



**AALBORG UNIVERSITY**  
DENMARK

Development and International Relations

10<sup>th</sup> semester

**Master Thesis**

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# Domestic Violence in Pakistan: An Analysis of the Problem Representation and the Domestic Violence Legislation

May 2020

# Abstract

Aiming to achieve gender equality and equal rights for all humans has now become a global aspiration. However, many forms of violence in the world are still highly gendered, such as domestic violence. In some countries the issue of domestic violence is more acute than in others. Pakistan, being the fifth most populous country in the world, ranks as 151 out of 153 countries in the *Global Gender Gap Index*. Furthermore, only 46 per cent of women are literate, compared to 71 per cent of men. Pakistan's *Demographic and Health Survey* (PDHS) conducted in 2012-13, where 3 687 ever-married women were interviewed, revealed that 32 per cent of them have experienced physical violence and 39 per cent have experienced physical and/or emotional violence from their spouse.

Despite having a legislation that prohibits domestic violence, the issue is still prevailing. This thesis aims to uncover a more profound problem's cause by analysing: *What is the problem of domestic violence represented to be in Pakistan's domestic violence legislation?* The main analysis method applied is WPR approach by Carol Bacchi and the reference point of legislation is Domestic Violence (Prevention and Protection) Bill, 2012. The approach consists of six questions allowing to reveal what is assumed in the legislation regarding domestic violence, what assumptions underlie this problem, how has it come about, what is silenced, what are the effects of the representation and how can it be replaced and questioned.

By applying various theoretical explanations, the thesis reveals deeply rooted cultural assumptions of domestic violence, analyses perspectives of men and women, as well as views other legislation in relation to human rights instruments. The main assumption is that Domestic Violence (Prevention and Protection) Bill, 2012 sufficiently covers the problem of domestic violence and effectively addresses it. However, the bill has never been enacted due to a resistance from the Council of Islamic Ideology, with each region having own legislation, which is currently in different stages of development. The terms that cover various people groups used in Pakistan's domestic violence legislation are often discriminatory and the system of penalising is chaotic. The analysis also reveals government's unwillingness to address the problem, adversity of *low-caste* groups, women's acceptance of domestic violence and men's justification of the usage of violence.

In the ending, various solutions on how to undertake the problem are provided. Such as more effective monitoring systems, better organised communication between the responsible institutions and educational initiatives to demonstrate the deteriorating effects of domestic violence.

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Appendix A	Domestic Violence (Prevention and Protection) Bill, 2012
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## Abbreviations

Bill 2012	Domestic Violence (Prevention and Protection) Bill, 2012
CII	Council of Islamic Ideology
DV	Domestic Violence
HR	Human Rights
ICT	Islamabad Capital Territory
IDSN	International Dalit Solidarity Network
IPV	Intimate Partner Violence
KP	Khyber Pakhtunkhwa
KPCSW	Khyber Pakhtunkhwa Commission on the status of Women
NCSW	National Commission on The Status of Women
NGO	Non-governmental organisation
NIPS	Pakistan's National Institute of Population Studies
PCSW	Punjab Commission on the Status of Women
PDHS	Pakistan's Demographic and Health Survey
PPA	Public Policy Analysis
UN	United Nations
VAW	Violence against women
WHO	World Health Organisation

# 1. Introduction

We live in human rights era. Pursuing for gender equality is now a part of a modern-day life. In many countries, gender equality is a part of the national agenda since it was recognised as a Sustainable Development Goal Nr. 5 in 2015 (United Nations, 2015). Acknowledgement of basic human rights (from now, HR), rights to equal pay, women's rights to abortion and access to contraceptive devices are now emerging as a component of everyday life. The problem of gender inequality is no more an issue to specific culture, religion, or region, it is now a global predicament. (Brackett & Downing, 2017, pp. 297-299) However, despite the global awareness of HR, only in the last 12 months, at least 243 million women and girls have been subjected to physical and sexual violence by their intimate partners, which also includes domestic violence (from now, DV) as part of it (UN Women, 2020).

DV is especially widespread in patriarchal communities, where violence is often legitimised in many spheres of the society. In such cultures, men often commit violence to protect their sense of security regarding their assumption of their *world privilege*. (Wendt & Zannettino, 2015, p. 19) The United Nations (from now, UN) refer to DV as “physical, sexual, psychological and economic violence” (United Nations, 2010, p. 24).

Despite being a global problem, in some countries DV is a more acute issue. The Islamic Republic of Pakistan (from now, Pakistan) currently ranks as 151 out of 153 countries in the *Global Gender Gap Index*, only surpassing Iraq and Yemen (World Economic Forum, 2020, p. 9), while ranking as 112 in 2006 (Ibid., p. 277) indicating that the situation has gradually become worse. Women there are not granted equal access to health compared to men (Ibid., p.14), and only 46 per cent of women are literate, compared to 71 per cent of men (Ibid., p.24). The overall increase of discrimination and violence against women in Pakistan over the last three decades can be referred to the narrative of *Islamisation* and an overwhelming general rise of violence in the country (Brackett & Downing, 2017, p. 314).

Muslim masculinities in Pakistani society and masculinity imperatives in Pakistan throughout the history have greatly affected the general men's notion towards women. (Aslam, 2014, p. 135) According to *Women Peace and Security index* 2019-20, Pakistan ranks as 164 out of 167 countries (Georgetown Institute for Women, Peace and Security and Peace Research Institute Oslo, 2019, p. 81). This index incorporates women's well-being (from social, economic and political aspects),

access to justice (discrimination and formal laws) and general security in family and society (Ibid. p. vi).

Furthermore, *Pakistan's Demographic and Health Survey* (PDHS) conducted in 2012-13, where 3 687 ever-married women were interviewed, revealed that in terms of DV, 32 per cent of ever-married women have experienced physical violence and 39 per cent have experienced physical and/or emotional violence from their spouse, while 35 per cent have experienced physical injuries, with one out of nine women experiencing spousal violence during pregnancy (National Institute of Population Studies (NIPS) [Pakistan] and ICF International, 2013, p. 219). Moreover, 52 per cent of women who experienced violence, never attempted to report it (Ibid.). According to research by Iqbal & Fatmi (2018, pp. 1-2) analysing PDHS, 45,2 per cent of respondents have experienced physical and/or emotional violence in rural areas, and 30,6 per cent in urban areas.

According to Mahapatro (2018), no single theory can fully explain physical, psychological and social violence against women and many theories fail to explain “why the most powerful uses violence against the least powerful even if his power and position are not challenged” (Mahapatro, 2018, p. 48). I will therefore apply a combination of theories that can assist to shed some multidimensional light on the DV issue.

The topic of various kinds of violence, including DV, gender inequalities and the overall poor human rights aspect in Pakistan have long been broadly discussed by various scholars. I have chosen to view the topic of DV and DV legislation by applying WPR Approach developed by Bacchi (2009) to view the issue. The approach will be thoroughly described in the Method and Theory chapter. Moreover, Hayes & Jeffries (2015, p. 25) emphasise that despite decades of DV policy and practise research, the crime rates remain static, indicating that criminal justice professionals and researchers must have disregarded at least some aspects.

I will investigate what is the problem with the DV legislation and what factors are allowing DV to remain, why it is possible for it to happen despite the DV legislation and how the regions have adhered to it.

The main point of reference regarding empirical data that will be used is Pakistan's Domestic Violence (Prevention and Protection) Bill, 2012 (from now, Bill 2012). Being the world's fifth most populous country with population exceeding 220 million (Worldometers, 2020), Pakistan has a separate DV legislation forms and progress in each region. To clarify the legislative terms applied in the thesis and avoid any confusion, the following legal terms will imply: a **bill** is a proposed, drafted

law, whereas an **act** is an enacted legislation — the written law. When a bill is enacted into law, it is called an act or a statute.

DV is recognised as a part of gender-based violence by the World Health Organisation (WHO, 2005, pp. 3-4) and the European Commission (2018) as most victims are females and the issue is rigidly gendered. Hence, in some parts of the thesis, DV, Intimate Partner Violence (IPV), violence against women (VAW) and gender-based violence will overlap, due to the issue's gendered nature and the reason that scholars, international organisations and media often view these types of violence interdependently.

## 1.2 Problem statement

According to the arguments mentioned in the Introduction, I am introducing the following thesis problem question:

***What is the problem of domestic violence represented to be in Pakistan's domestic violence legislation?***

WPR approach by Bacchi (2009) will assist to develop relevant sub-questions to comprehensively analyse and view the issue of DV in Pakistan. It will be further explained in the Method and Theory chapter.



### 1.3 The legislative system in Pakistan

There are seven administrative units in Pakistan, consisting of one federal territory: Islamabad Capital territory; four provinces: Balochistan, Khyber Pakhtunkhwa (KP), Punjab, Sindh; and two autonomous territories: Azad Jammu and Kashmir<sup>1</sup>, and Gilgit-Baltistan<sup>2</sup> (Pakistan Bureau of Statistics, 2014). Federally Administered Tribal Areas (FATA) were not under Pakistani laws until 2018 when the territory was merged with KP (Al Jazeera, 2019).



Figure 1: Pakistan's Provinces: (Geology.com, 2018) and Population: (Pakistan Bureau of Statistics, 2017) (Government of Gilgit-Baltistan, Planning and Development Department, 2013) (Azad Government of Jammu & Kashmir, 2017)

Each province and territory has its own jurisdiction for formulating laws (Ahmad, 2017, p. 6), and “In order for a bill to become law in Pakistan, it must undergo a legislative procedure in each house of Parliament . . .” (Ibid., p. 1). The Parliament of Pakistan consists of two Houses- the Senate and the National Assembly. Both Houses are responsible for law formulation. A bill can originate in either

<sup>1</sup> Disputed area, self-governing territory controlled by Pakistan

<sup>2</sup> Disputed area, self-governing territory controlled by Pakistan

House. If it is passed in one of them, then after the amendments are made, it transmits to the other House and is later presented to the president. (National Assembly of Pakistan, 2020)

### 1.3 Literature review

In the following section I will view the existing literature composed by various scholars regarding legislative research in Pakistan in the context of domestic, gender-based, and other types of violence against women.

Shah (2016) explores the practice of *karo kari*<sup>3</sup> in Upper Sindh from various perspectives, including the view how juridical structures perceive it. She draws attention on how the modern law is administering the ancient practice. Shah describes various cases, press articles, actions of the police in terms of law and scrutinises *The Sindh Frontier Regulation, 1872* and *Extracts of Provisions of Qisas and Diyat Inserted into the Pakistan Penal Code* (Shah, 2016, pp. 225-236). She concludes that much of the legal power is transferred to the kin, hence, decreasing the power of legal system (Ibid., p.85). Offenders are often discharged during the case process, and as Shah points out “The low number of convictions is not due to problems in the law but is itself a product of the law” (Ibid, p. 86). She argues that since the killings take place within the family and are committed by husbands or men from husbands’ kin, the gaps in criminal law allow such crimes to happen. Shah determines that the legal empowerment of family allows to pardon perpetrators. (Ibid.)

Qadeer (2006) focuses on socio-economic evolution of Pakistan, however, he also draws attention to *The Hudood Ordinances* and *Zina Law*<sup>4</sup> introduced in 1979. Qadeer examines how this law makes it almost impossible for a woman to prove a rape case since four male witnesses are requested. Moreover, women victims can be officially punished for illicit sex or adultery. The author provides a case where a blind, pregnant girl was raped and then found guilty of illicit sex due to *Zina Law*. (Qadeer, 2006, p. 201)

Mehdi (2013) views laws and *Islamisation* in Pakistan during 1977-1988, and how it has affected human rights in the country. Mehdi uses legal pluralism theory throughout her work and examines various laws, including 1979 *Ordinance* and *Ordinance of Zina*. She describes how according to *Zina*, a wife can be stoned to death, because she is considered to be her husband’s property. This law also includes cases when a woman can be examined by a male doctor, only if her condition is severe.

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<sup>3</sup> Honour killing of women or, sometimes, men that bring dishonour to their families. (Shah, 2016, p. 1)

<sup>4</sup> This law was revised in 2006 by the Women's Protection Bill (Subramanian, 2012)

Mehdi draws attention on how heavily Quran is misinterpreted in the *Ordinance* and attempts to explain how the drastic laws that vigorously violate women's rights have emerged.

On the contrary, Kennedy (1991) rejects the idea that Islamic laws have had any meaningful effect on women rights. He uses *Zina Law* as an example, indicating that if a woman has become pregnant after a rape, she cannot be punished and that the courts take that into consideration. Kennedy demonstrates examples when women take advantage of the law and bring charges to innocent men, while being dismissed due to a *reasonable doubt* rule. (Kennedy, 1991, pp. 48-50) However, he mentions the requirement of four male witnesses to be present in order to testify for a rape, yet also argues that "Islamization programme discloses more smoke than fire" (Ibid., p.51). In conclusion, Kennedy indicates that "the perception that [general] Zia's programme significantly discriminated against women's rights is fundamentally flawed" (Ibid., p. 55).

Tarar et al. (2017) use semi-structured in-depth interviews in Punjab to view direct, indirect and cultural violence against women. Their main conclusion is that most cases are left unreported due to the fact that they are considered a "private matter". Authors also emphasise that the criminal justice system is gender-prejudiced and family honour stands above the case reporting. Tarar et al. also describe cases when victims are raped and tortured at police stations, hence the reluctance to report persists. Authors view the international *Convention on Elimination of all Form of Discrimination against women (CEDAW)*, *Hudood Ordinance 1979, Protection of Women (Criminal Laws Amendment) Act 2006, Criminal Law (Amendment) Act 2010 (on sexual harassment)*, *The Guardians and Wards Act 1890, Protection against Sexual Harassment at Workplace Act 2009* and many other laws (Tarar, et al., 2017, pp. 69-71).

