what is equitable’.⁶ Besides, according to a hadith, Prophet Muhammad (PBUH) rebuked those men who hit their wives and said that those who do so are not the best of men.⁷ The apparent obliviousness of individuals opposing the PPWVA in its entirety to such Qur'anic verses and ahadith reveals a bias on their part, which can be seen as an attempt to maintain the gender status quo in the society.

Various individuals have also been contending that the PPWVA is against the ideology of Pakistan. A prime illustration of this is the formal rejection of the Act by the CII on the ground that it ‘doesn’t fit in with the ideology of Pakistan’ and thus the ‘whole law is wrong’.⁸[8] There is no doubt, given the fact that Islam is Pakistan’s state religion (Article 2) and the Objectives Resolution is a substantive part of the Constitution (Article 2A), that the ideology of the country is Islamic in nature.⁹ The argument being raised by the likes of the CII, however, is problematic in at least three respects. Firstly, the Supreme Court has held that the Objectives Resolution, which deals with Islamic precepts and the ideology of Pakistan, is not supra-constitutional¹⁰ – it does not control the substantive provisions of the Constitution. Secondly, Article 25(3) of the Constitution, which deals with equality of citizens, states, ‘Nothing in this Article shall prevent the State from making any special provision for the protection of women and children.’¹¹ Given that the intended purpose of the PPWVA is to protect women from violence, it certainly falls within the ambit of this Article. Thirdly, even if it were assumed that there is absolute agreement over the scope of the ideology of Pakistan, is violence against women not against Islam and thus against the ideology of the country? The argument being that one may object to certain provisions of the Act, but from an objective standpoint, one cannot validly claim that it is in its entirety against the ideology of the country.

The notion of the dignity of man has also been used as a basis to oppose the PPWVA. Perhaps the best illustration of such kind of concerns is the reasoning of Dr. Mohammad Aslam Khaki, who has challenged the Act in the Federal Shariat Court for being ‘against the dignity of man and hence against Islam and the Constitution.’¹² He has supported his petition by citing the following verse from the Qur’an, ‘We bestowed dignity on the children of Adam and provided them with rides on the land and in the sea and provided them with a variety of

⁶ Saleem Ahmad v Government of Pakistan PLD 2014 FSC 43; Saneya Saleh, ‘Women in Islam: Their Status in Religious and Traditional Culture’ (1972) 2 IJSF 35, 37.

⁷ (n 3) 211.

⁸ Sajjad (n 1).

⁹ The Constitution of the Islamic Republic of Pakistan 1973.

¹⁰ The State v Zia-ur-Rahman PLD 1973 SC 49.

¹¹ (n 9).

¹² Nasir Iqbal, ‘Women’s Protection Act Challenged in Federal Shariat Court’ Dawn (4 March 2016) <<http://www.dawn.com/news/1243466/womens-protection-act-challenged-in-fed...> accessed 18 March 2016.

good things and made them much superior to many of those whom we have created.’¹³ When a question regarding this petition was raised while interviewing Additional District and Sessions Judge, Mr. Mehmood Haroon, he satirically asked, ‘So the phrase “the children of Adam” doesn’t include women? Don’t women also have dignity? If a woman is physically tortured, isn’t this against the dignity of the children of Adam?’¹⁴ The answer to these questions is quite evident. The notion of dignity is gender-neutral in Islam.¹⁵ This has also been reflected in Articles 14(1) and 263 of the Constitution, which state respectively, ‘The dignity of man... shall be inviolable’ and ‘In the Constitution... words importing the masculine gender shall be taken to include females’.¹⁶ Thereby, restricting the notion of dignity to men only and using this as a basis to oppose the PPWVA is unjustified.

