Issue No. 45 May-November 2016

AURAT FOUNDATION

LEGISLATIVE WATCH

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EDITORIAL

Legislation to protect women and girls and deter potential violators of the law has seen a very steady pace at the federal and provincial level. This welcome wave of pro women laws has been going strong since 2004. Most new laws enacted are criminal laws that penalise violence against women. Legislatures, who introduced the bills and those that debated and voted in favour of the bills, and governments must be commended for proactively performing their basic fundamental duties to the electorate.

However, critical analysis of case law, conviction rates and statistics on violence against women all show that these laws have not yet fully come to life. The perpetrator is not held to account and thus justice is not ensured to the victim. This lack of implementation of the law shows uniformity throughout the country.

Therefore, to celebrate the enactment of law as sufficient would be premature, not only because many pro-women laws presently are fraught with lacunas that need urgent amendments. Law making is certainly the imperative first step. However, the law is a tool. It would remain merely a piece of paper if it does not perform the essential role of aiding women to get justice, ending gender discrimination and ultimately transferring de jure gender equality to de facto equality.

The next step that should be focused on by successive governments and other relevant agencies is collaborative efforts to implement the law. The wave of enactment has been so fast yet the knowledge that a particular law exists is still very sporadic, with essential agencies of the state, such as the police and lower Judiciary unaware of many pro-women laws. The police, lawyers and the judiciary are all agencies and institutions that require an understanding of what laws exist and how they are to be interpreted. For ordinary citizens, particularly women, state sponsored dissemination of the law, in local and laypersons languages, is the essential pre-requisite. Comprehensive and systemic mechanisms between and across various relevant agencies are also part of the implementation process. As are accountable complaint structures to ensure that institutions implementing the law do so transparently and are held to account for digression.

The real force that will bring the law to life, however, is, and has always lied in, political will and commitment. The next step for successive governments must be to work towards laying ground for effective implementation by ensuring that the intention of parliament - that is to ensure justice to the victim - is fully realised. Without political commitment the law will forever remain a tool, significant only on paper.

The Punjab Protection of Women Against Violence Act 2016: A Critique

By Benazir Jatoi

The Punjab Protection of Women Against Violence Act 2016 has created controversy and confusion amongst various groups, including defenders of women's rights. Many have challenged the new Act passed unanimously, through the democratic process, by the Punjab assembly on 24 February, 2016.

The voices of disapproval with the new law were from many fronts, with the loudest being from the religious clergy, who have declared the Act un-Islamic. In Pakistan we have often found it challenging to counter religious rhetoric when a law or policy comes forward that attempts to provide legal or institutional protection to women and girls. Under the clout of religion, right wing and other religiously inclined lobbies and groups have hijacked the debate to portray a picture that protecting women against violence or other adversities is un-Islamic.

The biggest shortfall in the Act is that it is not under the ambit of criminal law. The architects of the Act have brought this law under civil law. The reasons perhaps are two-fold. Firstly, the burden of proof in a civil case is on the balance of probabilities, i.e., more likely than not. This works in favour of women who have to prove that domestic violence did in fact take place. Under criminal law the test on the applicant is to prove their case beyond reasonable doubt. Secondly, the Sindh and Balochistan domestic violence Acts have both been covered under criminal law but in terms of convictions have showed no results in terms of convictions. Also, the criminal justice system is in need of dire reform and it is perhaps more likely that under civil law the matter will be more effectively and expeditately dealt with.

Human right groups, were rightly disappointed that domestic violence was not criminalised. Among concerns, it is important to meet on one common ground and that is that the Punjab government has attempted to recognize that domestic violence is an offence. That is a small but significant first step. It is now time to ensure wide dissemination of the law, as promised in the legislation itself, to help the government further strengthened the law and most importantly, to hold the government accountable if there is a failure to enforce the law.

This is a clause by clause critique of the Act, to give a better understanding of what the Act entails, what its shortcomings maybe, and how it can be further strengthened. We have only dealt with the clauses that we believe need amending, repeal or those that have created controversy or have been or are most likely to be misinterpreted. The full text of the Act can be found on AF's website www.af.org.pk.