Burki (2013) views women's status in different eras from 1947 until nowadays. She analyses *Hudood Ordinances, 1979* and describes the *Islamisation program* as one of the most regressive times for women in Pakistan, ending in August 1988. The ordinance has placed women in constant danger of being lashed or stoned to death for adultery. Burki analyses Benazir Bhutto's<sup>5</sup> policies and attempts to improve women lives by trying to reverse the *Islamisation* process. Many women prisoners have been released during Bhutto's governance. (Burki, 2013, p. 69) Author scrutinises the *Hudood Ordinance* and presents rape cases, when victims are raped, imprisoned, released and admitted as "forever dishonoured" (Ibid., pp. 83-85). Furthermore, Burki describes cases where perpetrators are

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<sup>5</sup> Pakistan's Prime Minister from 1988 to 1990 and from 1993 to 1996. Bhutto was the first woman in the Muslim majority nation to head a democratic government. (Burki, 2013, p. 67)

often released because of “lack of evidence” (Ibid., p. 85). Burki concludes that no legislative measures will be effective unless there will be a public support and religious elements of society will stop treating females as possessions “in the name of Islam” (Ibid., p. 94).

Paul (2014) analyses *Zina Ordinance*, where in a case of rape, both the woman and the man could be punished by public flogging. This implies, that both the victim and the perpetrator were accounted guilty. Author concludes that the misuse of religion, also in laws, has weakened Pakistan and undermined its ability to become a tolerant and democratic state. (Paul, 2014, pp. 140-148)

Lastly, Patel (2010) introduces a comprehensive view on the problem by addressing the violence against women, honour killings, rape cases, DV and HR violations. She briefly views *The Offence of Zina of 1979, Criminal Procedure Code 2006* and other laws by presenting relevant cases. Patel also draws attention to organisations, such as Pakistan Women Lawyers’ Association (PAWLA) that are trying to protect women and implement the laws (Patel, 2010, p. 48). She has performed a critical analysis of legal principles and practical changes to improve the wellbeing of women in Pakistan. Patel sets focus on how misinterpretation of Islamic values has had an immense impact on all women in Pakistan.

Currently, no comprehensive research that covers contemporary and specifically DV legislation in each province has been done. After a thorough literature investigation prior to the thesis writing process, the impression that the existing research does not consider Pakistan’s legislative divisions for each province was apparent. I will therefore attempt to fill this gap by investigating what is the problem with DV represented to be and how is it covered in each region of Pakistan.

# 2. Methodology and Research Design

In the following chapter, I will introduce, explain, and describe the chosen method, where relevant theories will be incorporated as well as the empirical data and research limitations.

## 2.1 WPR approach

I have determined the use of WPR (What's the Problem Represented to be?) approach developed by Bacchi (2009). The method consists of six questions and multiple sub-questions. It will assist to provide a well-structured and extensive analysis of the problem.

The WPR approach is a policy and law analysis tool, which helps to understand the existing representation of a problem in a specific policy or law. Despite being a relatively new tool, WPR is frequently used in feminist research, including various investigations of women rights, childcare and health sector legislation. WPR provides a convenient alternative to traditional legislation analysis tools. (Manning, 2019)

The three fundamental ideas of WPR are: (1) every policy or law aims to solve a specific problem; (2) each policy or law represents and attempts to solve the issue in a very definite manner; (3) the preference on how to represent and/or solve the issue always provides an advantage to some groups and a disadvantage to others. This approach invites the researchers to question the effects of the representation. (Ibid.)

WPR approach utilises a law, policy, or any specific legislation as a starting point. The existing issue is seldom mitigated with the government's "understanding" of a "problem". Hence, the WPR invites to acknowledge the deep-seated cultural assumptions and other important aspects. What differs WPR from other policy analysis methods is that other approaches often present the assumption that a policy *must* "solve" the "social problems", while WPR aims to analyse how legislation and policies "give shape" to these problems. Traditional methods view "problem" as something that is complex to solve, or a puzzle that must be "solved", whereas WPR is referring to a specific kind of change that is implied in a policy proposal. WPR draws attention on how problem representations have a significant

role in the way people are governed. Commonly, if a policy assures to “fix things”, the assumption is that “the problem needs fixing”, while WPR proposes to identify the implied problem and analyse how the actual issue is being understood. (Bacchi, 2009, pp. x-xi)

Moreover, the WPR aims to “. . . interrogate the kinds of 'problems' that are presumed to exist and how these are thought about.” (Ibid., p. xiii). To answer the thesis problem statement, WPR assists to “. . . think deeply about the assumptions and presuppositions that lie behind and shape selected policies” and “. . . consider the implications that flow from these presuppositions and how particular forms of rule have come to be” (Ibid., p. xiv). Most importantly, the WPR approach does not consider the possible motives of policy makers. Alternatively, the focus is set on the assumptions, discourses and underlying premises that create dominant problem representations and “leave behind” the “unthinkable” representations. (Manning, 2019)

The WPR approach was chosen as it allows flexible approach towards both legislation and problem analysis from various aspects and provides *elasticity* regarding the choice of theories. Further elaboration regarding alternative method and theory choice will be considered in the Discussion chapter.

In the following sections, I will define each WPR question and the consequent procedure on how to comprehend it by adapting to the thesis problem area. It is important to note that the chosen approach sets a very concrete narrative of the analysis, hence various theories will only be used to explain particular issues and no specific theory paradigm will be applied to the research as a whole.

### 2.1.1 First Question: What’s the “problem” represented to be in a specific policy?

What is the problem of domestic violence represented to be in Pakistan’s domestic violence legislation?

The first question serves as a clear clarification of the problem area. To understand the problem, it is significant to analyse, what issues are revealed regarding the Bill 2012. The task is to identify, what problem representation and definition is dominant in the bill. (Bacchi, 2009, pp. 3-4)

To analyse this question, I will describe what area is covered by the bill and its current legislative development. Furthermore, I will provide the quotations that define the problem from the Bill 2012. By analysing what is proposed in the Bill 2012 regarding DV, I will also discover how the issue of DV is perceived by the authorities. DV is an immense problem, whereas the bill might represent it from a narrow perspective.

## 2.1.2 Second Question: What presuppositions or assumptions underlie this representation of the “problem”?

What presuppositions or assumptions underlie this representation of domestic violence in Pakistan’s domestic violence legislation?

The primary task of the second question is to investigate the problem, which is the representation of the DV in Pakistan. I will view: “What meanings are in place for domestic violence to happen in Pakistan?”. To uncover it, I will look at fundamental worldviews of Pakistanis and deep-rooted cultural values by using the cultural theory which will be further described in the Analysis chapter. (Bacchi, 2009, p. 5)

Moreover, I will address the *style of problematisation* of Pakistan’s government and see how problems are *thought about*, what is the *mode of governance*, and what are the *mentalities* behind the *govern-mentality*. (Bacchi, 2009, pp. 5-6)

To explain *govern-mentalities*, several aspects can be observed. First, I will review whether the government is focusing on population’s welfare and health. Second, the *mentalities* are the methods that allow to imagine and rationalise the rule. Some groups that can affect the law-making process, can also set who the beneficiaries are. (Ibid., p. 156). The agenda of national security will be accessed. If security is a national motive, it represents the *govern-mentality*. By identifying, whether security plays a role in government’s agenda, I can also identify what kinds of narrative shape the government.

Most importantly, I will view what other groups except the official government, have a significant role in law-making and policy development (for example, in some countries, social scientists and medics). (Ibid., p. 157) The WPR Approach emphasises the significance of interconnections across the policy making areas that are often discrete. Furthermore, “individual ‘responsibilisation’ has emerged as a mode of rule in criminal justice policy” (Ibid.) hence I will search for such govern-mentality patterns. Moreover, I will seek to understand how the power relations in Pakistan change over time.

### *Categories*

I will consider which *people categories* are discussed in Bill 2012 and how they function. In the fourth question, I will describe what the assumptions regarding these categories are. It is significant to acknowledge *people categories* as they indicate the way of governing. (Bacchi, 2009, p. 9)

The UN recommend that DV legislation should apply to “Individuals who are or have been in an intimate relationship, including marital, non-marital, same sex and non-cohabiting relationships;

individuals with family relationships to one another; and members of the same household.” (United Nations, 2010, p. 25)

The sub-question regarding *categories* which is a part of the third question: *Why these categories were chosen and not others?* (Bacchi, 2009, pp. 11-12), will be excluded from the research since the government does not provide this kind of data.

### *Binaries*

“A binary assumes an A/not-A relationship” (Bacchi, 2009, p. 7). Simply put, what can be found on one side of a binary, cannot be found on the other. I will analyse, which dominant *people binaries* appear in the *categories* and how they function to shape and understand the problem. Furthermore, I will analyse the hierarchies implied on the binaries by viewing which side is privileged and which is not in the fourth question to avoid repetition.

### 2.1.3 Third Question: How has this representation of the “problem” come about?

How has this representation of domestic violence in Pakistan’s domestic violence legislation come about?
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The two main objectives of the third question are: (1) to reflect on the development of the Bill 2012; and (2) to “recognise that competing problem representations exist both over time and across space, and hence that things could have developed quite differently” (Bacchi, 2009, p. 10).

I will not assume that the development of the Bill 2012 has occurred due to a *natural evolution* and attempt to see which significant events in the past have served to develop this bill. (Ibid., pp. 10-11)

Due a frequent assumption that HR address the DV problem and to comprehensively view the question, I will consider the international treaties, more specifically, human rights instruments. There are nine core international HR instruments, followed by nine optional protocols. These instruments are treaties, monitored by committee of experts. (United Nations, n.d.) To reflect on Pakistan’s HR perspective, I will view the ratification timeline of the nine HR Instruments. I will also analyse Pakistan’s commitment regarding the implementation of the HR treaties and view the HR system from a theory of commitment and regulatory theory perspective, which will be described in the Analysis.



#### 2.1.4 Fourth Question: What is left unproblematic in this problem representation? Where are the silences? Can the “problem” be thought about differently?

What is left unproblematic in this problem of domestic violence in the domestic violence legislation representation? Where are the silences in the domestic violence legislation and representation? Can the problem of domestic violence be thought about differently?

The Bill 2012 was expected to serve as a precedent for other provinces of Pakistan (Wasim, 2012), since it was first introduced in Islamabad Capital Territory (ICT). I will therefore view and compare the development of DV laws in other administrative units of Pakistan to analyse how the current representation of the problem has come about. Here, I will look at if there has been enough of governmental and public support to pass the legislation in other regions.

The set of questions in this question establish the beginning of the critical analysis and scrutiny. First, I will seek to indicate what are the limits of the DV legislation in Pakistan – “What fails to be problematised?”. I will highlight the issues and perspectives that are *silenced* in the problem representation and the country’s legislation. (Bacchi, 2009, pp. 12-13)

#### **Cross-Cultural comparison between Pakistan and India**

A cross-cultural comparison is a useful tool to indicate the silences when using the WPR approach. (Bacchi, 2009, p. 14 ) The British India remained from late 17<sup>th</sup> century until 1947 when the British colonial period ended, and the country was split into India and Pakistan. Even though the British intended to bring their justice system and laws, they were greatly opposed up until the independence. (Husain, 2018, pp. 22-25) Pakistan did not establish own constitution until 1956 and India was controlling the legal document for nine years. (Ibid., p. 46) An immense conflict, attacks and wars between both nuclear-armed countries have now lasted for 78 years, mainly due to dispute over Kashmir region (Hashim, 2019). I will compare the DV legislation and HR aspects in both countries and refer to DV legislation development in Kashmir.

I will further apply ecological theory framework to better explain the prevalence of DV in both countries.

#### *Ecological theory framework*

The ecological theory was first developed by Bronfenbrenner in 1970’s to analyse child abuse, yet years later it has been incorporated to view violence as a part of four factors- individual, relationship, community and societal (Ross, 2018, p. 46). It will be further explained and adapted in the Analysis.

## **Can the problem be thought about differently?**

To analyse if the problem can be thought about differently, I will provide different perspectives, considering explanation from criminal justice theory, reintegrative shaming theory and patriarchy aspects.

### *Criminal justice theory*

Since the justice system is an integral part of accessing various reasons of DV prevalence as well as an alternative manner to think about the problem, some aspects of this theory can serve as a well-functioning tool to apply.

The scientific models of the theory have been significantly developed by Kraska (2006) and Bernard & Engel (2001). (Crank & Bowman, 2008, pp. 564-565) Kraska implies that criminal justice theory is assumed to be concerned with crimes and crime rates. The theory defines how to address the complex social science discipline of criminal justice and crime control phenomena. Furthermore, it is important to notice the interconnections of crime and criminal justice since justice is often an outcome of the existing crime rates in the country. (Kraska, 2006, pp. 167-168) It allows to examine the *behaviour* of criminal justice, its disconcerting implications, and irrationalities. (Ibid., p. 180)

Bernard & Engel acknowledge that accessing the courts, police and justice systems is a too diverse subject to be addressed in a single theory, however it is beneficial to view similarities and differences of these components. (Bernard & Engel, 2001, pp. 2-3) The theory includes three types of variables: behaviour of criminal justice agents, organisational behaviour of justice organisations and the behaviour of all components together. Hence, it is significant that justice and legitimacy is not a static entity but a construction of interactive relationship. (Ibid., pp. 25-26)

### *Reintegrative shaming theory*

This theory was first introduced by Braithwaite in 1989 with the main argument that the community, society, and family reintegrative communication of shame and stigmatising of shame directly affect the extent of how much members of these groups will engage in a criminal behaviour. (Hay, 2001, pp. 133-134) Hence, if shame is communicated effectively, the community will experience less crime. Furthermore, the theory supports the thought that societies which face economic instability (e.g. unemployment) and experience rapid changes (urbanisation) and are characterised by low social integration, are directly influenced by shaming and deviance. (Schaible & Hughes, 2011, p. 105) Furthermore, weak social ties, high levels of inequality are also factors that determine higher levels

of crime. Patriarchal institutions of family with weak shared values and low tolerance to individual diversity make it difficult to effectively address shame. (Ibid., pp. 111-112)

Further I will examine the categories and binaries revealed in the second question and analyse whether they bring a distort or misinterpretation of the problem.

### 2.1.5 Fifth Question: What effects are produced by this representation of the problem?

What effects are produced by this representation of domestic violence?
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The fifth question is a continuation of the critical analysis. (Bacchi, 2009, p. 15) The main aim of this question is to understand, which groups are suffering most of the problem representation and propose any aspects that shall be reconsidered. Moreover, I can present the long-term and long-range impact of Bill 2012 interventions that provoke social change. (Ibid., p. 18).