Another concern that has frequently been voiced regarding the PPWVA by various individuals is that it will weaken Pakistan’s strong family structure, a notion allegedly lacking in the West.¹⁷ The CII went so far as to claim that the passage of this Act is an attempt to curtail the powers of husbands and a tool to oppress them.¹⁸ These arguments are problematic because they implicitly assume that men are superior to women in Islam when it comes to management of the family, and thus the status quo needs to be preserved by ensuring the subjugation of women, which may even be at the expense of their freedom. From a simple reading of Verse 2:228 of the Qur’an, it becomes apparent that men are one degree superior to women in financial matters of the family, as an obligation has been placed on them to maintain their wives.¹⁹ Regarding all other family matters, men and women stand on an equal footing because they have reciprocal rights and obligations.²⁰ Therefore, this reciprocity can by no means be construed as validating the subjugation of women, and thus the argument regarding the Act being a threat to Pakistan’s family structure is misplaced.

Was the PPWVA Needed?

It is pivotal at this point to ascertain the importance of the PPWVA by looking into whether such a law was needed in the first place. Women in Pakistan are undoubtedly susceptible to discrimination, abuse and marginalization. One of the key reasons for this is that in most cases, the financial control of the household lies in the hands of men and women are usually dependent on them for their maintenance.²¹ Therefore, in the words of Judge Mr. Mehmood

¹³ Ibid.

¹⁴ Interview, Mehmood Haroon, Additional District and Sessions Judge (Jaranwala), 5 March 2016.

¹⁵ (n 3) 9; Izzud-Din Pal, ‘Women and Islam in Pakistan’(1990) 26 MES 449, 455.

¹⁶ n 9).

¹⁷ Mohammad Hussain Khan, ‘Punjab’s Pro-women Law against Constitution, Shariah: Fazl’ Dawn (29 February 2016) <<http://www.dawn.com/news/1242295/punjabs-pro-women-law-against-constitut...>> accessed 10 March 2016.

¹⁸ Dr. Inamullah, Chief Research Officer (The Council of Islamic Ideology), Press Release, 5 April 2016 <<http://cii.gov.pk/pressreleases/PressRelease050416.pdf>> accessed 22 June 2016.

¹⁹ Fazlur Rahman, ‘A Survey of Modernization of Muslim Family Law’ (1980) 11 ICMES 452-453; Lisa Hajjar, ‘Religion, State Power, and Domestic Violence in Muslim Societies: A Framework for Comparative Analysis’ (2004) 29 LSI 1, 10; Jane I. Smith, ‘Women in Islam: Equity, Equality, and the Search for the Natural Order’ (1979) 47 JAAR 518.

²⁰ Rahman (n 19).

²¹ Donald G. Dutton, *The Domestic Assault of Women* (Allyn and Bacon 1988) 11-12.

Haroon, ‘Whenever a law for the protection of a gender would be made, it would naturally be for the protection of the feminine gender, not masculine.’²² Arguing that men have become insecure as a result of this Act unjustifiably discounts the need to have such a law. The passage of this Act, at the very least, carries a symbolic value, and there is no doubt that it has once again stimulated the debate regarding the protection of women in prominent spheres.²³

The figures on reported cases of violence against women reaffirm the abysmal state of affairs in this context in Pakistan. In 2014, a total of 10,070 cases of violence against women were reported across the country, of which a staggering 7,548 cases were reported in Punjab alone.²⁴ There was a 29.8% increase in the cases reported in Punjab in 2014 as compared to those reported in 2013.²⁵ A somewhat similar trend has prevailed over the past decade as well.²⁶ Moreover, Punjab has historically surpassed all the other provinces in not only the number of cases reported in a year but also the percentage increase in cases each year.²⁷ The increasing trend in the number of cases reported can be attributed to various factors such as lack of awareness amongst women regarding their rights as well as failure on the part of the State to implement the existing laws effectively. However, perhaps the most important factor has been the absence of a legislation specifically dealing with violence against women. Undoubtedly, the PPWVA will not improve the current situation all of a sudden, nor will it be successful without a sincere effort by the Government. Nevertheless, what is important is that this Act has formally recognized the issue of violence against women, and this is an admirable first step towards tackling it.