Section 1(3), **Short title, extent and commencement** is problematic because it is not specific as to when it will come into force. Many aspects of the protection mechanisms are through a phased period and the Act is not universally applicable to all parts of Punjab at once. If a woman attempts to use the provisions of this Act today, how will they work in practice?

Definitions

We have emphasised our critique on the definitions provided in the Act, under section 2. This is because they are the fundamental essence of any Act, constantly referred to when interpreting the law. The definitions are not consistent or in places incomplete.

1. We will discuss definitions of an aggrieved person, children and household.

Section 2(a), **Definitions** of the Act defines aggrieved person:

'...a female who has been subjected to violence by a defendant.'

A layperson's understanding of female is an adult woman who can bare offspring. However, a dictionary definition of female reveals that female includes "of or relating to the sex that can produce young or lay eggs, characteristic of girls or women. http://www.merriam-webster.com/dictionary/female.

The reality in Pakistan is that young girls are often wives and mothers. Hence, for the avoidance of confusion of whether the protections under this Act applies to girls or not, the law needs to further clarify the definition of female. If the Act intends to cover girls as well as women, it will be problematic as to how a girl is dealt with under the law. The needs of young girls are often very different to women.

The Sindh and Balochistan Acts, through custody orders, have covered situations where the victim of violence may be a minor. There should either be a provision that deals specifically with girls or the definition of woman should be broadened to include girls.

Subsection 2(h) defines domestic violence to include violence in a situation where the defendant and aggrieved live or have lived together and *'...when*

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they are related to each other by consanguinity, marriage or adoption.'

Keeping this in mind, the Act may be invoked by any person in a household where the relationship is either through marriage, adoption and consanguinity. Consanguinity 'is the quality of being descended from the same ancestor as another person.' Hence, a daughter may be able to bring a claim against her father or grandfather if violence has occurred. But it is important to note that the word aggrieved here should further specify whether the word is a continuation of the word "aggrieved person" as defined in subsection 2(a), which is then limited to 'females' only or whether aggrieved in used here as a general English terminology where a young boy or a male member of the house may also invoke the provisions of the law. I suspect it is a drafting error and the intention is for it to be limited to aggrieved person as defined in 2(a).

The Act further entails that violence prepratored by any male or female member of the household may bring a claim. This is further clarified by the definition of defendant where subsection 2(n) defines a defendant as *'a person against whom relief is sought by the aggrieved person.'* It does not define defendant in terms of gender, hence a defendant could potentially be a woman.

We now move on to the definition of dependent child. Subsection 2(e) defines dependent child as a male child below the age of 12 years.

This is a controversial definition as it defines the male child only. This section intends that a girl child, regardless of age, be considered a dependent and hence protection be extended to her when given to the mother. Due to the lack of a universal definition in Pakistan of a girl child or a child for that matter, how are we defining a girl? Is a dependent girl child defined as a girl who is not married? Or are we using the Child Restraint Marriage Act as a guide, where it is an offence to marry a girl before the age of 16 years of age?

The subsection further intends that a male child would only be facilitated with the mother up until the age of 12 years. If a male child is above that age, the law will not allow him to accompany his mother to a shelter home.

Under section 13, **Protection centres and shelter homes,** ss13(5) deals with situations where a male child is above the age of 12 where the non-dependent child will be *"referred to the Child Protection and Welfare Bureau..."*

This provision could break the resolve of a woman to seek protection under this law, if she unable to take along a male child above the age of 12. The reality in Pakistan is that often victims of domestic violence do not leave a family home because they are unable to take the children with them, or are threaten that their children will not be able to accompany them. Court disputes in cases of divorce are often custody battles over the children. The Act reflects the attitude of society generally, as it has failed to understand that emotional dependence of young children on their mothers, and this includes a male child above the age of 12. This law does not seem to address that flaw in the law, whereas the world over, family courts have increasingly recognized this importance and given judgments in favour of women in matters of custody of children.

Though there is nothing outrightly wrong with the definition of house as defined in subsection 2(j), it is important to look at the definition to see if it can be further strengthened.

House is defined under subsection 2(j) to include:

'a place where the aggrieved person lives in a domestic relationship irrespective of right to ownership or possession of the aggrieved person, defendant or joint family.'

The term 'domestic relationship' has been used but not defined separately. What does a domestic relationship in terms of this law entail? Is it as defined in subsection 2(h) - 'when they are related to each other by consanguinity, marriage or adoption.' ?