I will further present three kinds of effects that will assist to view the consequences of the problem representation of Bill 2012. To provide a more extensive and overarching analysis, I will not only view the effects *per se*, but also introduce important aspects that can be influenced by the problem.

#### **Discursive Effects**

Here I will view what effects can the problem representation have on different social structures, especially the marginalised social groups like various castes, since the DV issue does not affect all groups equally.

#### **Subjectification Effects: How subjects are thinking about themselves and others**

The subjectification concept is one of the most challenging perception in the WPR approach. Simply put, it can be explained by *someone* becoming a *subject/s* of a *particular kind/s* through policies that construct relationships and someone's place in them. This set up takes place in the discourse. The discourse also allows these subject positions to exist. A person understands the social world from the specific standpoint while also being a part of the discourses that constitute that standpoint. Certain policies or the lack of them modify and define people's behaviour. Any kind of dividing practices serve the government to encourage a desired behaviour among the majority group. (Bacchi, 2009, p. 16)

Moreover, an implication regarding who is responsible for the problem is *built in* the representations of the issue. In the thesis context, the aim will be to reveal the *implied attributions of responsibility*

and discuss if responsibility is distributed equally and what effects stem from it. To consider this, I must acknowledge the silences described in the fourth question. I can then analyse, whether the problem of domestic violence is constituted by blaming the victims and moving the attention away from the perpetrators. Furthermore, I need to assure whether the possible victims mentioned in the Bill 2012 are feeling like victims themselves. (Bacchi, 2009, p. 17) I will provide a reflection on the social control theory to explain how the interaction of person groups can be accessed.

### *Social control theory*

This theory was first introduced in the middle of the 20<sup>th</sup> century and relies on principle that instead of introducing new policies and laws, the bonds between various individuals and society should be strong. It is important to understand individual's motives, commitment, and beliefs to understand the motivation of committing crimes or accepting them. The main premise of the theory is that if certain people groups see advantages of committing a crime, they will commit it disregarding any legislation. Hence, only societal disapproval can assist to mitigate the crimes. (Schreck & Hirschi, 2009, pp. 305-306)

### **Lived Effects**

Lived effects are all the material influence on the problem representation. In the thesis context, this representation directly affects people in Pakistan. To view lived effects, I will analyse how the representation of DV involves work of relevant institutions and what are the changes that these institutions have introduced. (Bacchi, 2009, pp. 17-18).

### **2.1.6 Sixth Question: How/Where is this representation of the “problem” produced, disseminated and defended? How could it be questioned, disrupted and replaced?**

How/Where is this representation of domestic violence produced, disseminated and defended? How could it be questioned, disrupted and replaced?

This question draws direct attention to all the processes and practices that permit specific problem representations to dominate. I will present and analyse the role of media in Pakistan and how media is supporting or opposing the problem representation. (Bacchi, 2009, p. 19)

In this question, the aim will be not only to see how problematisation functions but also what can be done about it. Hence, I will present recommendations to answer how it could be questioned, disrupted, and replaced.

## 2.2 Empirical data

The main empirical data used for the Analysis will be Pakistan's legislative documents<sup>6</sup>, qualitative population's studies as well as official reports and statistics from various organisations such as the UN. For providing a theoretical background, different research articles and books will be used.

This method and theory driven research will complement the qualitative studies conducted by scholars as well as statistical data from organisations.

Due to considerable amount of empirical data used and in order to present a better overview, I suggest a visual research data chart:

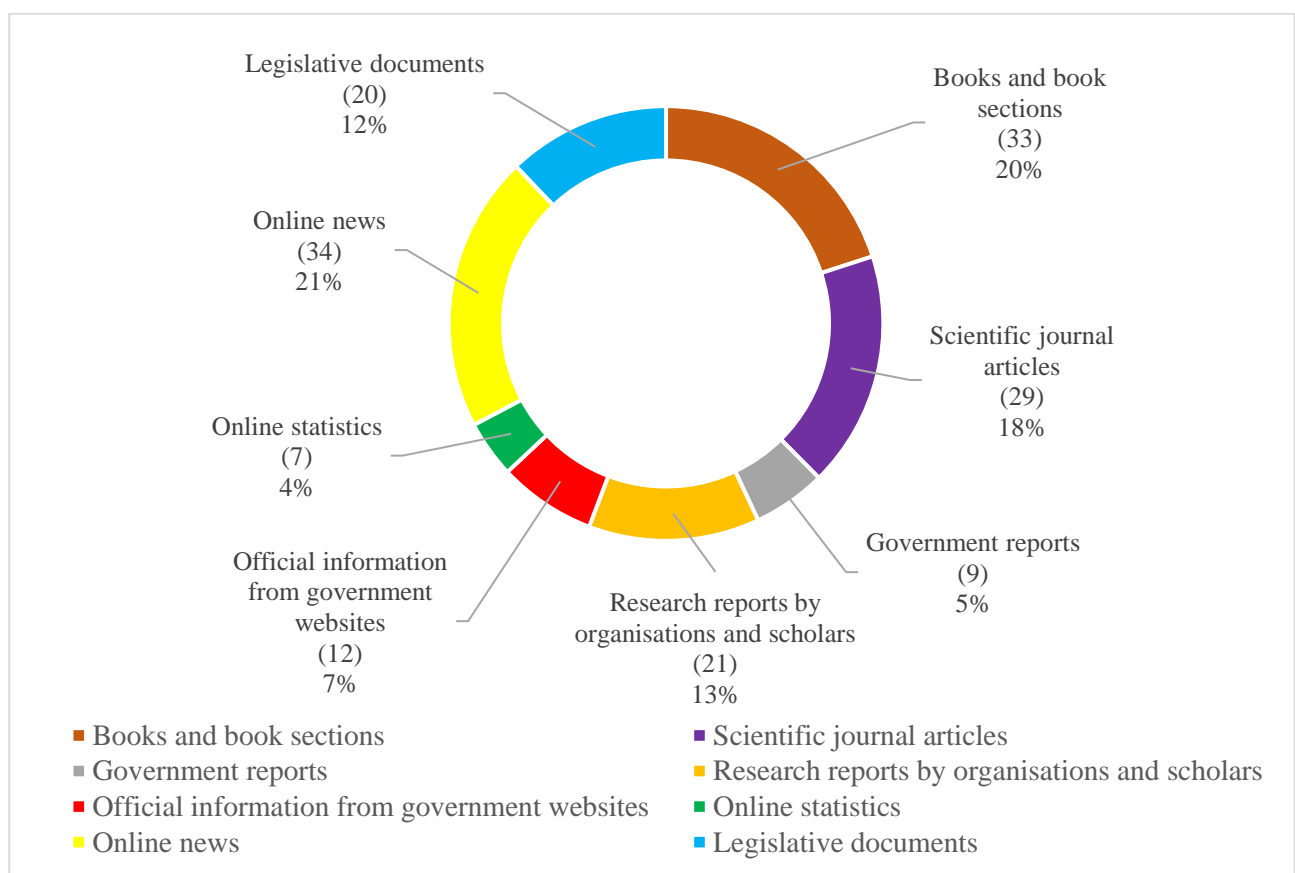


Figure 2: Overview of sources

<sup>6</sup> In addition, India's DV legislation for the fourth question

## 2.3 Research limitations and delimitations

In the following section, I will define the research limitations and delimitations. First and foremost, the research does not aim to portray all men in Pakistan as perpetrators of violence, yet the analysis and conclusions will rely on the research conducted by various scholars. Second, the statistics provided by various organisations, can be inaccurate or even false, however, if interpreted accurately, they can greatly assist to establish knowledge. Hence, a critical approach towards data selection is crucial and no general conclusions can be based on small amounts of data (Rienecker & Jørgensen, 2013, p. 217).

Third, the data provided by Pakistan's authorities is often highly limited or classified, therefore, obtaining information can be a complex process. Furthermore, Pakistan has a rate 32 out of 100 in corruption perception index by Transparency International (2019), meaning that the country is highly corrupt and the data from authorities can also be deceitful. Fourth, there are numerous NGOs working with HR and contesting for better policies, yet only a few of them produce reports and accessible data, hence data from Aurat Foundation<sup>7</sup> will be used mainly.

Fifth, any data provided by Pakistan's government or NGOs that is written in other language than English, is inaccessible due to a language barrier. Hence, any vital information that can be found in Urdu or regionally spoken languages will not be presented in this thesis.

Sixth, the impact on DV by some separatist movements, militant groups and terrorist organisations will be excluded from the law analysis as well as category analysis due to limited thesis scope and volume. Furthermore, due to the time constraints and the complexity of the topic, some research questions might not be answered at a full capacity.

Lastly and most importantly, the dispute between Pakistan, India and China regarding Kashmir and Gilgit-Baltistan territory will not be discussed nor analysed in depth. It is an extraordinarily complex and sensitive topic, and even though the conflict situation affects HR and DV legislation negatively, the project scope and length limit an analytical discussion of it. Moreover, I will solely base on the current world map representation and administrative units provided by the official Pakistan's authorities to view the legislation in these parts. Above all, I acknowledge that some people in the Kashmir region are hoping for independence and seek for peace (Abi-Habib, et al., 2019), while the conflict is turmoiled by several countries.

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<sup>7</sup> Aurat Foundation is a non-profit and non-governmental organisation, created to raise the awareness for the need of caring and democratic Pakistan's society, where women and men have equal rights. Aurat has become internationally recognised in the last 30 years by numerous institutions. (Aurat Foundation, 2013)

# 3. Analysis

In the following chapter, the Analysis will be conducted, where the six WPR questions will be answered.

## 3.1 What is the problem of domestic violence represented to be in Pakistan's domestic violence legislation?

According to *Statement of Objects and Reasons* in Bill 2012 the problem is represented as:

“The issue of domestic violence has been a source of public concern for a number of years. Being in the private domain, the gravity of violence in the domestic sphere is compounded. In cognizance of the stress and unbearable suffering of the aggrieved person, it is necessary to criminalize the act. Through this Bill, domestic violence is brought into the public domain and responds to the National Policy for development and empowerment of women and Convention for the elimination of all forms of discrimination against women of adopting zero tolerance for violence against women and “introducing positive legislation on domestic violence”” (*Senate Secretariat, 2012, p. 13*)

Bill 2012 defines DV as “. . . all acts of gender-based and other physical or psychological abuse committed by an respondent against women, children or other vulnerable persons, with whom the respondent is or has been in a domestic relationship . . . ” (*Senate Secretariat, 2012, p. 3*) (from now, Appendix A).

Furthermore, it thoroughly describes various “Emotional, psychological and verbal abuse”, which:

“means a pattern of degrading or humiliating conduct towards the victim, including but not limited to,— (i) repeated exhibition of obsessive possessiveness or jealousy constituting serious invasion of the victim's privacy, liberty, integrity and security; (ii) insults or ridicule; (iii) threat to cause physical pain; (iv) threat of malicious prosecution; (v) blaming a spouse of immorality; (vi) threats of divorce; (vii) baselessly blaming or imputing insanity, or citing bareness of a spouse with the intention to marry again; and (viii) bringing false allegation upon the character of a female member by any member of the shared household” (*Appendix A, p. 4*)

The Bill 2012 acknowledges *abet, assault, criminal force, criminal intimidation, harassment, hurt, mischief, physical abuse, trespass, wilful or negligent abandonment of the aggrieved person, economic abuse and stalking* as a part of DV (*Appendix A, pp. 3-5*). The definitions of these terms

are referred to the Pakistan Penal Code (Act XLV of 1860), hence the Bill 2012 is strongly interconnected with the Penal Code.

In practice, lawmakers must be careful with terms “psychological” and “economic” violence as many perpetrators may take advantage and claim that victims have applied psychological violence against them before they have committed a violent physical crime because they have been affected by the psychological violence. Furthermore, psychological violence in general is very complex to prove, especially in fragile states. (United Nations, 2010, p. 25)

Moreover, Bill 2012 defines *sexual abuse* as “any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of the aggrieved person which may include,— compelling the wife to cohabit with anybody other than the husband; (ii) any kind of sexual abuse including sexual harassment of a member of the family.” (Appendix A, p. 4-5) Hence, the Bill 2012 covers the variety of DV sufficiently, mentioning different forms of violence.

One of the principal attainments of this Bill is that DV no longer remains as a private family issue, considering “An aggrieved person or any other person authorized by the aggrieved person in this behalf may present a petition to the Court” (Appendix A, p. 5). However,

“After receipt of petition from an aggrieved party, the court shall . . . issue a notice upon the person complained against calling upon him to show cause within seven days of receipt of notice as to why a protection order shall not be made against him for committing an act or acts of domestic violence as alleged in the petition.” (Appendix A, p. 6)

Meaning that the person that has carried out DV, has a week to wander about freely and gather evidence of why this person should not be found guilty. Moreover, “The petition made under . . . shall be disposed of within a period of ninety days and any adjournment given during the hearing of the petition shall be granted for reasons to be recorded in writing by the Court” (Appendix A, p. 6)

However, if the Court recognises that DV has taken place *prima facie*<sup>8</sup>, there is a number of rules that can be applied to protect the aggrieved person, such as:

“ . . . prohibit the respondent from,— (a) committing any act of domestic violence; . . . (c) entering the place of employment of the aggrieved person or, if the aggrieved person is a child, his or her educational institution or any other place . . . (d) attempting to communicate in any form, whatsoever with the aggrieved person . . . (e) causing violence to the dependants, other relatives or any person who gives the aggrieved person assistance . . .” (Appendix A, pp. 6-7)

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<sup>8</sup> “legally sufficient to establish a fact or a case unless disproved” (Merriam-Webster, n.d.)



Furthermore, “The court may impose any additional conditions or pass any other direction which it may deem reasonably necessary to protect and provide for the safety of the aggrieved person or any child of such aggrieved person” and “. . . the court may . . . pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person . . . .” (Appendix A, p. 7) There is no direct information regarding punishment in terms of jail time. It only introduces a monetary relief to the aggrieved person (Ibid., p.8).

It is noteworthy that the government must “. . . ensure that. . . this Act and the contents thereof receive wide publicity through electronic and print media in Urdu and local languages” (Ibid., p.3).