It is also important to examine the PPWVA from the perspective of Pakistan’s international obligations as a party to various treaties. The Convention on the Elimination of All Forms of Discrimination against Women (‘CEDAW’) is of particular significance in this context.²⁸ In March 2013, the Committee on the Elimination of Discrimination against Women urged the Government of Pakistan to encourage the National Assembly and the Provincial Assemblies to take various recommended measures for creating gender equality in the society.²⁹ The recommended measures included passing pending bills such as the Domestic Violence Bill 2008, repealing discriminatory laws such as the Hudood Ordinances 1979, creating awareness amongst the Parliamentarians and members of the CII regarding the rights of women, and systematizing the training of judges and lawyers on CEDAW and domestic

²² (n 14).

²³ Waqqas Mir, ‘Another Law for Women’ The News (6 March 2016) <<http://tns.thenews.com.pk/another-law-women-punjab-protection-bill/#.V9Z...> accessed 8 March 2016.

²⁴ Aurat Foundation, Violence Against Women in Pakistan (Annual Report, 2014) 4.

²⁵ Aurat Foundation, Violence Against Women in Pakistan (Annual Report, 2014) 4.

²⁶ Ibid (Annual Reports, 2008-2014).

²⁷ Ibid.

²⁸ Ratified by Pakistan on 12 March 1996. United Nations, ‘Ratification Status for Pakistan’ (OHCHR) <http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?Coun... accessed 9 March 2016.

²⁹ Ratified by Pakistan on 12 March 1996. United Nations, ‘Ratification Status for Pakistan’ (OHCHR) <http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?Coun... accessed 9 March 2016.

legislation concerning women.³⁰ The Committee also urged the domestication of CEDAW by harmonizing the different systems of law in the country, namely, ‘State law, Islamic law and customary law, with international human rights standards, in particular with the provisions of the Convention.’³¹ In addition, the Committee asked for a follow-up report to be submitted by March 2017.³² Though the Committee’s recommendations are not strictly binding in nature, Pakistan will risk its reputation and image in the international community in case of non-compliance with its terms. Similar obligations also exist under various other international covenants and conventions, placing further pressure on the Government to prevent human rights violations.³³

Analysis of Provisions of the PPWVA

The Act defines domestic violence in Section 2(h) as ‘the violence committed by the defendant with whom the aggrieved is living or has lived in a house when they are related to each other by consanguinity, marriage or adoption’.³⁴ This definition is problematic because it restricts domestic violence to relations existing by virtue of consanguinity, marriage, or adoption only. As a result, one might ask what remedy will be available if a relative of the husband engages in domestic violence against the wife? Though the Act provides a separate and more inclusive definition of violence in Section 2(r), it would have been wiser to provide a relatively holistic definition of domestic violence as well. The reason being that a legislation of this kind should also aim at easing the process of litigation for the aggrieved by minimizing complexities to achieve optimal results. Had the definition of domestic violence not been restricted to the relations mentioned above, it would have taken away the room from an individual to abuse a woman, and later claim that his act does not fall within the ambit of domestic violence due to his association with that woman otherwise than as envisaged in the Act. Though it can be argued that such an individual could still be penalized under Section 2(r), the importance of the available means of achieving desired outcomes should not be undermined. Thereby, given the current state of the judicial system in which litigation is expensive and time-consuming, it would have been farsighted to define domestic violence relatively broadly.

Another problematic aspect is the fact that the PPWVA does not criminalize the act of committing domestic violence in itself. It merely specifies penalties for obstructing a Protection Officer (Section 18), filing a false complaint (Section 19), or violating a Court Order (Section 20). So basically, the Act aims to penalize the abuser after he has committed an act of domestic violence. Though it can be argued that the Act provides considerable leeway to courts in Sections 6 and 7 (regarding passing an interim order and protection order respectively) to pre-empt an act of domestic violence, this is not enough to actively prevent

³⁰ Ibid 4.

³¹ Committee on the Elimination of Discrimination against Women, List of issues and questions with regard to the consideration of periodic reports (CEDAW/C/PAK/Q/4, 2012) 1.

³² Committee on the Elimination of Discrimination against Women, List of issues and questions with regard to the consideration of periodic reports (CEDAW/C/PAK/Q/4, 2012) 1.

³³ Some of the prominent international covenants and conventions include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). All of these have been signed as well as ratified by Pakistan. United Nations (n 28); Human Rights Commission of Pakistan, State of Human Rights in 2014 (Annual Report, March 2015) 101.