The Sindh Domestic Violence (Prevention and Protection) Act 2013 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.

It would have brought further clarity or removed confusion if either domestic relationship was separately defined as above or household was defined in different terms. The Sindh Act has separately defined household.

2. Under this we will discuss the definitions of the various forms of violence and their shortcomings.

S 2(h) defines domestic violence as 'violence committed by the defendant with whom the aggrieved is living or has lived in a house when they are related to each other by consanguinity, marriage or adoption.'

The term does not define domestic violence. This definition is more a definition of a household and relationships that follow. It is important for the purposes of effective implementation of the Act that domestic violence be clearly defined. Again, the Sindh Act specially defines domestic violence.
Slight clarity has been given under subsection 2(r) where violence has been described as *'any offence committed against the human body of the aggrieved person including abetment of an offence, domestic violence, sexual violence, psychological abuse, economic abuse, stalking or a cybercrime.'*

The problem here is that though new forms of violence have been introduced, they have not been defined. Domestic violence, sexual violence, stalking and cybercrime have separate, extensive definitions that have not been elaborated on.

The only real attempt to define any form of violence has been economic abuse, under the heading 'Explanations', in ss 2 (r) (1).

This could be further strengthened to include not just income but control over the aggrieved person's access to economic resources, regardless of whose income it may be. It could further include that control by the defendant of the economic resources would diminish the aggrieved person's capacity to support herself or force her to become completely dependent on the defendant.

Psychological violence is not explained at all. The definition given under subsection 2(r)(2) is not a definition of psychological violence but the affects psychological violence may have on a victim.

3. Lastly, we will run over the definitions which deal with mechanisms of protection or legal recourse, and their shortcomings and/or concerns.

Definitions of district coordination officer (2(f)), district women protection officer (2(f)) and women protection officer (2(s)) do not specify that the officer must be a woman. Unless 'woman' replaces the word 'women' there is no obligation that the officers assigned to protect the aggrieved person must be female. It is obvious why not having a woman protection officer would be problematic. Though we suspect this may be a drafting error and the intention really is to appoint women as protection and committee officers.

S 2(l) defines protection centre as 'a Violence against Women Centre' and subsection 2(m) defines the protection system as a combination of *'a Committee, a Protection Centre and a shelter home.'*

The obvious short term problem is that an immediate relief mechanism does not exist. Presently, there is only one 'Violence against Women Centre' in Multan. S13(1) states that *'the Government shall establish Protection Centres through a phased programme for protection of the aggrieved person.*'

The problem with them being established through a phased programme suggests no immediate set up. Shelter homes have not all been identified, established nor licensed, which will be problematic if an immediate incident requires a judge to order a woman to move to a shelter home.

Section 2(d) defines 'Court' as *'Family Court established under the Family Courts Act 1964 (XXXV of 1964)'*

Does the jurisdiction of the Family Courts stretch far enough to be able to enforce provisions of the Act? Section 5 of the Family Court Act 1964, schedule 9, subject 2002 does not directly include domestic violence disputes as part of the court's jurisdiction.

Complaint, Cognizance and Summary Trials

Moving on from definitions to the body of the Act, we will start with section 4 **Complaint to Court,** which deals with the process of submitting a complaint to the Family Court. According to section 4(1) an aggrieved person, or a person authorized by the aggrieved person or the Women Protection Officer may submit a complaint for obtaining an order.

The section should make clearer how a person is authorised on the aggrieved person's behalf. Is it verbal consent or written authorisation? How will an authorized person prove to the judge that they have in fact submitted the complaint on behalf of the authorized person?

Section 4(2) states that the first date of hearing *"shall not be beyond seven days from the date of the receipt of the complaint by the Court."* Section 6 provides the Court with the power to make an interim order at *"any stage of the complaint.* Therefore, the Court can provide the Complainant with protection between the first hearing date until the conclusion of the complaint, within 90 days.

Subsection 4(4) states that the Court shall decide the complaint within 90 days of the date of the receipt. In ordinary matters, 90 days for a summary trial are considered a concise period of time. But in cases of domestic violence, where sensitive situations require immediate relief or protection for the aggrieved person, 90 days, may be too long. The Balochistan Domestic Violence (Prevention and Protection) Act 2014, section 5(4), provides a period of 30 days for the Court to dispose off a case.

