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From Law to Life: Tackling Domestic Violence in Sindh Through Legislative Reforms

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Abstract: *This study aims to discuss inadequacies and ambiguities in the legal framework against domestic violence in the Sindh province of Pakistan, as domestic violence is considered to be a matter of concern, creating physical and physiological implications on victims in various ways. Therefore, a doctrinal approach has been adopted to explore the legal framework against domestic violence, specifically in the province of Sindh. The research aims to contribute to the body of knowledge on legal and procedural issues to provide adequate and efficient legal remedies to victims. This study finds that the legal measures enshrined under the enactment of the Domestic Violence (Prevention and Protection) Act, 2013, referred to as (The Act 2013 or the Act of 2013), are ineffective due to substantive vagueness in definitions, procedural ambiguities, and implementation challenges. Therefore, there is an urgent need to curb domestic violence through a pragmatic approach by applying legislative, procedural, and efficacious measures through amendments to the existing statute. Further, enhancing institutional capacity is also required so that victims may have hope of justice for healing their woes in society.*

Key Words: Domestic Violence, Pro-Women Legislation, Women's Rights, Gender Equality, Human Rights

Introduction

The history of human evolution demonstrates that since the Stone Age, humans have sought to inhabit an environment characterized by dignity and harmony. The domestic life of humans requires physical rest and psychological harmony. On the same footing, a home can turn into a place of woe in cases of domestic violence. Domestic violence has many forms and situations that can be observed in our daily lives. According to a Human Rights Commission of Pakistan (HRCP) report, over 90 percent of women in Pakistan had experienced domestic violence in their lifetimes by 2020 (Saeed, 2024). It can be a simple ridicule or gender-based violence leading to honor killings. The victim can be a female, a child, or an elderly member (Lohar, 2021). The victims undergo complex situations of uncertainty and even face post-traumatic stress disorder (PTSD) (Saeed, 2024). The aggrieved persons, women and children, are deprived of their fundamental rights and are often highlighted in many parts of the country (Lohar, 2021). The causes of this menace are ideological roots, religious patterns, and behavioral and financial gains. Appreciating the legislature of Sindh, which has tried to overcome this evil through legislation.

The Act 2013 has criminalized various acts of domestic violence within households. Despite passing this law in 2013, it lacks efficacy in terms of substantive and procedural aspects that create jurisdictional and legal issues for its implementation. It is admitted that the Act 2013 has not been implemented due to various hurdles, including certain amendments (Mst. Hina versus Province of Sindh and others, 2019). An ineffective law fails to achieve the objective for which it was enacted; thus, the evil continues. Worse, the failure of one law shakes the people's confidence in-laws in general, as they see malefactors going scot-free (Shabnam Dil Muhammad versus District Police Officer, etc., 2023). The thriving incidents of domestic violence are posing a threat to human rights in Sindh. The remedies provided therein are cumbersome to enforce pragmatically due to various substantive and procedural challenges. Hence, there is a dire need to

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critically analyze the statute to make it a living and versatile framework for the oppressed and marginalized persons. This study is based on secondary data collected from research papers, articles, statutes, conventions, relevant legislation, and commentaries to present the concept of domestic violence, the legal framework against it, and its implementation problems in Sindh. Hence, this study has been conducted with the following research objectives:

1. To evaluate the core concept of domestic violence from the perspective of Sindh province in Pakistan.
2. To discuss legal measures for addressing the issue of domestic violence.
3. To discuss the legal ambiguities and hurdles in implementing the Act 2013.

Literature Review

In Sindh, the common victims of domestic violence are women and children. The social reflections of Sindh provide a cloudy spectrum of various social practices against women. Some of them, like child marriages, forced marriages, the marriage of females with the Holy Quran, honor killings, neglecting women after bigamy, abandonment of women on the grounds of infertility, paternity issues on the pretext of inheritance rights, and sexual abuse on the pretext of basic needs, are common to the social fabric of Sindh. The cultural authoritarian stamp is evident in those practices. In 2023, the Human Rights Commission of Pakistan reported nearly 400 'honor' killings in the preceding year. However, some Non-Governmental Organizations (NGOs) and international agencies estimate that the actual number each year could be as high as 1000 (Mustafa, 2024). It is worth remembering that in an oppressed society, every feeble person is vulnerable to domestic violence. Following the footprints of perpetrators, husbands or wives, mothers-in-laws, and male elders is very common (Rabbani et al., 2008). Children are assaulted in homes, and torturing them is considered a fruitful tool for mending their disordered behavior. Last year, the United Nations Population Fund (UNFPA) indicated that 32pc of women in Pakistan experienced physical violence, and 40pc of married women endured spousal abuse (Daily Dawn, 2024). Demanding due share in property, fulfilling needs, and interference in the decisions made by male members make them prey to violence (Ali, 2007).