## 3.2 What presuppositions or assumptions underlie this representation of domestic violence in Pakistan’s domestic violence legislation?

The Bill 2012 covers only the Islamabad Capital Territory (ICT), which accounts for approximately 2 million out of 220 million of the country’s population (ICTA, 2020). Nevertheless, the assumption is that the bill covers the whole territory of Pakistan and that it is enacted. The bill was first passed in 2009 by the National Assembly (Pakistan Today, 2012). Later, in 2012 it was further passed by the Senate (Wasim, 2012). Currently it has not become a law yet, still being in the state of discussion (The Friday Times, 2016) (Immigration and Refugee Board of Canada, 2013) and there is no information of an official approval published in the Pakistan’s Gazette. The Pakistani media often mistakenly refers to it as an act or a law (Hamara Internet, 2016) as well as some scholars (Saleem, 2017, p. 159), yet there is neither official information from the ICT government nor is it a law in force on the official ICT acts list (Senate of Pakistan, 2020). It is also referred as a bill by the UN Women (2020).

Furthermore, the general assumption that DV legislation can safeguard victims from perpetrators of DV and abstain possible perpetrators from committing violence must be questioned. Therefore, the following parts in this and the next questions will aim to view why this assumption can be faulty and what other factors represent the problem of DV.

### 3.2.1 *Govern-mentalities*

The large variety of social groups and different political perspectives have negatively affected the development of democracy in the country. The role of the religion in Pakistan and national identity

remain as unanswered questions, even though the country was meant to be a state for Muslim majority from India. The sudden regime changes in the last 70 years between military and civilian governments have also brought general violence and disorder in Pakistan. The corruption in political and legal institutions remains a significant issue, even though anti-corruption strategies have been introduced. (Neudorf, 2017, pp. 127-128)

Pakistan's government has gradually shifted some laws to responsabilisation of individuals, for instance in *Criminal Law (Amendment) (Offences in the Name or on pretext of Honour) Act 2016*. This act prohibits honour killings by amending eight sections in Pakistan's Penal code (National Assembly Secretariat, 2016, pp. 2-4). The act has removed the loophole from the Penal Code, where murderer could be pardoned by family members (Zahra-Malik, 2016) and indicated government's initiative to address such crimes. Nonetheless it has not led to a decline of honour killings (Human Rights Watch, 2017). No trustworthy official figures regarding honour killings are presented by the government as these killings are often unreported or obscured as suicides or natural death. Harsher punishments for perpetrators do not always mean justice and safety for the victims since no safety assessments are performed by the police regarding the houses where victims return after living in shelter homes. (Human Rights Watch, 2017) With the most recent case reported on 17<sup>th</sup> of May, and at least 1000 cases taking place per year, honour killings persist as a significant problem despite the law (Ellis-Petersen, 2020).

Significantly, blasphemy politics have entered Pakistan's Penal Code in 1986 by allowing to criminalise blasphemy (Darr, 2019, p. 1) and providing penalty as a fine, imprisonment or death. With the death of last critic of it- Punjab's governor Salman Taseer in 2011, political parties have not been eager to amend this law. (BBC, 2019) Pakistan's political narrative creates a binary of introducing laws that prohibit *traditional approach* with women, yet legitimise harsh Islamic laws (Rumi, 2018, p. 334). Rumi (2018) describes it duly: ". . . Pakistani society . . . is polarised between the avowedly secularist civil society and the religiously inclined majority who speak an altogether different language, resulting in a breakdown . . ." (Ibid., p 335).

Apart from the official government, The Council of Islamic Ideology (CII) has a significant role regarding legislative advising. The CII is a constitutional body, formed in 1973, that mainly views whether a specific law does not contradict Islam (Quran and Sunna in particular). (Council of Islamic Ideology Government of Pakistan, 2014) The CII consists of 19 members, including 18 men and one woman (Council of Islamic Ideology, n.d.).

It was the CII that opposed Pakistan's first DV bill in 2009 for being discriminatory against men (when the aggrieved person was defined as women only) and in 2012 they strictly opposed it again for threatening Islamic traditions and values (Tomalin, 2015, p. 189).

The CII has been particularly strident with rejecting laws that impact women rights and protection. They assertively rejected the *Women Protection Bill* in 2006, naming it “contrary to the spirit of Quran.” (Babar, 2019). In 2016, the CII came up with a draft of a *Women Protection Bill*, where the council recommended that “a husband can lightly beat his wife to keep her in line” as well as if “she refuses to dress properly or turns down overtures for sexual intercourse” (BBC, 2016).

The deteriorating effect of CII's impact will be further discussed in the fourth question, when each province will be considered separately. Other organisations that affect law-making process will be analysed in the fifth question.

## **Security**

According to Pakistan's *National Internal Security Policy 2018-23*, apart from dealing with terrorism and security challenges, the focus is also set on criminal justice system reforms and reforming the education system with tolerant, democratic, and inclusive polity. (Ministry of Interior Government of Pakistan, 2018, pp. 8-9) Regions of Balochistan and KP are the worst affected by violence, hence the state intends to enact deradicalisation and rehabilitation programs (Ibid., p. 10). Furthermore, “. . . it is imperative that the state recognises and protects the marginalised sections of society through redistributive measures . . . A key priority in this regard includes the social, economic and political uplift of marginalised groups such as youth, women and minorities” (Ibid.).

### **3.2.2 Categories and binaries**

Bill 2012 defines domestic relationship as “. . . a relationship between persons who live, or have at any point of time lived together in a household when they are related by Consanguinity, marriage, kinship, adoption, or are family members living together” (Appendix A, p.1). Indicating that unmarried partners are not protected under this bill.

Furthermore, seven *people* categories can be observed. First, “*aggrieved person* means any woman, child or any vulnerable person who is or has been in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent” (Appendix A, p. 1). Second, “*vulnerable person* means a person who is vulnerable due to old age, mental illness or handicap or physical disability or for other special reason” (Appendix A, p. 2).

Third, “*child* means any person under the age of eighteen years living in a domestic relationship with the respondent and includes any adopted, step or foster child” (Ibid.). Fourth, “*respondent* means a person who is or has been in a domestic relationship with the aggrieved person and against whom relief has been sought under this Act” (Ibid.). Fifth, “*service provider* means any such government facility or registered voluntary organization established for the protection of aggrieved person providing legal, medical, financial or any other assistance” (Ibid.).

Sixth, “*Protection Committee* . . . comprises a medical doctor, a psychologist/ psycho-social worker and an official appointed the court, a female police officer not below the rank of Sub-Inspector and two women members from civil society and the *Protection Officer* who shall also act as the Secretary of the Protection Committee” (Ibid.). Seventh, “*Protection Officer* . . . The Federal Government shall, by notification in the official Gazette, appoint a gazette officer to act as Protection Officer, for the purposes of this Act” (Ibid.).

The significant binaries here are the aggrieved person and the respondent.

Bishop (2016) explains the phenomenon of eliminating male categories as possible victims in a way that:

“The significant lack of any constructive gendered analysis of perpetrator and victim conduct within the legal system can also be attributed to the nature of the institution itself. The construction and reinforcement of familial norms and gender-specific roles are clearly illustrated in the practices of the legal system and it remains a key site for the creation of patriarchal and stereotypical gendered expectations” (Bishop, 2016, p. 62).

Moreover, men are and can be DV victims. However, it is significant to note that “. . . women are more likely to experience abuse and be subjected to incidents of repeat victimisation. The vast majority of domestic violence perpetrators are heterosexual males and therefore investigating the role that gendered power inequalities play in a vast number of domestic violence cases is clearly an important and legitimate pursuit.” (Bishop, 2016, p. 61) Not only can social pressure cause men to commit violence, but also “vulnerability and instability of masculine identities may lead some men to use violence to temporarily shore up or restore their sense of selves as “real men” ” (Anderson, 2009, p. 1445). Furthermore, if women attempt to perform the same kind of abuse against men, it can be inefficient due to the cultural setting and even dangerous. (Bishop, 2016, p. 64)

It can be concluded that *categories* as well as *binaries* are discriminating against men. Perhaps, less resistance from the opposers can be achieved if men would be considered as possible aggrieved

persons in the Bill 2012 as they would not sense endangerment of their *authority*. Categories and binaries will be further analysed in the fourth question.

### 3.2.3 Deep-seated cultural values

The level of what is *acceptable violence* in South Asia, and in particular in Pakistan, is deeply rooted in the region's practices and cultural norms. Even though the region has achieved technological, educational and economic progress to some extent, the social structure remains deep-seated in “. . . tradition of caste, class, honor, respect, deference, and unequal power relations.” (Shahidullah, 2017, p. 118).

According to the cultural theory premise, the nation's cultural values and norms also contribute to family values and can often encompass different kinds of violence, including DV. Hence, some forms of violence can appear more acceptable in the family if physical force is justified and accepted in the society. (Ross, 2018, p. 48) Centuries old and conservative feudal mindset in Pakistan allows violence to remain as an accepted norm. (Qaisrani, et al., 2016, p. 3) Furthermore, widely spread poverty throughout the country has created an overall frustration in the society and is further translated to violence in families. (Ibid., p. 9) To end DV in a society, the cultural perception regarding women must change (Shahidullah, 2017, p. 21).

The law and customs have a very complex affiliation. Custom can either reject the law, fit together with it, or completely ignore it. The current development of Pakistan's laws is somehow contradictory to their custom. Although law is often a historical product of culture in the Western societies, Pakistan's colonial history brings in a different perspective. Since the law was introduced by the British colonialists, it was never attempted to adjust it with the local practices, hence the people developed an inclination to resist the law. During the colonial period, the law was a tool of power and there is still a large imbalance between custom and the legislation in the country. People create meanings locally, based on traditions, therefore the perception of legislative forms is not always appreciative. The habitual actions and law are not certainly related or opposed, though it is important to consider that they are both essential and must be considered. (Shah, 2016, pp. 3-5) On the contrary, Neudorf (2017, p. 128) addresses English legal system as a *legal heritage* and its basis to an independent judiciary in Pakistan.

Pakistan's religious culture also depicts certain laws and possible prejudice against females. There is a direct connection between pervasive DV and absence of legal protection of females in the name of *Shariah law*. The tendency to implement legislation that is based on *Shariah* often disfavours women

as these laws are direct interpretation of the Islamic tradition and doctrine that bolster the misinterpreted view of female being unequal to male. (Burki, 2013, p. 278)

During 1977-1988, while General Zia al-Haqq governed Pakistan, *Hudood Ordinances* were promoted. Pakistan's criminal laws were "on a firm Islamic and, indeed, Qur'anic footing" (Zaman, 2012, p. 54). ". . . [During Zia's governance] men and women, were charged with hudud offenses, especially in matters relating to pre- and extra-marital sex (zina) and rape" and critics underline how *Hudood Ordinances* are unsuitable for a modern state, causing suffering to women and misinterpreting Islam (Ibid., p. 55). One of the most significant misconception was women "charged with sexual impropriety", even if it was a case of rape as the law did not differ between a "consensual sexual intercourse" and cases of rape, both being considered as sexual impropriety (Ibid.). Currently, several Pakistani parties have aimed to implement and protect the Islamic laws (Anwar, 2018).

However, historically, women's rights movements have used Islam as a mean to secure their rights, working in the existing political and cultural system. Passed in 1948, the *Muslim Personal Law of Shariat* allowed women to inherit property and the *Muslim Family Laws* in 1961 discouraged polygamy and introduced divorce regulations. A dramatic change appeared in 1980's when first gender equality movement started as a discrepancy to dictator's Zia-ul Haq *Islamisation* programme. (Tomalin, 2015, pp. 185-186)

It can be concluded that multiple factors in the country underlie the existing assumptions of DV, such as cultural and religious values as well as country's political views, identity and organisations that affect the legislative processes.

### 3.3 How has this representation of domestic violence in Pakistan's domestic violence legislation come about?

To view the occurrence of problem representation, I will analyse its correlation with human rights instruments and relevant laws in Pakistan.

The *Protection of Women (Criminal Laws Amendment) Act, 2006* changed the narrative of women's role and status in Pakistan, introducing possibility for women to seek legal help in cases of rape and incest. The act created an opportunity to pursue rapists under Pakistan's Penal Code procedures instead of *Shariah Courts*. Pakistani clerics have constantly attempted to undermine the law by referring to it as *un-Islamic*. Despite these attempts of clerics and religious activists, the act "was a

significant victory for Pakistani women in reversing the oppressive effects of the Hudood Ordinances” (Burki, 2013, p. 89).

### 3.3.1 Human rights instruments

In the following table, I will present an overview of the HR instruments, signing and ratification dates in Pakistan:

Human Rights Instrument		Date created	Pakistan signed	Pakistan ratified
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination	21/12/1965	19/09/1966	21/09/1966
ICCPR	International Covenant on Civil and Political Rights	16/12/1966	17/04/2008	23/06/2010
ICESCR	International Covenant on Economic, Social and Cultural Rights	16/12/1966	03/11/2004	17/04/2008
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	18/12/1979	-	12/03/1996
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	10/12/1984	17/04/2008	23/06/2010
CRC	Convention on the Rights of the Child	20/11/1989	20/09/1990	12/11/1990
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	18/12/1990	-	-
CPED	International Convention for the Protection of All Persons from Enforced Disappearance	20/12/2006	-	-
CRPD	Convention on the Rights of Persons with Disabilities	13/12/2006	25/09/2008	05/07/2011

Table 1: HR Instruments in Pakistan (United Nations, n.d.)

Pakistan is a dualist state, hence international treaties do not always become a part of the national law (Ghouri, 2019, p. 46). Currently, Pakistan has ratified seven treaties and two optional protocols (United Nations, n.d.), yet Pakistan’s rankings in human rights are utmost low (Human Rights Watch, 2019). Even though Pakistan’s government ratified CEDAW in 1996, the *Domestic Violence Prevention Bill* was passed only in 2012. It is referring to CEDAW as it could be observed in the first question.