In these circumstances, it is arguably not necessary to reduce the 90 day time

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limit that has been set. What is more important is to place the Court under an obligation to grant an order at the first hearing to provide the Complainant with immediate protection.

What may also be considered to ensure there is a swift resolution in an undefended case is to provide a provision to the effect that 'in the event that the defendant does not respond to notice to show cause or otherwise provides no reasons why an order should not be made, the court will make a final order on the first day of hearing unless it would be manifestly unjust to do so.'

It has been pointed out that section 4 and 21 contradict each other. Section 21, Cognizance and summary trial, reads:

'(1) The Court shall not take cognizance of an offence under this Act except on a complaint of the District Women Protection Officer or a Woman Protection Officer acting on behalf of the District Women Protection Officer.
(2) The Court shall conduct the trial of an offence under this Act in accordance with the provisions of Chapter XXII of the Code relating to the summary trials.'

In fact they do not. Either the aggrieved person or the woman protection officer may file a complaint. But if the matter goes further, where the judge lists the case for summary trial, then section 21 is invoked, which requires that the district woman protection officer be part of the complaint and court process. Section 21 could have been more clearly worded to reflect this.

Furthermore, to rid of confusion and bridge the gap between section 4 and section 21, section 14, **Women Protection Officer,** which lays out the duties of the woman protection officer, could be further enhanced by adding words along the lines of 'to assist the aggrieved person in pursing their Court case'.

It is also possible that instead of amending section 14 to reflect the above change, the Court Rules can be amended to say that the woman protection officer is responsible for bringing the case forward for purposes of a trial.

We suspect this provision has been added to ensure that the woman protection officer is present to provide step by step support throughout the process to the aggrieved person.

The Act provides that the aggrieved person has the right to reside and remain in the house. Section 5, **Right to reside in house,** states:

'Notwithstanding anything contained in any other law, the aggrieved person, who is the victim of domestic violence:
(a) shall not be evicted, save in accordance with law, from the house without her consent or if wrongfully evicted, the Court shall restore the position maintaining before the eviction of the aggrieved person if the aggrieved person has right, title or beneficial *interest in the house; or*
(b) may choose to reside in the house, or in an alternative accommodation to be arranged by the defendant as per his financial resources, or in a shelter home.'

Reading section 5(1), the question arises, if the aggrieved person does not have *'right, title or beneficial interest in the house'* then how will the Court deal with the situation? I suspect the intention of the draftsmen was to provide the aggrieve person the right to reside in the house regardless of legal title as subsection 5(b) goes on to suggest the aggrieved person may stay in the house- *'…may choose to reside in the house'*.

But it could be further clarified to rid of confusion when interpreting the law.

It has been pointed out that under section 6, **Interim Order** that the interim order is not spelt out. It is important to remember that in cases of domestic violence, where every case is varied with its own unique circumstances, it would be detrimental to have a specified interim orders. They should be applied at the discretion of the judge taking into consideration the individual circumstances of the case. The Court has been guided to ensure that the interim order is *'just and proper'*. Subsection 6(1) states *'the Court may, at any stage of the complaint, pass such interim order as it deems just and proper.'*

Section 7, **Protection Order,** section 8, **Residence order** and section 9, **Monetary Order** deal with orders that the Court has the jurisdiction to grant. It is important to note that the court has the jurisdiction to impose any order or direction as it deems just and proper, regardless of what the applicant has requested in their complaint application. This is stated in subsection 7(2) and 7(3) and in 8(2). The Act also gives power to the judge to impose more than one order at a time, so in addition to a protection order for instance, the judge may also issue a residence order, in circumstances where this would be required. This is stated in section 8(1), which states *'the court, in case of domestic violence, may in addition to any order under section 7, pass a residence order…'*

Under section 7, among the ten options for various protection orders that may be issued by the Court, the most controversial have been 7(d) and 7(e), which authorise a court orders a defendant to wear an ankle or wrist bracelet GPS tracker in cases of grave violence.

Another similar and controversial major power, is stated in subsection 14(d) which allows the court to direct the defendant to move of the house for up to forty eight hours.