Vulnerable persons are victims of ridicule, insult, and humiliation, as their financial weakness and poor lifestyle invite the wrath of the strong. Unlike the rural fabric, urban societies have become a thorny bed for womenfolk and children. It is commonplace in our society for drunkards to come home late at night and torture their children and wives to fulfill their demands for drugs and narcotics. These practices have now traveled from homes to become a public sphere and are found in the form of harassment, teasing, and advancement of sexual comments for specific motives. In a distorted environment, these miseries multiply when vulnerable people are denied property rights and are considered commodities. In Pakistan, men are generally considered superiors due to a lack of economic security, and women are expected to be dutiful to their husbands (Miller, 1984). In addition to physical dangers, the psychosocial consequences of violence are severe for victims. Owing to domestic violence, they suffer severe mental conditions that compel them to adopt unhealthy practices to cope with stress and stigma. Domestic violence endangers women's autonomy and social stability and damages their self-esteem (Rabbani, Qureshi & Rizvi, 2008). Domestic violence in Pakistan is widespread and indicative of deep gender inequalities and socioeconomic instabilities that are, in turn, exacerbated by unemployment and community disorder. Collectively, these factors contribute to the extensive state of psychological distress across communities (Mustafa, 2024).

One cannot deny the discrimination faced by female children, even at home, by their mothers as fairly skinned consider themselves superior and do not present their children to their friends and relatives. Consequently, such environments are hostile to children, isolating them (Durani, n.d). Violence against women is perhaps the most shameful violation of human rights. It knows no boundaries of geography, culture, or wealth. As long as it continues, we cannot claim to be making real progress toward equality, development, and peace (Annan, 1999). All human beings deserve basic honor and respect, and people are not entitled to take the law into their own hands (Lohar, 2021). Statutory biases are obvious against women because the testimony of women is also questionable in many laws like Qanaun-e-Shahadat, 1984, and Hudood Laws. These biases are also apparent in cases dealing with domestic violence because police consider domestic violence to be synonymous with family matters. How the Act has insisted that the



composition of the protection committees is self-sufficient to indicate that the required objective would not be achieved unless a special task force is created with special training to deal with women, children, and impoverished persons. The magistrates shall ensure what the objectives of the Act demand of them, i.e., not only wiping the tears off the cheeks of the aggrieved but restoring what is snatched or attempted to be snatched from them while making them victims of domestic violence. (Mst.Hina versus Province of Sindh and others, 2019). Domestic violence law is remedial (Shabnam Dil Muhammad versus District Police Officer, etc., 2023). A large volume of legislation was enacted to introduce social reform by improving the conditions of certain classes of persons who might not have been fairly treated in the past (Regional Provident Fund Commissioner versus The Hooghly Mills Company Limited and Others, 2012).

Conceptual Framework

The subject of domestic violence has become a subject of critical thought among thinkers. There is no fixed definition of domestic violence; hence, it isn't easy to define the term. Section 5 of the Act 2013 defines the term domestic violence. Still, it is not limited to the Act of abetment, assault, attempt, criminal force, and criminal intimidation defined under the Pakistan Penal Code, 1860 (PPC). The Act of 2013 has also penalized acts of domestic violence arising from emotional, psychological, and verbal abuse as an offense. The definition has been extended to harassment, hurt, stalking, physical abuse, sexual abuse, wrongful confinement, and economic abuse of victims. The United States Department of Justice defines the term domestic violence as a pattern of abusive behavior in any relationship to maintain power and control over other intimate partners. These actions can be physical assault, sexual, emotional, economic, and psychological technological actions. The behavior exhibited during domestic violence may be intimidation, humiliation, isolation, frightening threat, coercion, blaming, or injuring someone (United States Department of Justice, n.d).