³⁴ The Punjab Protection of Women against Violence Act 2016 (‘the PPWVA’).

the occurrence of such violence. Specifically imposing strict penalties, perhaps in the form of varying fines and terms of imprisonment according to the gravity of the domestic violence committed, would have been a stronger deterrent for those intending to commit such violence. Besides, given the extent to which domestic violence is ingrained in our social fabric, such an approach is imperative. The apparent reluctance of the Government to criminalize the act of domestic violence in itself reflects a lack of will on its part to actively combat the mentality driving such violence, and the extent to which it is unaware of the ground realities.

The dispute resolution framework envisaged under the PPWVA also has a few problematic facets. To begin with, as pointed out by Muhammad Afeef, Chairman UC-85 (Lahore), in an interview, the Act discounts the role of a Chairman in mediating between the spouses/parties having differences.³⁵ Instead, as evident from Sections 12(d) and 13(m), the Act relies on the District Women Protection Committees and the Protection Centers respectively for mediating between the spouses/parties. Speaking from his personal experience, Afeef added:

A Chairman is better situated to mediate between the disputant spouses/parties because he usually personally knows them, and if needed, can mediate between them even in several sittings. However, the bodies through which the Government intends to effect mediation would most probably not be acquainted with the spouses/parties beforehand, and might even be over-burdened and thus be unable to spare sufficient time for mediation.³⁶

These observations, having been made by a person who has more than a decade of experience in resolving disputes between spouses and other parties, seem quite reasonable. The Government should have therefore either extended the membership of the concerned District Women Protection Committee to include the Chairman of the town in which the spouses/parties having a dispute reside, or at least established a mechanism for interaction between the concerned Committee and the Chairman while resolving a dispute. The inclusion of the concerned Chairman in the Committee would have assisted in knowing about the background of the disputant spouses/parties as well as settling their dispute. Moreover, as per Section 11(4) of the Act, the members of the abovementioned Committee ‘shall not be entitled to any remuneration or fee or any other charges or facilities for services rendered under the Act.’³⁷ This raises the question that in the absence of any incentive, why will any member of the Committee be whole-heartedly interested in dispensing a long list of duties assigned under the Act? Though some members might still be interested for the sake of public welfare, remuneration needs to be given to ensure a high level of commitment towards the obligations under the Act and thus achieving optimal results.

There are also some provisions in the PPWVA that seem unrealistic and/or culturally insensitive given the current state of affairs in the country. Section 7(d) refers to the possibility of cuffing the abuser with a GPS ankle or wrist tracker for monitoring movement round the clock. Though this might prove to be an efficient way of tracking a person’s movement, it will certainly require a lot of effort and resources to make it effective. Amongst other considerations, the Government will need to invest in the requisite equipment and technology, establish centers for tracking movement, and take steps to ensure compliance by the abuser. These measures will require substantial investment and most probably prove to be time-consuming. Besides, the effect of cuffing the abuser on his relationship with the victim

³⁵ Interview, Muhammad Afeef, Chairman UC-85 (Lahore), 4 March 2016.

³⁶ Ibid.

³⁷ (n 34).

remains to be seen. For instance, a husband being cuffed with a GPS tracker may take it as an insult, and thus be provoked to react against his wife in an even more violent manner. This might be the case particularly in rural areas, where honor killings and acid attacks are not uncommon. Therefore, various factors would have to be taken into account to see if using a GPS tracker would be a viable option in the long run. Moreover, Section 7(e), which gives the power to the court to move the abuser out of his house while extending relief to the victim, also seems a bit unrealistic. For instance, what if the ownership of the house in which the abuser and the victim are residing lies with the former? In such an instance, how feasible would it be to enforce the order of the court to evict the abuser? Therefore, as in the case of Section 7(d), various considerations would have to be balanced before passing an order under this section. Furthermore, Section 9(4) regarding the passage of a monetary order in favor of the aggrieved person states, ‘If the defendant fails to make payment within the period mentioned in the order, the Court shall direct the employer or debtor of the defendant, directly to pay the aggrieved person or to deposit with the Court a portion of the wages or debt due to or accrued to the credit of the defendant.’³⁸ Though this alternative might seem to be an efficient way of extracting money from the abuser, various complexities are likely to arise while implementing this section. For instance, what if the employer or debtor refuses to pay directly to the aggrieved person? Can they be compelled to do so? Besides, even if they agree to do so, what protection(s) will they have to be shielded from litigation against them in future by the abuser? Such intricacies can potentially problematize the implementation of this section.