These provisions have questioned the status quo, where the patriarch of the house may be potentially removed from the house, or required to be tracked should extreme violence or threat of extreme violence occur. Of course this situation could occur in case of a violent mother in law towards their daughter in law or a violent father towards his daughter. But the intention of the lawmaker seems here to mean that if grave violence or threat of such has occurred or is likely to occur by a husband against his wife, he could potentially be required to wear a GPS tracker and/or be removed from his house.

It will be important to watch developments in this area to see whether these provisions are actually ever implemented. Would a judge, give an order such as a GPS tracker and/or eviction of the defendant when it has already created this uproar? Even if these provisions went unnoticed, would a judge make an order that shakes the status quo of a household - to rid the violent husband from the very home that is considered his domain?

Furthermore, the provisions require that there is either actual grave violence or threat of grave violence. The terminology leaves much at the discretion of the judge. Past precedents have shown that judgments have not often favoured women even when the law could be interpreted to do so.

Section 10 (3), **Duration and alteration of orders,** states *'the Court shall, on an application of the aggrieved person, discharge any order passed under the Act'*.

To ensure that the aggrieved person is not pressurised to submit an application for withdrawal, it may be necessary to say that the application may only be withdrawn if submitted by the woman protection officer, with the consent of the aggrieved person. To involve the woman protection officer, would be a further check that an aggrieved person is not pressurised to withdraw an application. This brings us to the basic argument that the woman protection officer must be properly trained on sound gender sensitive principles, trained to understand these basic court procedures and be held accountable through a systematic and robust mechanism.

Section 11, **District Women Protection Committee,** lays out the members that will comprise the committee. Section 11 (2) states that the *'committee shall be headed by the District Coordination Officer.'* This does not specifically state that the district coordination officer shall be a woman.

The section further states that a member of the district police will be a member of the committee (s11 (2) (c)). Not much confidence is aspired in the police in terms of domestic grievances. Would not a representative of the police be contrary to the very purpose for which this committee is constituted?

Subsection 11(4) states that the district level protection committees shall have among its members people from '*civil society and philanthropists who are residents of the district.'* What would their exact role be? It is hoped that the rules of business will clarify this.

Section 13, **Protection centres and shelter homes,** states that *'the government shall, through a phased programme establish a shelter home in each district or for a local area within a district…'*

The importance of economic empowerment for long term sustainability for residents of shelter homes, is not emphasized. S 4(d) states *'arrange for technical and vocational training of the residents.'* This does not, however, go far enough if the aim is to ensure that a woman is financially independent and completely escapes the cycle of violence, when she leaves the shelter home. Again it is hoped the rules of business will further clarify this.

In addition to section 11, which deals with the function of the district women protection committee, sections 14, 15, 16 17 and 18 deal with the power and functions of woman protection officer.

It is important to note here that the aim of the Act, for which it deserves credit, is that through the eventual establishment of women protection officers and the district women protection committees, the law is attempting to systemise a state support mechanism for women victims of violence at the real grassroots level of the province.

Women protection officers have been given legislative power and authority to go as far as enter the family home, with the consent of the aggrieved person (s 15), to rescue the victim and any dependent children (s149c)) and direct the defendant to leave the house (s14 (d)), among other powers. It is obvious that the powers given to the officer are beyond mere token gestures and through primary legislation an attempt has been made to ensure that the woman protection

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Analysing 2016 Amendment Act on 'Honour' crimes

Criminal Law (Amendment) Offences in the Name or Pretext of Honour Act 2016

By Benazir Jatoi

After a hard and long struggle by human rights organisations, including Aurat Foundation, legal reforms were brought in 2004 under Pakistan Penal Code (PPC) and the Criminal Procedure Code (CrPC) recognised that a murder in the name or pretext of honour is a criminal offence and penal punishments were defined by the Act. But major loopholes persisted with this law. Through provisions of *qisas* and *diyat*, the perpetrator may be completely acquitted for a murder he openly admits to and which often has no mitigating factors involved.