This definition does not restrict the term to any specific gender and brings various forms of domestic violence into legal liability. The United Nations Declaration on the Elimination of Discrimination against Women describes domestic violence with ingredients including sexual abuse of female children in the household, dowry-related violence, marital rape, and female genital mutilation. It also includes traditional practices harmful to women, non-spousal violence, and violence related to exploitation (Wikipedia encyclopedia, n.d). It is worth mentioning that Section 5 of the Act 2013 does not include the traditional practices within the ambit of domestic violence. The Declaration on the Elimination of Violence against Women (DEVAW) also provides a framework for curbing domestic violence. Article 1 of DEVAW defines violence against women, including gender-based violence resulting in physical, sexual, and psychological harm to women. Moreover, it includes the arbitrary deprivation of liberty in women's public and private lives. Admittedly, domestic violence cases arise from emotional, sexual, and economic abuse. Emotional abuse refers to any non-physical behavior that aims to "control, intimidate, subjugate, demean, punish, or isolate another person through the use of degradation, humiliation, and fear. (Pansota, 2021).

This abuse may be counted as humiliation on the pretext of infertility, degradation on the grounds of household work, and coercion for dowry. Pakistan ratified the Convention on Eliminating Discrimination against Women (CEDAW) in 1996. It assumed the obligation to protect women from gender-based violence (Shabnam Dil versus District Police Officer, 2023). Article 10 of (CEDAW) states that States Parties shall take all appropriate measures to eliminate discrimination against women to ensure equal rights with men in education and, in particular, to ensure, based on equality between men and women. The Act 2013 does not include restrictions on female education on the grounds of gender inequality, marriage without consent, and marital rape. It is also worth mentioning here that acts of subjugation in terms of the husband's choice preferences also need to be added to curb domestic violence. Section 5(l) of the Act 2013 defines the term sexual abuse as any conduct of a sexual nature that abuses humiliates, degrades, or otherwise violates the dignity of the aggrieved person. It includes compelling the wife to cohabit with anybody other than her husband or any sexual abuse, including sexual harassment of a member of the family.

On the other hand, Section 377-A Pakistan Penal Code, 1860 (PPC) describes the definition of sexual abuse with elements of fondling, stroking, caressing, exhibitionism, voyeurism, or any obscene or sexually explicit conduct or simulation of such conduct either independently or in conjunction with other acts, with

or without consent where the age of the person is less than eighteen years (Muhammad, 2024). Hence, it causes an issue of judicial interpretation concerning offense and trial. Similarly, economic abuse may involve preventing a spouse from acquiring resources, limiting what the victim may use, or otherwise exploiting the economic resources of the victim. Article 11 of the CEDAW provides the right to work as an inalienable right for all human beings. Owing to economic abuse, women lose economic superiority and become dependents for their needs, education, and employment. Therefore, the discussed instances of creating a hostile environment for women lack the criteria for domestic violence. The Act 2013 should also specifically define the instances of emotional abuse or economic exploitation in terms of a children's approach as next to females, who are very prone to domestic violence. There should be a specific remedy for claiming and assessing the gravity of physical disorders caused to aggrieved persons due to intentional acts of culprits. For instance, victims of depression, psychosis, and schizophrenia suffer irreparable losses due to domestic violence.

Legislative Measures and Challenges

Discussing legislative measures for curbing anti-human practices, the Constitution of the Islamic Republic of Pakistan 1973 emphasizes that every citizen's right to life is a fundamental right under Article 9. Act 2013 was enacted to bring a dignified life to aggrieved persons. The Honorable Supreme Court of Pakistan held that the word 'life' has not been defined in the Constitution. However, this does not mean it can be restricted only to vegetative or animal life or mere existence from conception to death. Life includes all amenities and facilities to which a person born in a free country is entitled to enjoy dignity both legally and constitutionally (Ms. Shehla Zia And Others versus WAPDA, 1994). It is now well established that the right to life, as envisaged by Article 9 of the Constitution, includes all aspects of life that make a man's life meaningful, complete, and worth living. Article 25 of the Constitution states that all citizens are equal before the law and that every citizen will have equal protection. Furthermore, it indicates that no discrimination will be made based on sex. Article 25(3) of the Constitution provides special provisions for legislation in the interest of women and children. Article 35 of the Constitution states that the State shall protect the marriage, the family, the mother, and the child. Under Article 142 (2)[b] of the Constitution, Majlis-e-Shoora (Parliament) and a provincial assembly shall have the power to make laws concerning criminal law, criminal procedure, and evidence. Hence, the dignity of human beings is supreme, including their enjoyment under the constitutional paradigms of the country despite distorted social, economic, and ideological confrontations.