With respect to the phrasing and terminology of the PPWVA, it seems that some provisions have been deliberately kept vague to provide more room for interpretation, but this may also lead to further confusion and abuse of the Act. For example, Section 2(2) states, ‘A word or expression not defined in this Act shall have the same meaning as assigned to it in the Code [the Code of Criminal Procedure, 1898 (V of 1898)] or the Pakistan Penal Code, 1860 (XLV of 1860).’³⁹ The words ‘cybercrime’ and ‘stalking’ as stated in the Act constitute acts of violence, but they have neither been explained in the Act, nor in the Pakistan Penal Code. Therefore, the courts will have to elaborate on the manner to interpret this Section to prevent frivolous litigation, or devise a kind of test to determine whether these acts of violence have taken place.⁴⁰ Otherwise, the approach of dispensing justice in cases involving such expressions will be arbitrary. Similarly, a part of Section 13(2) states that a Protection Center shall ‘maintain audio-visual record of all actions carried out under the Act’, which is very vague in its wording.⁴¹ It does not specify the mechanism of such recording, nor the activities that shall be recorded. The latter is particularly problematic because the Protection Centers shall be a converging point for a host of essential activities under the Act, and thus it will most probably not be feasible to record all such activities. In Section 27, again there is a vague obligation of the Government to arrange training of the employees of the protection system at ‘regular intervals’.⁴² An argument can be made that under Section 29(2), a part of which states that the Government shall make rules within one hundred and twenty days of the

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ (n 14).

⁴¹ (n 34).

⁴² Ibid.

commencement of the Act on '[the] regulation of affairs of the Protection Centres and shelter homes', the Government would be able to specify what 'regular' means.⁴³ Still, the way Section 27 has been phrased, it will give an opportunity to the Government to evade its obligation and thus decreases the enforceability of this section. Of course, purposefully vague phrases and terminology can mean that there is greater room for interpreting the law in a manner most convenient for the courts, but this will not be feasible at a time when there is already little litigation on the subject.

Nevertheless, the purpose of highlighting loopholes in the abovementioned provisions of the PPWVA is not to give the impression that it is an unworthy piece of legislation. The Act contains various well-crafted and much-needed provisions as well, which reflect that it is a step in the right direction. For instance, Section 4 allows a person authorized by the aggrieved person to submit a complaint on her behalf, which takes into account the fact that the aggrieved person may not be in a position to file a complaint herself. Moreover, Section 4(3), which imposes a seven-day time limit on the defendant to present a defense against the charges levied, and Section 4(4), which obligates the court to decide the complaint within ninety days from the date of its receipt, are of considerable significance. These two provisions can be seen as an attempt to provide swift justice to victims in a system where years of litigation on fairly simple family matters is not uncommon. Furthermore, Section 19 states the penalty for filing a false complaint in the form of imprisonment which may extend to three months or fine which may be between fifty thousand and one hundred thousand rupees or both. The fine stated is quite high as compared to those generally prescribed under other laws, and this is likely to help in curtailing frivolous litigation as well as countering the argument that women will misuse the Act. Similarly, under Section 20, the penalty stated for breaching an order of the court or illegally interfering with the working of the GPS tracker is also quite high (imprisonment up to one year or fine up to two hundred thousand rupees or both), which is likely to result in greater compliance by the defendant.