The following laws protecting women and also children were passed after ratifying CEDAW and before introducing the Bill 2012:

Year	Title	Area covered
2002	Prevention and Control of Human Trafficking Ordinance	Women or children “. . . kidnapping or abduction, or by giving or receiving any benefit for trafficking him or her into or out of Pakistan” (National Assembly Secretariat, 2002, p. 3). This law was passed to meet some of CEDAW obligations, it only covers human trafficking on international level, neglecting domestic human trafficking (UN Women, 2002)
2004	Criminal Law (Amendment) Act	Honour killings are recognised and prosecuted as murders. Females cannot be given to marriage to settle a dispute; disobedience leads up to ten years of

		imprisonment. (Senate Secretariat, 2004, pp. 1-5) It amended 12 sections of the Code of Criminal Procedure to prosecute cases of honour killings (UN Women, 2004)
2006	Protection for Women (Criminal Law Amendment) Act	Introduction of several radical amendments in Penal and Criminal Codes, several Ordinances and other laws. Person who is “. . . Buying person for purposes of prostitution, etc. . . . shall be punished with imprisonment which may extend to twenty-five years. . . .” (Senate Secretariat, 2006, p. 847). “Whoever commits rape shall be punished with death or imprisonment” (Ibid., p. 848). Also covering abduction and “inducing a belief of lawful marriage” (Ibid., p. 848) Most importantly, this amendment covered the Offence of Zina Ordinance, 1979, allowing in case of rape “. . . if the accused is a non-Muslim, the eye-witnesses may be non-Muslims” and “Inquiry adopted by a Court to satisfy itself as to the credibility of a witness” (Ibid., p. 850)
2010	The Protection Against Harassment of Women at the Workplace Act	Protection of women against sexual harassment from other employees or employer at their workplace by setting up a procedure to file a complaint. The main principle of this act is “. . . to create a safe working environment for women, which is free of harassment, abuse and intimidation with a view toward fulfillment of their right to work with dignity” and allowing “. . . many who want to work to get themselves and their families out of poverty” (Senate Secretariat, 2010, p. 15)
2010	Criminal Law Amendment Act, 2010	The law introduces a broad and comprehensive description of sexual harassment against women, criminalisation of it and punishment as imprisonment up to three years or a fine described in the Pakistan Penal Code (Senate Secretariat, 2010, p. 14).
2011	Criminal Law (Second Amendment) Act	The law creates amendment in Pakistan Penal Code, introducing a definition of “Hurt caused by corrosive substance”, where “Whoever causes hurt by corrosive substance shall be punished with imprisonment for life or . . . not less than fourteen years and a minimum fine of one million rupees” (Senate Secretariat, 2011, p. 480). It is a significant step towards protection of women by criminalising acid attacks and can be referred to CAT and CEDAW.
2011	The Prevention of Anti Women Practices - Criminal Law (Third Amendment) Act	The law introduces “Punishment for giving a female in marriage . . .”, “Prohibition of depriving woman from inheriting properly”, “Prohibition of forced marriage”, “Prohibition of marriage with the Holy Quran”, and “Provincial Government not to interfere in sentences of rape ” (Senate Secretariat, 2011, pp. 484-485).

Table 2: Laws and Acts introduced after CEDAW and before Bill 2012

All seven of the aforementioned laws and amendments extend to the whole territory of Pakistan. Despite the protective legislation, in 2018 Pakistan was considered as the sixth most dangerous country in the world for women, basing on such factors as healthcare, sexual and non-sexual violence, discrimination and human trafficking (Thomson Reuters Foundation, 2018).

Simmons (2009, p. 126) emphasises that nevertheless HR treaties are created internationally, they mostly generate stakeholders domestically and a real political change can only occur at a domestic level. Moreover, the HR instruments are national, but the acts and bills regarding DV are all regional as it will be presented in the fourth question.



Furthermore, international treaties can create a sudden change in the national agenda due to arguments of ratification and implementation. Often there is no beneficial reason to measure whether a country that has ratified a treaty has fully adhered to it. Substantive improvements and HR conditions are much more important. Nevertheless, international treaties can also overwhelm the national priorities and ratification of HR Instruments do not guarantee better HR in the country. (Simmons, 2009, pp. 14-21) It is noteworthy to mention that Pakistan's HR instrument commitments can serve as an exceptional inspiration for HR activists in a "unique form of political ammunition" (Ibid., p. 19). The application of CEDAW by the responsible institutions will be further addressed in the fifth question under lived effects.

According to definition by theory of commitment explained by Simmons (2009), Pakistan can be identified as a *strategic ratifier* regarding HR Instruments.

“. . . [States] ratify [treaties] because other countries are doing so, and they would prefer to avoid criticism. These governments trade off the short-term certainty of positive ratification benefits against the long-run and uncertain risk . . . in the future. They may ratify for relatively immediate diplomatic rewards, to avoid criticism, or to ingratiate themselves with domestic groups or international audiences.” (Simmons, 2009, pp. 58-59)

Furthermore, “Because human rights agreements are not effectively monitored, the expressive benefits that countries gain from the act of joining the treaty will be enjoyed to some extent by all those who join, “regardless of whether they actually comply with the treaty’s requirements.”” (Simmons, 2009, p. 59).

Even though Pakistan has made attempts to enact the HR instruments via ratifying the treaties and introducing various domestic laws, the domestic customs are preferred, continuing the issue of HR violations. The country is profoundly criticised in the Human Rights Watch (2020) report, indicating persisting HR violations, such as all kinds of discrimination (including criminalisation of same-sex sexual conduct), false allegations of opposition parties, limited freedom of expression, still existing law of blasphemy that prohibits freedom of religion, persisting attacks on health workers, and most importantly women and children facing violence on a daily basis, without getting sufficient support from the justice system. Hence, in this context ratification of international treaties can be seen as signalling of “enaction of progressive Western culture values”, yet actual harsh resistance from the local culture and politics (Simmons, 2009, pp. 62-64).

### 3.3.2 Criticism of the human rights system

Charlesworth (2017) greatly criticises the HR system from a regulatory theory framework perspective. Even though the HR system seems like a “success story” with a significant development of HR norms and institutions, the system itself is inconsistent and mostly based on *shaming*. Even though states attempt to commit to HR standards, it rarely translates to HR protection at a national level. It can be partially explained due to the lack of judicial scrutiny and the UN reluctance to implement punitive methods when HR are abused. Most importantly, major gaps exist among HR treaties and HR protection in Pakistan. Moreover, HR instrument ratification can even lead to increased violation of HR as Pakistan has little to lose if treaties are not implemented. To clarify, HR treaty ratification improves HR in democratic countries, yet rarely in other regimes. (Charlesworth, 2017, pp. 359-360)

To address the problem from the regulatory theory aspect, the failing dialogue of HR and regulation in Pakistan must be addressed. While the aim of HR has been individual claims of globally applicative rights against a state, the regulatory school of thought looks for legislation efficiency and rationally designed institutions. To invoke HR, states must ensure their power by using instrumental approach, where groups and individuals can promote and fight for governmental reforms. Then, international regulatory institutions can restrict the state’s power and advocate HR. (Ibid., pp. 360-361)

The regulatory framework introduces “. . . the idea of continuous improvement. This focuses on incremental, constantly monitored steps, rather than great leaps forward. It can be achieved by moving from a culture of blame to a culture of learning. . .” and “. . . sharing of best human rights practices.” (Ibid., p. 367). Furthermore, instead of answering to HR abuse with a *world human rights court*, the aim for a successful system should provide an accessible justice in Pakistan when HR abuse is detected in very particular contexts (Ibid., p. 370).

Since formal sanctions are rarely imposed when HR are breached, it is tremendously significant to form networks consisting of NGOs, businesses, aid donors and the media that can impose “informal sanctions” against the state. The informal sanctions can mainly consist of promulgating HR abuse cases in Pakistan, warnings of donor withdrawal and state’s exclusion from international organisations (Ibid.). Hence, it is in some way naïve to expect any radical change in Pakistan regarding HR and DV legislation perception even though multiple HR Instruments are ratified.

### 3.4 What is left unproblematic in this problem of domestic violence in the domestic violence legislation representation? Where are the silences in the domestic violence legislation and representation? Can the problem of domestic violence be thought about differently?

I will now view, how DV legislation has developed in the regions and discover the silences in each legislation. The Bill 2012, which was scrutinised in the first two questions, will now be taken as a reference point to compare of what is omitted, added, or changed in the DV legislation.

#### 3.4.1 Domestic violence legislation in provinces and territories

##### **Balochistan**

The Balochistan Domestic Violence (Prevention and Protection) Act was passed in February 2014. The Act is an almost exact copy of the Bill 2012, with a significant difference, adding that *aggrieved person* can also be a man (Balochistan Provincial Assembly Secretariat, 2014, p. 1). Furthermore, it adds “domestic help, or employment as a domestic servant” to the definition of a *vulnerable person* (Ibid., pp. 2-3). Moreover, it has shortened the time of issuing the first hearing from seven to three days and “The application made. . . shall be disposed of within . . . thirty days” instead of 90 days (Ibid., p. 4). Significantly, the act is under the criminal law (Aurat Foundation, 2016, p. 1).

##### **KP**

The Khyber Pakhtunkhwa Domestic Violence (Prevention and Protection) Bill was passed in 2019 and currently is not a legitimate act. To explain the severe delay of passing the bill, it is noteworthy to mention that the CII rejected province’s *Child Marriage Restraint (Amendment) Bill* in 2014, declaring it as “anti-Islamic and blasphemous” (Shaukat, 2016). Hence, passing a bill that protects against DV has been even more challenging.

The bill defines *victim* as women, excluding children, men or any vulnerable persons and does not mention gender-based violence (Provincial Assembly of Khyber Pakhtunkhwa, 2019, p. 1). Furthermore, it greatly limits *economic abuse* by defining it as “denial of food, clothing or shelter in domestic relationship to the victim . . .” and *psychological abuse* as “psychological deterioration of aggrieved person which may result in anorexia, suicide attempt or clinically proven depression . . .” (Ibid.). Meanwhile, in 2019 KP government has passed the *Enforcement of Women’s Property Rights*

*Act*, which protects women property ownership rights, which cannot be violated by “. . . means of harassment, coercion, force or fraud . . .” (Provincial Assembly of Khyber Pakhtunkhwa, 2019, p. 1). The property rights act signals at least some level of KP government’s commitment to protect women.

## **Punjab**

The Punjab Protection of Women Against Violence Act was enacted in 2016. It faced an opposition of 30 political and religious parties, declaring it *un-Islamic* (Hanif, 2016). The act is formally rejected by CII, claiming that the status quo of women subjugation should be maintained and the act must not be used to oppress the power of husbands over their wives (Siddiqi, 2016, pp. 102-103). The CII refers to the Quran, insisting that men are superior to women and Punjab’s DV Act is hazardous to Pakistan’s family structure (Ibid., p. 103).

In 2016, the clerics opposed Punjab women's protection bill and a bill suggesting harsher penalties if girls from the age of eight years are married off. The only female member of CII, Dr. Samia Raheel Qazi, justified the opposition by claiming that “. . . In Islam, the man's status is superior to that of woman's, but after the passage of the law, no father can admonish his daughter and no husband can say a word to his wife.” (Khan, 2016).

Punjab’s DV act defines an *aggrieved person* as a “. . . female who has been subjected to violence. . .” and a *dependent child* as a “. . . male child who is below the age of twelve years. . .” (Provincial Assembly of the Punjab, 2016). It determines that the victim can only be female, discriminating other possible groups. Moreover, the child definition only protects male children, discriminating girls and all children that are 13 years old or older. A *defendant* can be “. . . a person against whom relief has been sought by the aggrieved person” (Ibid.), meaning that any person can be a possible perpetrator. Economic and psychological abuse is defined in the same limiting manner as in the KP bill. However, this act additionally protects the victim as the Court can force the perpetrator to “wear ankle or wrist bracelet GPS tracker” (Ibid.) during the investigation process. *Harassment* is excluded from the act and *sexual violence* is not defined. Most importantly, this act neglects to criminalise DV.

## **Sindh**

The province of Sindh was the first one in Pakistan to pass the Domestic Violence (Prevention and Protection) Act in 2013, officially claiming it as a law (The Express Tribune, 2013).

The act has the same *aggrieved person*, *child*, and *vulnerable person* definitions as the Bill 2012. (Provincial Assembly of Sindh, 2013, p. 1). It also includes expanded definitions of various kinds of violence and government's obligation to provide wide publicity (Ibid., pp. 3-5). A category of an *informer* is added, meaning “. . . a person who has credible information that an offence is being committed under this Act . . .” (Ibid., p. 2). There is a clear description of punishments for each kind of violence committed, varying from monetary compensation to imprisonment of two years (Ibid., pp. 5-6). Similarly, to Balochistan, this act is under the criminal law (Aurat Foundation, 2016, p. 1).

### **Azad Jammu and Kashmir (AJK)**

The current development of the conflict situation in the region generates difficulties to oversee the legislation. The law list passed by AJK government, does not include a DV Bill or Act (AJ&K Official Portal, 2020). The AJK Penal Code includes the same crimes against women as Pakistan's Penal Code, such as various forms of sexual violence (Senate of Pakistan, 2017, p. 131) and harassment (Ibid., p. 176). Information and research regarding legislation and DV in AJK is very restricted and difficult to obtain (Rashid & Chauhan, 2015, p. 44).

### **Gilgit-Baltistan**

No bills or acts regarding DV have been introduced in the region (Gilgit-Baltistan Assembly Secretariat, 2020). However, attempts to protect women and children can be observed as in 2013 the *Gilgit-Baltistan Protection Against Harassment Of Women at the Workplace Act* was enacted (Gilgit-Baltistan Assembly Secretariat, 2013). Furthermore, in 2015 the *Gilgit-Baltistan Prohibition of Corporal Punishment Against Children Act* and the *Gilgit-Baltistan Child Marriages Restraint Act* were enforced (Gilgit-Baltistan Assembly Secretariat (Law & Prosecution Department), 2015).

Overall, it can be concluded that generally the division of the DV legislation law is left unproblematic, because in some administrative units it is not yet enacted. Balochistan's DV Act is better developed than the Bill 2012 as it includes more people categories of possible victims and more effective prosecution timing. In KP, various victim groups are silenced, and the different kinds of violence are left unproblematised. One possible reason can be the CII disapproval of the laws that protect the HR.