Legal Framework under the Domestic Violence (Prevention and Protection) Act, 2013

The preamble of the Act 2013 refers to standardized measures for the prevention and protection of women, children, and vulnerable persons from domestic violence. However, the institutional framework is lacking at gross root levels. As discussed above, Section 5 refers to the various forms of domestic violence, while Section 6 of the Act 2013 deals with the punishment of the offenses mentioned earlier. The offense of emotional and psychological abuse is punishable by up to six months imprisonment or compensation of up to ten thousand rupees, which needs to be addressed according to the consequences of the offense. The punishment for stalking is simple imprisonment of up to one year and a fine to be paid as compensation of up to twenty thousand rupees. However, this offense is to be revitalized according to the punishment provided for cyberstalking mentioned under Section 24 of the Prevention of Electronic Crimes Act 2016. The offense of sexual abuse is punishable by not less than two years imprisonment and compensation of not less than fifty thousand rupees, which is disproportionate to its gravity. Trespass is punishable by imprisonment for under one month, fine, or both under Section 6(5) of the Act, 2013. On the contrary, criminal trespass offenses are punishable under Section 447 PPC for up to three months with or without a fine. The offense of economic abuse is punishable with compensation based on loss of earnings, medical expenses, destruction, or removal from property or maintenance to the aggrieved person or her children. Incidental and connected matters include providing protection, residence, and custody orders. Section 11 of the Act 2013 states that a protection order may be passed by the court either when the victim is prone to domestic violence or when domestic violence has occurred, as provided in Sections 11(1)(a) to (f) of the Act 2013. Section 2(11) of the Act refers to passing a residence order by restraining from dispossession of an aggrieved person or entering the household of the aggrieved person and providing secure alternative



accommodation to the aggrieved person. Further, Section 3 of Section 11 of the Act 2013 vests discretionary power to the court to impose additional conditions for the protection and safety of aggrieved persons. Section 12 of the Act 2013 refers to monetary relief of compensation in case of economic abuse, loss of earnings, medical expenses, losses or damages due to removal from any property under the control of an aggrieved person, and maintenance for an aggrieved person as well as her children, in addition to an order of maintenance under family laws. Sections 3 and 4 of the Act 2013 emphasized the implementation of the Act through the constitution of the Commission. The Act 2013 also provides features of counseling, protection committees, and their duties and penalties for interim and protection order breaches. Section 21 of Act 2013 deals with the appointment of protection officers and their duties are enshrined: forwarding complaints, making applications on behalf of aggrieved persons in the courts, providing legal aid to aggrieved persons, maintaining a list of service providers, and medical examinations of aggrieved persons.

Implementation Challenges

Vulnerable to domestic violence are already oppressed, marginalized, and poverty-stricken. The legal framework should fulfill the requirements of easy access to justice, adequate standards in terms of substantive and punitive paradigms, flexible procedural formalities, efficient implementation forums, and speedy judicial reliefs. Building a proper institutional capacity to handle domestic violence cases' procedural and legal aspects across Sindh also requires consideration (Shah, 2019). There are various hurdles and challenges in implementing the Act 2013, and a few of them are discussed in the following paragraphs.

Punitive Ambiguities

Besides specific strengths of the Act 2013, various substantive ambiguities need review. As discussed in earlier paragraphs, the Act 2013 specifies the offense of sexual abuse under Section 5(1) with ingredients of abuse, humiliation, and degradation that violate the dignity of the aggrieved person, including compelling the wife to cohabit with any other than the husband, as well as any kind of sexual abuse, including sexual harassment. Section 6(4) of the Act relates to the punishment for that offense, not less than two years, or with compensation of up to fifty thousand rupees to the aggrieved person. A deeper analysis of the provision reflects that sexual abuse by a partner for vested interests leads to a violation of the virtue of women. The sentence provided for that offense is disproportionate to the gravity of the offense as the compelling for cohabitation with another person is punishable with only two years and compensation of fifty thousand rupees. In contrast, Section 377-B PPC provides for imprisonment of either description for a term which shall not be less than fourteen years and may extend up to twenty years, along with a fine which shall not be less than one million rupees. Hence, Section 6(4) of the Act 2013 is less severe for the commission of sexual abuse committed in a household, and there is the possibility of escaping desperate perpetrators on the grounds of being committed in a household. The worst form of which is engaging a female partner in immoral activities. However, the statute has not specified that such an Act would be dealt with under Section 377-B PPC or otherwise. As Anti Rape Act 2021 provides the mechanism for trial of offenses against women by special courts, including sexual abuse. In contrast, the offense of sexual abuse under Section 5(1) of the Act 2013 is to be tried by the First Class Magistrate, who, under the statutory provision of section 32 of Criminal Procedure Code, 1898 (Cr. P.C), cannot pass any sentence extending three years.