The Future of the PPWVA

Several issues can be identified regarding the potential effectiveness of the PPWVA. To begin with, the Statement of Objects and Reasons that accompanied the bill of this Act states, 'The instances of violence against women have been on the increase primarily because the existing legal system does not adequately address the menace and violence by some is perpetrated with impunity.'⁴⁴This phrase is instructive in a manner in which the Government perhaps did not intend it to be and reveals a lot about the state of the existing legal system.⁴⁵ This phrase is in effect reference to the failures of the implementation mechanisms to protect women. Various similar laws were introduced in the past as well, such as the Prevention of Anti-Women Practices (Criminal Law Amendment) Act 2011. However, they largely failed to deliver the intended protection, not because the codified law was not strong enough to curb violence, but because successive governments did not focus enough on mechanisms to implement the law. The laws had been introduced primarily to appease human rights activists and pressure groups that had been advocating for the protection of women and thus centered more on generating fanfare rather than being productive. Even if it were assumed that the Government introduced the PPWVA in a sincere effort to protect women, its fate may be no different from that of previous similar laws if the Government does not focus on the various

⁴³ Ibid.

⁴⁴ The Punjab Protection of Women against Violence Bill 2015.

⁴⁵ (n 23).

aspects of its implementation. To list a few, the Government would need to actively monitor the cases being brought under the Act; address the loopholes in it that are being exploited; and ensure that the officials responsible for its implementation act responsibly and extend the necessary relief without delay.⁴⁶

Moreover, for any law to be successful in achieving its intended goals, it is necessary for it to be socially acceptable. Judge Mr. Mehmood Haroon supported this view and remarked, ‘The society-at-large will not readily accept the PPWVA because our society is male-dominated and this law, at least on paper, is an attempt to challenge male chauvinism.’⁴⁷In support of his argument, he gave an example from his home city of Jaranwala, where when a wife told her husband that she would bring a claim against him under this Act if he continued to abuse her, the husband got infuriated and threatened to burn her alive if she did so.⁴⁸ This reflects the patriarchal mindset prevailing in the Pakistani society and shows the need to create an atmosphere in which women can safely bring claims under this Act. Besides, awareness of the law also needs to be created amongst women, especially in rural areas. Having said this, one also needs to be mindful of the role of cultural values and norms. Judge Mr. Mehmood Haroon, who has also served as a Family Court Judge, said that in our society, parents are extremely reluctant to legally proceed against their son-in-law regarding any issue concerning their daughter.⁴⁹ The reason being that they are least interested in further straining the relationship between the two, which might culminate in a divorce, and the stigma associated with the latter is not unknown.⁵⁰ Therefore, from a pragmatic standpoint, several issues need to be addressed for making the PPWVA successful in the real sense. This will undoubtedly take time, and require considerable commitment from successive governments as well as reshaping of discourse in the society through education and awareness.⁵¹

Conclusion

In a nutshell, the PPWVA has the potential to be a stepping-stone in eradicating violence against women. Irrespective of the political considerations that may have driven the passage of the Act, its spirit is indeed commendable. Though the Act does contain several provisions that are problematic per se or the implementation of which may prove to be problematic, this does not make it an unworthy piece of legislation. Besides, a close analysis of most of the criticism of the PPWVA reveals that it is largely unjustified, and reflects the extent to which the patriarchal mindset is ingrained in the fabric of the society. The latter is the biggest

⁴⁶ Survey Conducted, The Punjab Protection of Women against Violence Act 2016, 14-16 March 2016; Kanwal Qayyum, Domestic Violence Against Women: Prevalence and Men’s Perception in PGRN Districts of Pakistan (Rutgers WPF Pakistan, 2013) 54-55.

⁴⁷ (n 14).

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ (n 35).

⁵¹ Rinki Bhattacharya, *Behind Closed Doors* (Sage Publications 2004) 227.

challenge that needs to be tackled for promoting gender equality, and the PPWVA alone cannot sufficiently combat the prevailing mindset even if the Government were to implement it in its true letter and spirit. As Waqqas Mir has rightly said, ‘The real change will occur when a woman will not have to think twice about what society, her parents or the cops will think if she makes a complaint of violence against her person just the way a man can.’⁵² For this to happen, besides great commitment on the part of the Government, the public needs to actively engage with narratives that condemn violence – narratives that regard violence as violence irrespective of the gender that is subjected to it.⁵³ Until this happens, women will continue to suffer, and gender equality will remain an elusive goal.

⁵² (n 23).

⁵³ (n 23)