In some regions the DV legislative situation is seemingly worse than others. The discriminative definitions of victims and perpetrators are the main silences, since aggrieved person can include multiple groups of victims as well as the perpetrator. Regions of ICT and KP have only introduced

bills without further enactment, AJK and Gilgit-Baltistan do not represent any DV legislation processes. Silences are also observed as inconsistency of different definitions. In categories of the Bill 2012, no men are accounted for being an *aggrieved person*, except those who are handicapped, with physical or mental disabilities. Sindh's and Balochistan's acts are the only ones in Pakistan that criminalise DV. No monitoring institutions are officially introduced in any of the legislation. Punjab's DV law is not under the criminal law.

According to *PDHS* 2012-13 DV section, KP had 57 per cent of women experiencing DV, followed by Balochistan with 43 per cent, and Punjab with 29 per cent, while in Sindh 25 per and 32 per cent in ICT have experienced DV (National Institute of Population Studies (NIPS) [Pakistan] and ICF International, 2013, pp. 221-222). Nonetheless, it can be assumed that provinces with enacted laws might have a lower percentage of DV, yet no similar population survey like *PDHS* has been conducted after 2013.

### 3.4.2 Cross-cultural comparison: India and Pakistan

Even though DV in India is addressed at a national level and several laws that affect women regarding cruelty and rape have been amended, the spectrum of anomalies in the legislations is still substantial. Initiatives to restrain violence committed by men and DV have been introduced, nevertheless the government must tackle women's low status in the society. (Mahapatro, 2018, p. 183)

In 2005, India introduced the Protection of Women from Domestic Violence Act. The act defines an *aggrieved person* as a woman only, excluding all possible other people categories and defining *respondent* as “. . . any adult male person who is, or has been, in a domestic relationship with the aggrieved person. . . .” emphasising that aggrieved female can “. . . file a complaint against a relative of the husband or the male partner” (Parliament of India, 2005, pp. 3-4). This indicates a very gendered and discriminatory approach towards *people categories* in India.

There are 28 states and eight union territories in the country, where laws often differ greatly (knowindia.gov, 2018), yet the DV law applies to the whole country, except the State of Jammu and Kashmir (Parliament of India, 2005, p. 3), which will be addressed later. This reveals a different legislative approach than in neighbouring Pakistan. The act is under the civil law and does not penalise or punish the perpetrators, except foreseeing a monetary relief. However, it has brought little change regarding the DV issue due to a lack of regulated social reforms in the country. (Jan, 2014, pp. 18-19) According to India's *National Family Health Survey* 2015-16 more than 30 per cent of all

women and 33 per cent of ever-married women in India have experienced physical violence (International Institute for Population Sciences (IIPS) and ICF, 2016, p. 563).

The National Crime Records Bureau of India has reported 437 incidents in 2016 and 579 incidents in 2018 in line with country's DV act (National Crime Records Bureau (Ministry of Home Affairs) Government of India, 2019, p. 6). Even though the crimes remain immensely unreported (Chattopadhyay & Suraj, 2019), the numbers compared with the percentage of women that have experienced DV seem to be ludicrous in a country with 1,37 billion population (Worldometers, 2020) which was acknowledged as the world's most dangerous country for women in 2018 (Thomson Reuters Foundation, 2018) and rank 112 out of 153 in the *Global Gender Gap Index* (World Economic Forum, 2020, p. 9).

India has ratified several HR Instruments, including CEDAW, yet the Protection of Women from Domestic Violence Act, 2005 remains "widely unknown to the general population" (Mahapatro, 2018, p. 194), since the government agencies that are responsible for the implementation and informing, are functioning insufficiently.

The ecological theory framework will assist to represent the possible causes of deeply entrenched violence in the Indian and Pakistani society.

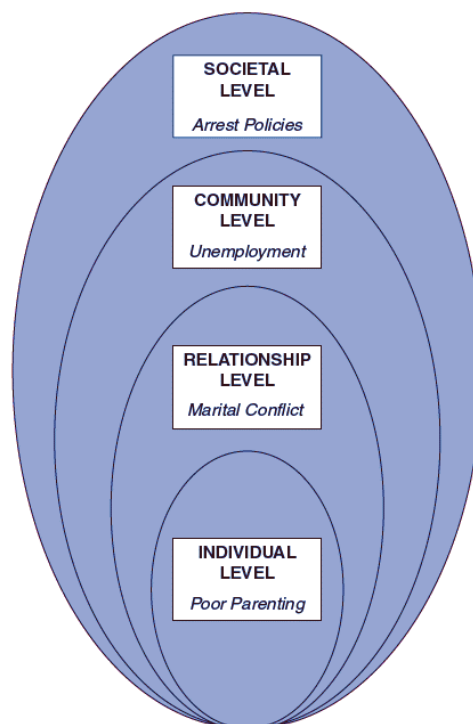


Figure 3: "An ecological framework for understanding domestic violence" (Ross, 2018, p. 47)

Since both countries are encountering similar challenges on individual, relationship, community and societal levels, analogous outcomes in the shape of violence are present. If children are experiencing DV at an early age, followed by behavioural problems and poor parenting, it can overlap with relationship level, where DV is accepted to some extent. Further, at a community level, if high unemployment rates and social isolation are present, it affects the societal level as well. On a societal level, even if some laws and policies that tackle violence exist, but the law implementation is vague and inconsistent as well as formulations in the law, the abused might not understand or be able to use their legal rights. All these factors are interconnected and increase the potential of acceptance or committing violence in the future. (Ross, 2018, pp. 46-48)

According to Amir-ud-Din et al. (2018) research of attitudinal acceptance of violence and pervasiveness of any unhealthy behaviour, for instance tolerating violence, can affect an individual in two ways: “(a) by justifying and thereby increasing the tendency of violent behavior, and (b) by increasing the likelihood of an individual remaining silent about any discomfort caused by such behavior, thereby reinforcing its social tolerance” (Amir-ud-Din, et al., 2018, p. 6). Moreover, “violent behaviors of men may be strengthened by the feedback from women in the form of accepting attitudes toward violence.” (Ibid.) Furthermore, “Woman’s experience of parent-to-parent violence also significantly increases the odds that she will herself experience violence” (Ibid., p. 22). Hence, similar factors that contribute in both countries result in pervasive DV, despite having differently implemented legislation with separate timelines and penalties.

### **The case of Jammu and Kashmir**

In 2010, the Jammu and Kashmir Protection of Women from Domestic Violence Act was enacted (Government of Jammu and Kashmir Civil Secretariat- Law Department, 2010), however, this act only covers the Kashmir territory in India and not AJK in Pakistan. The act is an almost exact copy of the one in India. Very few studies have been conducted in the region regarding DV due to the sensitivity and complexity of the years long dispute between India and Pakistan (Ali, et al., 2017, p. 34). Research conducted by Alam et al. (2018, p. 121), Ali et al. (2017, p. 37) and Rashid & Chauhan (2015, p. 53) conclude that in Pakistan’s controlled AJK, DV is underreported, often based on low educational rates among women, overall poverty and is greatly provoked by the ongoing situation, general violence and insecurity with about 40 per cent of women experiencing DV. The same situation can be observed in India’s controlled Jammu & Kashmir, where the rate and cause of DV



are somewhat similar, despite having a law that prohibits DV (India Legal Bureau, 2020) (Early Times (India), 2015).

Even though both countries are enacting their power in the region, the level of concern to eliminate DV and other types seems deficient. I will further explain the development of DV legislation and it being a part of criminal law, by applying criminal justice theory.

### 3.4.3 The problem can be thought about differently

#### **Criminal justice theory**

According to Brackett & Downing (2017), who have provided an immense input in criminology science of South Asia, the traditions of South Asian countries preserve DV and violence against women in general. Furthermore, the patriarchal structures of religion and culture legitimise the existing attitude, where suffering and sacrifice is glorified while woman's self-interest is neglected. Women have a limited authority in the family, yet they still protect the *honour* of it. The society expects from women to suffer in silence (Brackett & Downing, 2017, p. 312)

A Pakistani HR activist and advocate Dr Farzana Bari names two reasons from the legislative aspect why Pakistan is dangerous for women "...a) the existence of a legal basis to commit violence against women in legislation such as the Hadood Ordinance, Qisas and Diyat law, law of evidence and honour killing law that makes honour killing a compoundable offence, and (b) the culture of impunity in cases of violence against women. The conviction rate in gender-based crimes is negligible. Justice is even denied in the most high profile cases..." (Bari, 2014).

The criminal justice theory draws attention to a situation if courts dismiss to prosecute certain types of cases, it also discourages the police to make arrests. Furthermore, the legal culture represents the legal unwritten *code of the community*- what protects or harms victims, what risks can the perpetrators afford to take, what offences will be sanctioned and what penalties can the convicted receive. (Worden, 2015, p. 250) Moreover, the theory suggests that community groups can change the court structure- for instance, activists that are providing expertise. (Ibid., p. 270) Further, the unwritten *code of justice*- courts tolerating certain behaviours and crimes and giving little accountability to offenders, strongly influence the community standards regarding criminal norms and criminal behaviour. Hence, people conceptualise by themselves what is constituting a crime and what will be considered as victimisation. (Ibid., p. 274)

HR in Pakistan are protected by the Constitution, guaranteeing liberty, security, rights to live, rights to fair trial, freedom from discrimination and rights to equality. However, the Constitution also gives rights to the Islamic Council to provide legislative advisory, creating a judicial conflict. (Neudorf, 2017, p. 140) The approach implemented by Pakistan's courts and the Supreme Court indicates “. . . inadequate judicial resources, ineffective litigation procedure, and limited modes of judicial accountability” (Ibid., p 142). Azeem (2017) emphasises that “The [Pakistan's] criminal justice system has utterly failed in protecting women against honour killings, domestic violence, Karo Kari, forced marriages, rape and family feuds” (Azeem, 2017, p. 255). Even though the Constitution has the power to protect people's rights, the judiciary keeps transmitting prejudice and cultivate men-dominated societal values (Ibid., p. 254)

To demonstrate an example, a research by Tanwir et al. (2019) regarding DV in Punjab and institutional reforms indicates that in 2013-14, domestic violence constituted one third of all reported cases of VAW, while the conviction rate of these cases was unintelligible 2,5 per cent. (Tanwir, et al., 2019, p. 135) A general shortage of public prosecutors and specialist training regarding gender-sensitive procedures is observed in the country. Furthermore, the remaining prosecutors are inclined to the leading patriarchal social norms. Both male and female police officers lack empathy for victims with some of them justifying violence perpetrated by males in the family as an acceptable form of violence. (Ibid., p. 141)

Nancarrow (2019) explains the phenomenon of perpetrators not being jailed for committing DV because of the way DV is defined in the legislations and the reason that intimate partner abuse is not accompanied by serious assaults, hence the criminal justice system response is weak. (Nancarrow, 2019, p. 64) On the contrary, a research regarding Pakistan's *Federal Shariat Courts* role in gender equality and women rights by Yilmaz (2014) reveals that in the recent years *Muslim law* can be interpreted in a more liberal manner. Judges have shifted the strict Pakistani statute law application to an equality-focused interpretation. (Yilmaz, 2014, p. 188)

Modernisation and globalisation, on the other hand, have brought in new aspects for criminal justice in the developing world. Currently, fewer regions are dismissing DV as a criminal offence as the “external forces” are altering the criminal law and introducing new definitions of crime. While new laws and institutions of criminal justice are merging globally, the cultural and internal social forces are still shaping the policies of the state. The internal logics and understanding of crime and justice cannot be altered effortlessly by modernisation and globalisation. (Shahidullah, 2017, pp. 5-6)

### **Reintegrative shaming theory**

According to reintegrative shaming theory “To understand crime rates, we need to look beyond official mechanisms, such as penalties that are imposed by criminal justice systems, to the degree to which societies express disapproval of crimes.” (Harris, 2017, p. 60) Correspondingly, laws should not be limited and viewed as ill-advised or wrongly formulated, yet disobedience and disapproval of laws must be fully understood. Shame is a destructive emotion associated with defiance and anger, hence potentially provoking violence (Ibid., p. 71). It can be therefore referred to both disobeying the law, men committing DV and crimes of honour killing since a specific understanding of *honour* is so valued in Pakistan’s culture.

“Shame is invoked when individuals question whether they have violated their values and, when experienced, represents a threat to the person’s sense of who they are. This suggests that shame is invoked when individuals are morally engaged. A question for those who seek to change or regulate behaviour is how to engage the individual in this kind of discussion.” (Harris, 2017, p. 71) The theory suggests that the offenders must explore the consequences for the victims to start a recovery process (Ibid., pp. 70-71). Therefore, the problem can be thought about differently, if the mindset and psyche of men who commit DV is understood and a process of introducing the consequences to them is utilised. While DV is still approved and perplexed in the society, no laws can create a significant change.

### **Patriarchy**

In a patriarchal society, men occupy top positions in institutions that are hierarchically organised. Here, husband violence against wives is an explicit expression of domination. The concept of *honour* is often used to legitimate this domination of females. Hence, violence and possible honour killing can be justified by the patriarchal society, if the woman lacks commitment to keep the family core value- the *honour*. If wives are seen as a property, then the societal support of local communities in this regard might be even stronger, especially in rural areas. Sons learn about the use of violence at home and later apply this *norm* in their marriages. (Ellis, et al., 2015, pp. 73-75)

The existence of various laws indicates that DV is not a legitimate excuse of male authority, yet the belief system of violence as a norm is deeply entrenched in the society by peer groups, media, family socialisation and institutions. (Wendt & Zannettino, 2015, p. 20)

Patriarchy preserves a framework where men's violence against women is legitimised, perpetrated and sustained, and men can legitimately control and dominate women. (Hayes & Jeffries, 2015, p. 23). In Pakistan's patriarchal Muslim society, many women face deprivation of human, legal and religious rights, access to public resources, employment and education. Moreover, apart from facing domestic, cultural and structural violence, women victims can be ignorant themselves of the crime since they also perceive DV as a norm and tend to maintain *harmony in family*. (Tarar, et al., 2017, p. 75)

On the one hand, the common practice of cousin-marriage (except Hindu and Christians) is strengthening the extended patriarchies as women have no saying in these regards. On the other hand, kinship-based groups create a feeling of solidarity, collective action and autonomy from the state. (Gazdar, 2007, p. 87) However, *PDHS 2012-13* has revealed that 65 per cent of 3 687 ever-married women have blood relations<sup>9</sup> with their husbands and this group of women is experiencing almost twice higher marital control, including various types of violence compared to women that are not related to their husbands (Shaikh, 2016, pp. 1320-1321).