Furthermore, Section 11(1) of the Act 2013 refers to the protection order upon presenting a petition under Section 7 of the Act 2013, even in cases where domestic violence has prima facie taken place. This Section is beneficial when there is any apprehension of domestic violence to an aggrieved person. However, it loses its efficacy when domestic violence has already taken place, as Sections 5 and 6 of the Act 2013 are specifically punitive, which penalizes the offense of domestic violence upon its commission. Thus, it would have been more appropriate to treat any instance of domestic violence as an offense rather than to protect victims. It does not explicitly provide what the magistrate should do in cases where, based on the facts and circumstances, domestic violence is taking place, either to treat it as a petition for protection or to take cognizance under Section 190 (a), (b) and (c) Cr. P.C. by converting that petition into a criminal complaint under Section 200 Cr.P.C. The passing of a protection order, even in cases where domestic violence has taken place, creates ambiguity in implementation, and real culprits may escape the trial if the

magistrate does not take cognizance under Section 190 Cr.P.C. Eventually, this leads to ambiguity concerning legal questions regarding the imposition of sentences for the offenses of domestic violence.

Procedural Challenges

- Procedural ambiguities are also apparent in the statute, posing various hurdles in the implementation. The prime requirement of legislation is the reporting of domestic violence cases. Section 25 deals with applying the Code of Criminal Procedure Act 1898 for a trial of domestic violence cases. The legislature has not specified the nature of the offense and whether the offense is cognizable or not. It also does not determine whether the offenses to be dealt with will be bailable, nonbailable, compoundable, or otherwise. Due to such ambiguities, reporting such crimes has been meager since its inception, as the police do not report the matter and treat it as a family dispute. Considering the severity of offences mentioned in Sections 5 and 6, there is a need to enhance the sentencing of those offences; otherwise, the existing sentences are treated as bailable by the courts and create confusion for adjudication.
- As discussed above, no specific provision may empower the courts to convert the petitions filed under Section 7 into direct complaints under Section 200 Cr.P.C. as the remedy for a protection order is also provided, even if domestic violence has occurred. In this regard, the Honourable High Court of Sindh was pleased to maintain the order of the magistrate, who took cognizance after the issuance of a show cause and hearing parties and initiated the trial against the accused in the domestic violence petition (Criminal Miscellaneous Application No.303 of 2023, 2023).
- In addition, Section 7 of the Act 2013 deals with the procedure of presenting the petition by an aggrieved person in all matters. Further, Section 25 of the Act 2013 and Rule 32 (4) of the Sindh Domestic Violence Rules state that petitions filed under Section 7 of the Act 2013 will be dealt with and enforced in the same manner as laid down under the Criminal Procedure Code. However, it only deals with issuing a show cause before passing a protection order with the issuance of show cause before passing the protection order. Surprisingly, it does not provide a procedure for the rest of the matters, including monetary relief, maintenance, and custody matters, by issuing a show cause to the respondent or dealing with it as laid down under the Code of Civil Procedure, 1908 (CPC) or the West Pakistan Family Courts Act, 1964 (Family Court Act, 1964).
- Unlike the statute, Rule 35 of domestic violence deals with the mode of service set by the Code of Civil Procedure and Criminal Procedure Code through a bailiff, pasting, and publication. Therefore, this rule is a deviation from the parent statute, which provides the application of the Criminal Procedure Code for dealing with matters.
- Rule 38(6) of Domestic Violence Rules refers to the trial of respondents committing the breach of protection order committed under Section 15 of the Act 2013 by summary trial, which is also not provided under the Act of 2013.
- The Act 2013 describes the remedy of revision under Section 28 for orders passed under Section 10,11,12,13 of the Act 2013, governed by Chapter XXXII of the Criminal Procedure Code, while on the same footing, the remedy for maintenance and custody matters are already governed under Section 14 of the Family Courts Act, 1964.
- Section 25 of the Act 2013 deals with the application of the Criminal Procedure Code to deal with matters of domestic violence and incidental matters arising from domestic violence. However, the Act 2013 does not deal with the application of Qanoon-e-Shahadat, 1984 to appreciate the documentary and oral evidence on the record. On the other hand, Qanoon-e-Shahadat, 1984 does not apply to custody matters and maintenance issues in family courts as enshrined under Section 17 of the Family Courts Act, 1964. Then, it is questionable when a custody matter or maintenance issue is under adjudication how evidence of parties will be appreciated.
- It is also evident that despite the protection orders by magistrates, the apprehension of domestic violence persists for the aggrieved persons. Police do not provide protection to aggrieved persons against their perpetrators, and aggrieved persons withdraw from their complaints or do not report cases of domestic violence, and long expectations of perpetrators' trials end without any fruit (Malkani, 2019).



- The territorial jurisdiction of domestic violence is also not extensive concerning custody matters and maintenance issues, as such jurisdiction occupies paramount importance in those matters to appreciate the pleas of the parties. Furthermore, this Act does not describe the execution mode of orders, as mentioned above. Section 27 of the Protection of Women from Domestic Violence Act, 2005 (Indian Domestic Violence Act, 2005) refers to the applicability of such orders throughout India.
- Surprisingly, the Act 2013 does not provide any mechanism for resolving minor disputes through Alternative Dispute Resolution (ADR) viz conciliation, mediation, and arbitration. Owing to regional cultural norms, disputes on insignificant issues between spouses will be complained about in the courts, which will cause an increase in backlog. Moreover, filing criminal complaints on frivolous grounds will damage family bonds. Hence, the mechanism of ADR is a vital element for saving family bonds, which is missing in the Act 2013.
- Last but not least, the Act 2013 does not provide the applicability of the Code of Civil Procedure for the implementation of reliefs provided for maintenance, compensation, alternate accommodation, and custody matters, which are civil, and questions arising from such issues always involve civil and family jurisprudence rather than the criminal justice system. Even family courts are run through the West Pakistan Family Courts Act, overriding the Code of Civil Procedure and Qanoon-e-Shahadat, 1984, due to legal technicalities for delivering substantial justice.

Gender Equality Ignored

The pervasive issue of domestic violence has its genesis in gender inequality, which demands intervention through comprehensive legislative measures. The various forms of discrimination about the right to education, doing business, and selection of a spouse should be articulated within the legislative framework against domestic violence. The available legislative provisions fail to adequately penalize acts of gender discrimination, which can be traced as a fundamental cause of domestic violence. The manifestations of gender discrimination require attention from both the rural and urban populace. The preamble of the Act 2013 explicitly acknowledges the gender of women, children, and other vulnerable individuals. The term "vulnerable" is defined in Section 2(s) of the Act, 2013. However, the scope of vulnerability is limited to categories such as "old age, mental illness or handicap, physical disability, or other special reasons." Despite progressive legislative measures in contemporary times, the legislature has regrettably not added the phrase "irrespective of gender" to clear the gender perspective within the statute for deciding the applicability of Act 2013 for individuals perceived to belong to any specific gender. It indicates that transgender individuals or those identified with a particular gender frequently experience sexual abuse within their households. As a result, it is urgent to restructure the legislative framework from a gender perspective to enhance its effectiveness. In addition, acts of gender discrimination extend to the denial of educational opportunities to females, the imposition of economic barriers, and the misappropriation of resources belonging to aggrieved women and children. The economic abuse of women often involves the fabrication of financial documentation. Article 17 of the Qanoon-e-Shahadat, 1984, states that financial transactions must be substantiated by the testimony of two male witnesses or one male and two female witnesses (Muhammad, 2024). Hence, it isn't easy for females to seek legal relief in various court matters.

Implementation of Residence Orders

Next, enforcing the residence order mentioned under Section 11(2) of the Act of 2013 constitutes a problematic undertaking. In Sindh, the majority of individuals face domestic violence in rural areas. They are not only poverty-stricken, but their lifestyle is limited to homes constructed from mud and straw, often taking the form of a single room shared by joint families. It is acknowledged that the majority of females fall victim to domestic violence by their intimate partners. In such cases, the issuance of residence orders may further aggravate their marital relationships and create additional hardships at the hands of other household members. Consequently, passing such orders poses a formidable obstacle for enforcement at the household in the absence of rapid response by executing authorities. Furthermore, the legislation against domestic violence prohibits the dispossession of an aggrieved person from their residence, irrespective of any title or interest. However, the Act 2013 does not clarify whether such relief may be temporarily awarded to any spouse or relative residing. The grant of such reliefs to strangers will multiply property disputes. Additionally, providing alternative accommodation is also a mountainous challenge for