### **Categories and binaries**

When there is a lack of up-to-date and accurate statistics, it is highly complicated to access whether DV impacts all women and other people groups equally, creating challenges for the lawmakers to determine the right categories. Besides, if there are no base-line figures, the effectiveness of any law, policy or intervention will be limited as well. The problem of undercounted statistics, concealed crimes and underreporting is affecting a precise definition of affected people categories. Furthermore, disabled people who do not recognise DV against them as well as ethnic minorities who are isolated due to language or other barriers, might be highly marginalised groups. In addition, men can be a considerable *silent group* as well, if the society restricts the perception and attitudes that define a *desirable masculine* behaviour. (Harne & Radford, 2008, pp. 24-26)

In a patriarchal social system, the gender is divided into two categories- men and women. The understanding of gender in these categories also dominates the DV explanation and sets relations between women and men in institutions and social structures. These binaries are not equal socially but can be viewed as hierarchies that turmoil the social inequality. While the discussion of sex and gender distinction might be very complex in a religious and conservative country like Pakistan, the

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<sup>9</sup> being cousins or other kin

people categories in laws should not be highly binary, however, keeping in mind that gender is central and relevant category to address DV. (Wendt & Zannettino, 2015, pp. 6-8)

To provide a far-reaching explanation, it is noteworthy to indicate that feminist theory reasonably explains of DV prevalence in patriarchal states, “when children are raised and socialized to fit neatly into categories of male and female they naturally assume characteristics aligned with masculinity and femininity” (Ross, 2018, p. 71).

## 3.5 What effects are produced by this representation of domestic violence?

### 3.5.1 Discursive effects

Even though Pakistan’s government has ratified ICERD in 1966, the discrimination against various castes persists. Individuals, groups, and families are marginalised by caste, religion, lifestyles and ethnicity. People in rural Sindh and Punjab regions are especially vulnerable not only to caste-based but also religious discrimination. In Balochistan, race is the main reason to social discrimination. Discussions regarding discrimination, social hierarchies and caste-based abuse have long been publicly silenced in the country. (Gazdar, 2007, p. 86)

Throughout the history, people in Pakistan’s territory have been divided into different social castes, greatly affecting the educational and employment possibilities as well as the overall life quality. Women and children from the lower castes are affected especially severely, being vulnerable to violence (Tyagi, 2017). Furthermore, *low-caste* children are stigmatised and considered *unclean* and suffer greatly of the educational disadvantages. *Low-caste females* are the most deprived group regarding education in Pakistan. (Jacoby & Mansuri, 2011, pp. 1-2) Even though caste-system in Pakistan is similar to the one in India due the long-shared history, Pakistan’s caste-based discrimination is not officially acknowledged by the government. More than 25 per cent of country’s population consists of *low-caste* households, having the highest proportion in Sindh, where 35 per cent are referred as *low-caste* groups, such as *Neech-Zaat*. (Ibid., pp. 6-7)

Men’s perception of violence from the perspective of different castes also varies greatly. For instance, two castes from Punjab, *Jat*<sup>10</sup> and *Sheikh*<sup>11</sup> in a research by Zakar et al. (2013) seemed to have

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<sup>10</sup> “an ethnic caste usually considered to have an rural, agricultural background” (Zakar, et al., 2013, p. 257)

<sup>11</sup> “urban dwellers, known for their skills in running small business enterprises” (Zakar, et al., 2013, p. 257)

decidedly opposite views regarding IPV. “*Wahabis* [Jats] took literal and strict views about the [traditional] role and status of women”, while “the relatively “liberal and modern” views of the Sheikhs were sarcastically labeled as “Western thinking” by the Jats” (Zakar, et al., 2013, p. 257).

The caste system also sustains the vicious cycle of poverty, where families of *low-castes* and migrants are forced to work in personally bonded labour<sup>12</sup>, including such castes as *Odd, Masalies* as well as Christians and Afghanis. (Iqbal, 2006, p. 103) *The Global Slavery Index* by The Walk Free Foundation (2018) estimates that more than 3 million people in Pakistan are living in slavery. Furthermore, women who are *low-caste* bonded labourers are exploited to a wide range of violence both by their husbands and the employers, where *honour* is strongly attached to society and women are targets of control and abuse. (Qureshi & Khan, 2016)

Furthermore, the International Dalit Solidarity Network (IDSN, 2017) calls for *Dalit* protection against discrimination, especially regarding slavery, forced disappearance and *Dalit* women sexual abuse. *Dalits* are known as non-Muslim caste in Pakistan, India and Nepal, suffering various forms of abuse and being an *untouchable* caste, working in forced and child labour (IDSN, 2019). The IDSN blames Pakistan for neglecting HR commitments as *Dalits* are often discriminated and restricted from receiving an education and forced to convert to Islam. Pakistan’s government claims unawareness of *Dalit* population’s location and declares an absence of caste-based discrimination. (IDSN, 2017)

With the current DV representation in the legislation, no action to eliminate DV against heavily affected *low-caste* people groups is taken by the government since they are reluctant to admit the issue in these groups.

### 3.5.2 Subjectification effects

#### **Men**

Shahidullah (2017) highlights that there are three historical and internal forces to analyse, in order to study DV prevalence in South Asian countries. The first two forces are religion and population which were discussed in the second and fourth questions, and lastly, poverty, which will be addressed now in relation to how men feel about themselves and the issue. (Shahidullah, 2017, p. 6) According to

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<sup>12</sup> Bonded labour can be referred to as modern day slavery, including forced work in brick kilns, mining sites and agriculture (Qureshi & Khan, 2016)

Asian Development Bank (ADB) in 2015, 24,3 per cent of Pakistan's population were living under the national poverty line (ADB, 2020).

33 men respondents<sup>13</sup> were interviewed in relation to DV and IPV in research by Zakar et al (2013, p. 252). Majority of respondents did not consider IPV as an issue in Pakistan as they perceived other problems that are more significant, such as poverty and unemployment. It was referred to as parents do not have the subsistence means to feed their children, consequently they are not concerned about the issues regarding violence. The participants believed that government's investment in social security and employment is more significant than tackling violence against women, emphasising that IPV is mostly an issue in rural areas and the *American NGOs* are unnecessary focusing on the violence issue to misrepresent Pakistani society. (Zakar, et al., 2013, pp. 257-258) Even though the interviewed men were not against women empowerment and employment, they opposed *losing control of the family*, meaning that patriarchal attitudes do not automatically lead to violence as such. (Ibid., pp. 261-262)

Nevertheless, participants greatly criticised the religious leaders (Imams) for misleading people regarding women status in the society. They noted that Imams heavily rely on ambiguous literature, produced by the conservative religious schools. (Ibid., p. 257)

A total of 80 in-depth interviews, inter-generational trio<sup>14</sup> and key informant interviews as well as discussions in focus groups with men, boys and women survivors of violence in Sindh were conducted by Karmaliani et al (2017) to understand IPV through men's perspective. It revealed that violence against women is "extremely common" (Karmaliani, et al., 2017, p. 10).

Men confirmed frequent observations of *wife slapping, punching and kicking or beating with a stick or shoe* at home and in the neighbourhoods. They expressed a general confusion that *verbally abusive language* and *criticising wife* is being considered as IPV or DV. Majority of participants denied the term *marital rape*, and some were genuinely surprised that it is illegal, with only a few admitting that forceful sex is undeniably offending. Most importantly, it was concluded that violence has become highly severe, turning into killings during the recent years. Key informants expressed outrage of girls and boys being divided in schools and an absence of *violence* and *gender* as curriculum topics. (Ibid., pp. 10-12)

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<sup>13</sup> Age group of 28 to 64 years; various education levels; marital statuses and residential areas (Zakar, et al., 2013, p. 250)

<sup>14</sup> Consisting of three generations of men in one family

Poverty and unemployment were named as the main reasons of depression that also cause violent behaviour. Many participants revealed that husbands that are abusing their wives in the neighbourhoods are often doing it while being intoxicated. Furthermore, witnessing violence in childhood was a factor for men to accept and commit violence against their wives. Some men referred to Quran and men *superiority* over women, hence justifying the violence. (Ibid., pp. 13-14) However, many male participants negatively responded to the claim that religion justifies the use of violence against wives (Ibid., p.17).

## **Women**

Women participants in Karmaliani et al (2017, p. 14) research revealed that the husband families have very rigid expectations towards behaviour of wife and some experienced violence from in-laws as well.

Furthermore, Chowbey (2016) has conducted research regarding perception of DV, employment and masculinities with 26 Pakistani women living in Pakistan, where 12 participants have experienced physical DV. (Chowbey, 2016, p. 494) For most women, prioritising husband's needs was the main target in family life. Some noted that their husbands trust all their earnings to their wives as primary homemakers. Many women noted sufficient stress due to the little income and incapability to fulfil children needs. Women often experienced violence in households where men have lost their jobs and become violent, yet they maintained respect for their husbands and perceived it as a husband's *sacrifice* of being home instead of going to work. (Ibid., pp. 496-497) Women who were unemployed were very unlikely to report violence as they felt dependant on their husbands. Some women were abused because they neglected to disclose the amount of their salary to the male family members. (Ibid., p. 499)

A research on coping strategies against violence with 21 married women by Zakar et al. (2012, p. 3273) revealed that women use religious activities to cope with the spousal violence. (Ibid., p. 3280) Moreover, many women avoided contact with their husbands as much as possible and those who could, spent time outside of the house. Some women justified violence against them, while others gained support from social networks, for instance informing neighbourhood about their violent husbands. (Ibid., pp. 3282-3284)

Interviews conducted in research by Tanwir et al. (2019) in Punjab revealed that women survivors of DV who are willing to report the crime have to undergo a medical examination for forensics testing.



The victims emphasised the police harshness, lack of compassion and attitude towards DV cases that are regarded as a routine work and not serious crimes. (Tanwir, et al., 2019, p. 139)

### **Activists**

Fauzia Viqar, ex-chairman of the Punjab Commission on the Status of Women has revealed that activists in Pakistan mostly work with educating women on obtaining their rights and removing misconception of the Islamic Framework, traditions and culture. She sees the criminal justice system as the largest problem for a fair law implementation since it is widely misused. Furthermore, Viqar emphasises that NGOs have done an immense amount of work towards DV legislation both by educating women and actively participating in law-making process. (Shaukat, 2016) The activist efforts and impact will be further discussed under lived effects.

The social control theory in the context of DV assists to explain the complex spousal relationship, as it lies on perception that “. . . family conflict is a consequence of an individual’s need to attain and sustain control through assertion of violence within the relationship” (Mahapatro, 2018, p. 50). The theory implies socialisation of spousal violence as a norm, where men tend to establish desirable behaviour by employing violence and women tolerate it due to creation of an *irreversible investment* in the marriage, while a divorce is perceived as an immense loss. (Ibid.) To overcome this social control model of DV in a family, it is crucial to establish national policies that promote dialogue between both genders to shift the harmful norms, where activist organisations can act as mediators of such dialogue (Ibid., p. 51).

### **3.5.3 Lived effects**

It is extraordinary, that a country which possesses itself as highly religious and with a high sense of moral has such prevalent rates of DV (Brackett & Downing, 2017, p. 317). The rates are even higher in northern tribal areas where a strong cultural relation to Afghan tribal practices exists (Ibid., p. 315).

Aurat Foundation in cooperation with Oxfam Pakistan have urged the government in public events to enhance the implementation of CEDAW (Aurat Foundation, 2017, p. 2). The foundation has organised numerous events during the last years to empower and inform Pakistani women on their rights, and the government’s participation and initiative would be crucial to withstand the violence issue (Ibid., p. 4). Aurat has greatly assisted with lobbying, consulting and drafting in all development processes regarding Sindh’s and Punjab’s DV acts (Ibid., p. 2).

In 2000, National Commission on the Status of Women (NCSW) was established to battle discrimination against women and develop gender equality, examine and review policies and laws, monitor women's rights and institutional procedures, maintain and develop dialogue with NGOs and sponsor research related to gender issues in Pakistan. (NCSW, 2012) In 2014, the NCSW reviewed and revised the Domestic Violence Bill for ICT (NCSW, 2014, p. 8), yet no information of its further development has followed (Ibid., p. 48). The NCSW reveals that DV is the main reason for deaths of child domestic workers and there is an acute absence of regulatory framework to control this problem (Ibid., p.52).

NCSW in collaboration with Aurat and Gender Equity Program have provided a framework of *Standardised Indicators on VAW in Pakistan* where they address the lack of reliable data and clear overview of the violence issue in the country. The framework presents violence in contextual levels, where micro level comprises women lives; meso level indicates parallel power relations and prevailing justice systems that are to blame that policies and laws are not reaching women at the micro level; and macro level constitutes relevant laws and policies (NCSW, 2015, pp. 13-15). It is concluded that "This would be a challenge for researchers, and also for those examining available data for evidence to expose the structural sources of violence" (Ibid., p.13). Hence, organisations that intend to protect women rights indicate themselves how challenging is the research and data production in Pakistan.

Furthermore, Sindh Commission on the Status of women was established in 2015 to promote legal, political, economic and social rights of women (Sindh Commission on the Status of Women, 2015), yet no reports, nor account of data from the commission are available. In Sindh, 17 safe houses have been built to ensure implementation of the DV legislation, making a total of 29 (Khurshid, 2019).