female victims of rural areas. The discussed relief in the form of a residence order is executable for urban populations and becomes impracticable for the underprivileged, marginalized, and oppressed segments of the rural populace. Moreover, for implementation, Section 11(6) of the Act of 2013 mandates the court to impose obligations on the respondent concerning the payment of rent or other financial obligations. The penalty for violating the interim residence order, stipulated in Section 10 of the Act of 2013, is addressed under Section 15 of the same legislation. Section 11 of the Act 2013 states that a copy of such an order must be provided for compliance to the Officer in charge of the Police Station and service providers. These service providers are required to submit a report regarding the lodging of the aggrieved persons in a secure accommodation to the protection committees, as stipulated in Section 24(c) of the Act of 2013, who are dutiful for relocating the aggrieved person to a relative's home, a family friend's residence, or another safe location established by the service providers. However, this mode of execution merely serves as a hope for the female aggrieved persons, leaving her again in a precarious scenario before other executive bodies, like a rolling stone. Therefore, the residence order may exacerbate matrimonial bonds and consequently necessitate effective measures to safeguard minor children from such adversities.

Monetary Relief

Compared to other remedial measures for ancillary matters associated with domestic violence and financial compensation allocated for suffering individuals, it necessitates a comprehensive reevaluation regarding its implementation. Section 12 of the Sindh Domestic Violence Act 2013 addresses the stipulations concerning monetary relief in instances of economic maltreatment, loss of income, medical expenditures, damages incurred due to the destruction, impairment, or removal of any property from the control of the aggrieved individual, as well as provisions for maintenance for the aggrieved party and her dependents, in conjunction with any maintenance orders issued under prevailing family legislation. Moreover, Section 5(o) of the Act 2013 articulates the term "economic abuse," which pertains to the deprivation of economic and financial resources or the imposition of prohibitions or restrictions on the continued accessibility to such resources to which the aggrieved individual is entitled; such actions are subject to penalties as described in Section 6 of the Act, 2013. Nevertheless, the matter of entitlement remains inadequately defined within the Act of 2013, warranting further adjudication by civil courts. Given that domestic relationships extend beyond the confines of spousal interactions, this entitlement may engender additional legal complexities within the domain of economic abuse. In addition, Section 12 of the Act 2013 stipulates provisions for compensation to the aggrieved individual in instances of removal from any property "under the control" of the aggrieved party. Consequently, this matter remains ambiguous and lacks definitions within the Act of 2013 regarding managing property "under the control" of the aggrieved person. Determining entitlement to such property by the aggrieved individual is, once again, a matter necessitating adjudication by civil courts possessing competent jurisdiction. Furthermore, Section 12(e) of the Act 2013 pertains to the maintenance obligations for the aggrieved individual and her offspring, in addition to any orders for maintenance under family law. However, it is critical to emphasize that this Section extends relief for maintenance that is essentially parallel to the maintenance provisions outlined in part 1 of the schedule under Section 5 of the Family Courts Act, 1964, which serves as a specialized statute for the maintenance of women and children. Although the relief offered under the Act of 2013 is supplementary to an order from the family court, it diminishes in effectiveness as the provisions are intended to be additive rather than derogatory to existing laws, as articulated in Section 27 of the Act. Therefore, the enforceability of maintenance remains ambiguous for aggrieved women and children under the Domestic Violence Act.

Custody Orders

Section 13 of the Act 2013 states that the court, at any stage of the petition, may order for grant of temporary custody of an aggrieved person. The matter will be regulated under the Guardian and Wards Act 1890 if the aggrieved person is a child. If the aggrieved person is an adult, he will be handed over to a service provider or some other person according to the will of the aggrieved person. Therefore, this provision is analogous to Section 12 of the Guardian and Wards Act, 1890, and Part 1 of the schedule under Section 5 of the Family Courts Act, which provides remedies for the custody of minors within the jurisdiction of family courts. This section can be applicable for the custody of minors other than those belonging to spouses; however, the cited Section loses its efficacy if both parties are spouses and have a



dispute regarding the custody of a minor, which exclusively falls under the jurisdiction of family courts in Pakistan based on the welfare of the minor, which is significantly lacking in the Act, 2013.

Multiplicity of Proceedings

By analyzing the practical approach, one can easily conclude that, instead of addressing domestic violence, the existing legislation is also a significant source of multiplicity of proceedings. It can be gathered from the very ingredients of Section 27 that the provisions of this Act are in addition to, and not in derogation of, any other law. Therefore, a question arises regarding its application to incidental proceedings such as residence orders, custody matters, and monetary relief, especially when special legislation like the Family Courts Act 1964, the Guardian and Wards Act 1890, the Property of Wards Act 1905, Specific Relief Act, 187, and Code of Civil Procedure 1908, are already in force concerning family matters, as well as the declaration of title or interest regarding the property of any person having locus standi. Comparatively, the Indian Domestic Violence Act of 2005 is more progressive. Section 26(3) of the said Act states that if any relief has been obtained by the aggrieved person in any other proceedings not provided under the Act, she shall be bound to inform the magistrate about such relief. In contrast, the Act of 2013 does not guide regarding the adjudication of matters involving custody and maintenance before the competent forums in the context of domestic violence. This will eventually lead to disputes regarding jurisdiction, adjudication, and execution and a multiplicity of proceedings for the courts already facing a significant backlog.

Institutional Apathy and Awareness Issues

Besides statutory ambiguities, the unwillingness of the executive to implement is also apparent in keeping the Act 2013 dormant. Unless the Sindh government takes proactive steps towards implementation, the Sindh Domestic Violence Act will be a law that exists only on paper (Malkani, 2017). Section 3(c) of the Act 2013 provides effective protocols for dealing with health, education, employment, law, and social welfare to address the issue of domestic violence. The immediate stakeholder in the implementation of the domestic violence law is the police. However, the inefficiency of the Sindh Police is visible in terms of reporting the incidents.

Furthermore, the formation of protection committees and appointment of protection officers for dealing with domestic violence is still awaited. Chairperson of the Sindh Commission on the Status of Women, Nuzhat Shirin, said that the state institutions failed to prevent such violence because those institutions were incomplete and lacked proper procedures to address this issue. She said, "In a city like Karachi, there is only one shelter home, and similarly in other cities of Sindh" (Waqas & Fatima, 2023). The Act 2013 does not provide any remedy against inefficient police officials, protection officers, and service providers for misuse of authority against aggrieved persons. There is no adequate remedy for the implementation of the statute. Comparatively, the Indian Domestic Violence Act 2005 seems to be more pragmatic, as enshrined under Section 33 of the Act, which prescribes punishment for protection officers in case of failure to perform or discharging their duties for a term extending one year or with a fine extending to twenty thousand rupees. The government must consider the need to effectively implement domestic law and its rules through amendments to clarify procedural ambiguities in facilitating the facilitation of aggrieved victims (Malkani, 2017). There is also a dire need for campaigns to raise awareness among the masses in Sindh. People are unaware of remedies and the utility of domestic law, as emphasized under Section 3 of the Domestic Violence Act. The Sindh High Court directed the government to be aware of the law and to ensure the speedy appointment of protection committees and protection officers to effectively implement the Domestic Violence Act (Malkani, 2019).

Conclusion and Recommendations

In short, domestic violence is thriving day by day in Sindh. Its implications for the social and psychological well-being of aggrieved persons are grave. The statutory measures of the Act 2013 are inadequate, cumbersome, and questionable with parallel laws. Hence, there are various issues regarding its implementation. These hurdles are significant concerning penal provisions, custody matters, maintenance, and residential remedies. The fragile legal framework and institutional problems are unable to resolve the issues of domestic violence. The discussed aspects of the Act 2013 reveal the utmost need for

multiple changes to make it a viable statute for all segments of society. Hence, the following recommendations are suggested:

- The provincial legislature of Sindh should bring immediate amendments to the Act 2013 in the substantial dimensions of defining domestic violence and its enforcement according to Sindh's social, cultural, and economic posture.
- There is also a need to bring forth certain amendments for reporting, trial, protection, and incidental domestic violence matters in line with comparative statutes for enforcement.
- The government should also bring structural and administrative reforms for constituting protection committees, establishing service providers, and appointing protection officers to help the unprivileged public.
- Awareness campaigns should be launched to propagate the rights of aggrieved persons provided under the Act 2013 and its procedure for implementation in Sindh.
- Therefore, there is a dire need to bring amendments to the Act 2013 and a pragmatic institutional framework to make it a dynamic statute for dealing with domestic violence so that aggrieved persons can benefit from its provisions and seek redressal for their grievances.

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