The Khyber Pakhtunkhwa Commission on the status of Women (KPCSW) was founded in 2010 to examine policies, programs and laws for women rights and gender equality, monitor and review institutional procedures, legislation and provide guidelines for the government (KPCSW, 2010). According to KPCSW Report 2016-17, the Khyber Pakhtunkhwa Domestic Violence (Prevention and Protection) Bill was drafted in 2017, approved by lawyers that are familiar with *Shariah law*, approved by the Social Welfare department and the Law department of Pakistan, yet rejected by the CII (KPCSW, 2017, pp. 2-3). Furthermore, the KPCSW has sent three letters to the CII, yet no reply was received, and a decision was made that the CII should not interfere since the bill was successfully passed in Sindh and Punjab (Ibid., pp. 8-9). However, as it was previously discussed, the bill failed

again in 2019. Moreover, the KPCSW report 2018 did not mention the bill and only referred to 16 days awareness campaign in KP to combat domestic and gender-based violence (KPCSW, 2018, p. 6).

In 2016, the Khyber Pakhtunkhwa Provincial Bar Council formally endorsed and officially recognised the Legal Aid Committees for the poor and marginalised population's access of free legal aid. This legal aid is a part of CEDAW *General Recommendation No. 33 on Women's Access to Justice*, where 7009 (3290 women) community members have received free legal aid (United Nations, 2018, p. 132).

The Punjab Commission on the Status of Women (PCSW) was created in 2014 to expand women opportunities regarding socio-economic development and eliminating discrimination, as well as monitor law and treaty implementation (PCSW, 2014). The PCSW introduced *Strategic Plan 2017-2022*, where six strategies will be implemented, including (1) review of laws and rules that discriminate, affect health, economic participation opportunities and justice (PCSW, 2017, pp. 10-11); (2) monitoring law implementation and instruments (Ibid., p. 12); (3) examining Punjab government's programs and policies that promote gender equality (Ibid., p. 13); (4) building an information database related to gender issues and raising awareness for provincial policy (Ibid., p. 14); (5) maintaining dialogue with NGOs and provide rights for children who accompany their mothers in prisons as well as better legal education (Ibid., pp. 16-17); (6) strengthening institutions in terms of staff capacity building (Ibid., p. 18). Currently no updates, nor data reports are available regarding this strategic plan.

Women Action Forum of Pakistan has demanded a Provincial Commission on Status of Women in Balochistan as well, since other provinces are actively performing, while issues in Balochistan are being ignored (Balochistan Point, 2019). The commission is not yet formed.

Positively, commissions on status of women are established, also prior to Bill 2012, however, the implementation of legislation and educating women on their legal rights is still deficient.

I will further discuss the development of shelter homes in line with DV victims seeking an asylum.

### **Shelter homes**

Research conducted in Punjab by Tarar et al. (2017) with 500 respondents residing in shelter homes, and 74 per cent of them coming from rural areas revealed that all respondents have a patriarchal

family system and 90,2 per cent have experienced violence before joining the shelter home. Only 19,6 per cent of married respondents did not experience husband's violence. 71,8 per cent were aware of their legal rights and 92,4% did not share their problems to the authorities due to the concept of *honour*. (Tarar, et al., 2017, pp. 71-73) Even though the Punjab government has enacted law against DV and created shelter homes, women are missing a legal protection when leaving these shelters to avoid honour killing. Officially, police departments are enforcing the laws, yet the location of police stations and non-cooperative behaviour of the authorities makes it impossible for victims to secure their legal rights. (Ibid., pp 75-76)

### 3.6 How/Where is this representation of domestic violence produced, disseminated and defended? How could it be questioned, disrupted and replaced?

#### 3.6.1 Role of media in Pakistan

The media in Pakistan is affected by various forces, including military, intelligence agencies, political parties and terrorist groups. Sensitive issues, such as legislation in terms of equality and HR must be covered with caution. Media outlets often face not only financial but also violent threats, hence the coverage of laws, such as DV acts is limited. (Afzal, 2018, p. 33) The government's interest on preserving ideological narrative has caused many harmful effects on news outlets, including the oldest daily newspaper *Dawn* (Ibid., p.40). *Dawn* has actively informed the population regarding changes in DV and cases where it is applied in Sindh (Malkani, 2019), criticised Pakistan's domestic courts and ignorance of international HR (Omer, 2017) Furthermore, *Dawn* introduced success in the fight for women rights and procedure of DV bill in ICT (Wasim, 2012) and KP (Shah, 2019).

Even though Aurat Foundation has provided various types of workshops, seminars, distribution of materials and other events for women to understand their legal rights, little impact is provided by the media in the rural areas, where violence prevail the most. (Aurat Foundation, 2017, pp. 18; 24-25) Research by Karmaliani et al. (2017, p. 16) reveals that men in Pakistan are concerned regarding media translating content that challenges the traditionally accepted gender norms.

There is no specific official information from the government regarding informing the population of the legislative rights or new laws. I will further provide my recommendations on how the problem can be questioned, disrupted and replaced basing on the knowledge presented in the previous questions.

### 3.6.2 Recommendations

First and foremost, the government of Pakistan must determine a more organised and clear approach towards addressing DV. Maintaining separate DV legislation in each region is not incorrect, if a better control of the implementation would be applied. For instance, dedicating monitoring systems that are independent from the CII. The questions that do not consider religion directly, such as protecting people from various forms of DV, should not be questioned by the religious groups. The CII has the authority to oppose various bills, yet if the DV law is passed in one region, it should be passed in all regions equally. If suspending DV would be set as a priority regarding the safety measures for the population, then the CII would have a lesser impact.

Moreover, a common system of non-discriminative and all-encompassing definitions in the DV acts should be applied. If the rules for the DV legislation would be more overarching, then addressing the issue could be more straightforward and effortless. Nevertheless, the penalties should also be better defined and consistent in all regions. Laws in Pakistan are not always understood as in traditional Western context (Shah, 2016, p. 3), hence an alternative approach to law implementation might be considered. Since Pakistanis have their own specific understanding and interpretation of honour, perhaps legislation should be less *shaming*, but have a more protective concept. It is significant that the government should provide more statistics and data regarding the spread of DV. This data could then be used by various international and local NGOs to have a better overview of the problem, allowing the local NGOs to focus on other important assignments.

Furthermore, educational programs in schools should be implemented to highlight the importance of gender equality and demonstrate the DV victim experiences, hence inducing children to reflect on possible DV consequences. Work with younger men and implying special educational programs against DV, demonstrating consequences, perhaps with a help from CEDAW commission is necessary. Men must reflect on their attitudes, experience, and perception of violence, that could be achieved with a help of activists in special workshops, particularly in rural areas.

International organisations must take action to urge Pakistan on complying with the ratified HR instruments, to address the DV issue as well as encouraging Pakistan to implement CEDAW. The key institutions in each region, such as NCSW should have more specific tasks with shorter deadlines. More precise, brief reports regarding concrete aims that are achieved regarding the DV issue could then be produced. In addition, perhaps a better communication among these institutions in terms of reports and data could be implemented.

## 4. Conclusions

There exists an assumption that DV can be constrained by imposing corresponding legislation and that this legislation is functioning in the whole Pakistan. However, the DV laws are only imposed in some parts of the country and even though they are enacted, DV persists. What DV is represented in Pakistan's legislation is various kinds of violence, certain victim groups and a perpetrator, with imposing weak penalties or no penalties at all. Nonetheless, when scrutinising the issue, it is more complex than defining various forms of DV, passing a bill, and penalising the perpetrators. First and foremost, the problem consists of the government's substantial unwillingness to restrain DV, address the issues of patriarchy and an overall transparency regarding DV in terms of data, reports and observations.

The chaotic interpretations of definitions in the legislation, contradictory criminalisation of DV and enactment of bills and acts or the absence of them in various Pakistan's regions and controlled territories is at an almost preposterous degree. Furthermore, discriminatory people categories, unclear punishments and severely prolonged passing of bills that can take more than eight years, is the problem's representation. Despite CEDAW being ratified by Pakistan already in 1996, far too many obstacles have crossed a legitimate and protective DV legislation's path. The DV legislation is not sufficiently protecting various people categories.

The cultural aspects, prejudice in the society, men who are committing violence justified by numerous reasons and who do not acknowledge gender equality, women who are accepting violence due to financial stand or fear of honour killing, conservative clerics, these are all elements of DV problem representation and reasons of DV continuous persistence. Moreover, women from *low-castes* and rural areas are almost eliminated from acquiring their legal rights as well as men are restricted from being educated on the issue. Lastly, the problem is also represented as cleric groups (CII) absolute resistance to bring equality and a protective legislation that would lessen DV. The impact of CII is supposedly unequal in the different regions as ICT and KP are still coping to enact the DV bills, hence power balance of the government and CII is a part of DV problem representation.

# 5. Discussion

## 5.1 Alternative methods

The WPR approach has given a certain shape to the research design and analysis as well as the thesis outcome. I will therefore describe alternative theories and methods that could have been used instead of WPR to view the problem from a different angle as well as view what limitations the alternative approach would introduce.

### 5.1.2 Instrument choice approach

Another compelling approach to use could have been instrument choice design analysis as a part of regulatory theory. First, I would determine what instruments has Pakistan's government employed to "match goals and expectations both within and across categories of policy elements" (Howlett, 2009, p. 74) to address the issue of DV. The instruments can consist of various acts, policies, permits, safeguard methods, economic instruments (such as taxes, resource permits, subsidies, etc.), codes of practices, voluntary agreements and educational instruments (such as training, reporting, freedom to information, public disclosure, etc.) (Gunningham & Sinclair, 2017, pp. 140-141). However, this would request a profound selection of specific documents to analyse due to a limited thesis scope.

Further, I would analyse if Pakistan's DV policy can be successful, by investigating whether there is (a) logic and comprehensive policy objectives and aims; (b) consistent policy tools (such as institutions for informing people about their rights) (Ibid.). I would analyse Pakistan's general aims regarding fighting DV and then, what are the concrete objectives to achieve these aims, for instance better education for people. Further, "... objectives. . . must be concretized in a set of specific targets or measures which allow policy resources to be directed toward goal attainment, such as reducing specific types of crimes to specific levels within specified periods of time" (Ibid.).

I would analyse what third party instruments have been employed, such as direct intervention by other states and action facilitation by international organisations (Gunningham & Sinclair, 2017, p. 138). Most importantly, the analysis would reveal which instruments are counterproductive to each other and what additional instruments could be included to address the DV issue.

### 5.1.3 Public policy analysis (PPA)

PPA would be another possible alternative approach to view the DV issue in Pakistan. I would then apply “Definition process for public problems and possible pitfalls” introduced by Knoepfel et al. (2007):

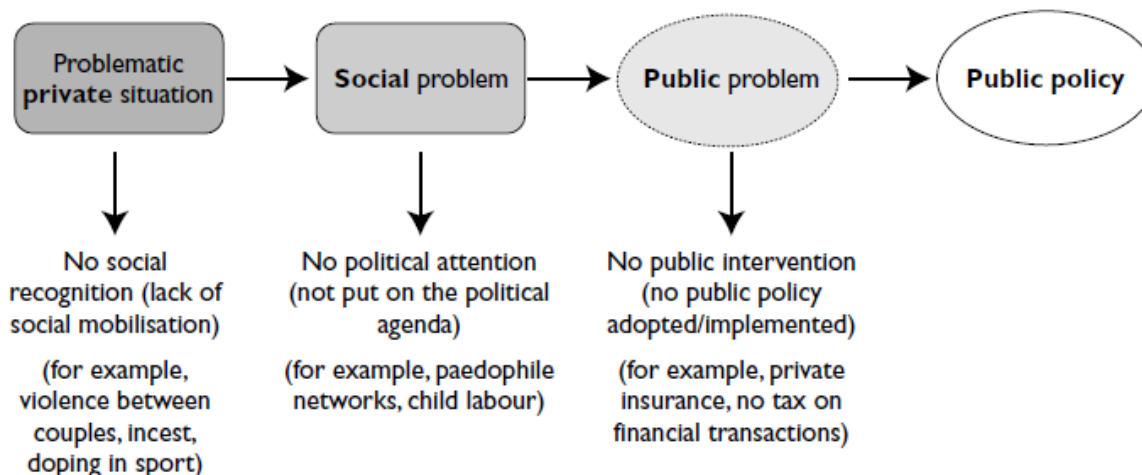


Figure 4: “Definition process for public problems and possible pitfalls” (Knoepfel, et al., 2007, p. 131)

This approach would allow me to view the DV issue from private, social and public view, analysing how a public policy regarding DV is designed and implemented. However, it would be challenging to obtain information regarding social and public attention and intervention since DV is often recognised as a private matter in the country and is rarely discussed by the public society. It could lead to additional conclusion on how public ignorance of the problem sharpens the deteriorating effects of DV. There is no clear public policy in Pakistan regarding DV since it differs in every region and possible solution would be to investigate the development of it and come up with some realistic suggestions on how to construct it for the country as a whole. PPA would shift the problem area from legislation and representation to the scope of *social* and *public* policy problem, meaning that “. . . public problems represent an extension of social problems to the extent that, having emerged within civil society, they are debated within an emerging political-administrative arena” (Knoepfel, et al., 2007, p. 129).

The PPA would then suggest to “. . . study the extent to which a problematic private situation is perceived and then defined as revealing of the social sphere and then the political arena.” (Ibid., p.131), where similarly to WPR, problem perception and definition would be analysed, yet a more in-depth analysis of Pakistan’s political agenda regarding DV would be studied. Furthermore, I would apply a pluralist approach, where the state’s task is considered to serve and respond to social demands.



Here, the lack of DV policies would not indicate the absence of the problem *per se*, but the consequence of private or corporate actions that are possibly controlling the policy sector, despite DV being a tremendous public problem. (Knoepfel, et al., 2007, p. 4) I would then analyse why is it beneficial for any state to continue the DV in Pakistan and who possibly benefits from such a course of events. Nevertheless, finding relevant data that proves private or corporate involvement would be a very complex task and involve not only DV policy review, but also a review of Pakistan's political agenda.

Moreover, public choice or game theory in line with this approach would allow to view how “for political parties and bureaucrats the only value that policies have is as currency during electoral calculations and/or in the appropriation of personal advantages” (Knoepfel, et al., 2007, p. 12). Here I could view the ratification of various international treaties that have often not provided the expected and desirable change and analyse how different governments have used the DV legislation to boost their ratings for electoral periods yet have not brought any real change in the problem area.

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