In a joint joint sitting of parliament on 6th October, 2016, amendments in the form of the Criminal Law (Amendment) Offences in the Name and Pretext of Honour Act 2016 were passed. The full text of the Act can be found on our website at www.af.org.pk

Unfortunately, this new law has not made the offence of 'honour' killings non-compoundable, leaving the floodgates open for compromise and eventual pardoning of the perpetrator. In fact, this was the biggest loophole in the law, which lawmakers have failed to plug. Our demand, therefore, for the law to be made non-compoundable, still stands, disappointed, that justice may still be a distant reality to ordinary Pakistani women victims killed in the name of 'honour'. Waiver of *qisas* in cases of 'honour' crime should also be done away with being construed as fasad-fil-arz. Nonetheless, below is a review of the new law, highlighting its important elements and, how it may apply in a case to case basis.

The new law has attracted two major principles. Firstly, within in the Pakistan Penal Code, there has been a shift of the definition of fasad-fil-arz (exactly as it stood before the new amendments) from s.311 to s.299. The fasad-fil-arz exception has with the new law now been used in most sections that relate to 'honour' crimes. As a result of this, the second major principle has been attracted - the discretion of the judge has become more widely invoked. What this law has managed to do is increase the discretion of the judge to decide, on the facts and circumstances of each individual case, whether the offence is one where the murder has been committed in the name or pretext of 'honour'.

In ordinary circumstances, invoking the discretion of the judge is not necessarily considered problematic. However, in cases related particularly to women, judgements in the past have leaned towards pardoning the accused, either due to the law of diyat and qisas or because the judge has not equated the gravity of the offence equal to that of murder, mainly because the accused has taken to murder against a close female member of the family, under moral pretences, justifying the case a private family matter.

Furthermore, the 2016 amendment may see the defence presenting 'honour' crimes as ordinary murder, in order to avoid the principle of *fasad-fil-arz* and to ensure that the provisions of *qisas* and *diyat* apply. The new law is relying on the astuteness and reason of the judge to be able to examine and highlight evidence that points to the murder as one committed in the name of 'honour'. The long established criminal law principle of establishing facts 'beyond reasonable doubt' and the above amendments have left the discretion of the judge too wide and too ambiguous, resulting in what rights activists have always feared - the acquittal of the accused.

The previous amendments to the PPC, where the law recognised 'honour' crimes, left an obvious and big loophole in the law - that is of the offence being compoundable. Hence, regardless of the facts and circumstances of the case the accused was almost always acquitted for an offence he openly admitted to. The *qisas* and diyat provision trumped the judge's discretion. Unfortunately, the new law widens the discretion but does not take away from the compound ability of the offence. Therefore, the possibility of acquittal of an offender, accused of an 'honour' crime, still exists. The definition of *fasad-fil-arz*, now under s.299, after clause (e), reads as follows:

> ***'299(ee) "fasad-fil-arz"*** *includes the past conduct of the offender, or whether he has any previous conviction, or the brutal or shocking manner in which the offence has been committed which is outrageous to the public conscience, or if the offender is considered a potential danger to the community, or if the offence is committed in the name or on the pretext of honour.'*

With this, the definition has been used consistently throughout most sections related to 'honour' crimes. Starting with S302 where the proviso after subsection (c) reads:

> *302 (c) 'provided that nothing in clause (c) shall apply where the principle of fasad-fil-arz is attracted and in such cases only clause (a) or clause (b) shall apply.'*

Both in S309 (Waiver - **Afw of qisas in qatl-e-amd)** and S310 **(Compounding of Qisas (Sulh) in qatl-e-amd),** the exception of fasad-fil-arz has been created, but the principle of qisas and compound ability remain as is. The sections read as follows:

> *'S 309 (b) provided further that where the principle of fasad-fil-arz is attracted, waiver of qisas shall be subject to the provisions of section 311'.*
>
> *'S 310 (1) provided further that where the principle of fasad-fil-arz is attracted, compounding of the right of qisas shall be subject to the provisions of section 311.' and*
>
> *S 338E (2) "Provided further that where an offence under this Chapter has been committed and the principle of fasad-fil- arz is attracted, the court having regard to the facts and circumstances of the case shall punish an offender with imprisonment or fine as provided for that offence."*

S 311 **(Ta'zir after waiver or compounding of right of *qisas* in qatl-i-amd)** reads as follows:

> *'S 311 - Where all the wali, do not waive or compound the right of qisas, or if the principle of fasad-fil-arz is attracted, the court may, having regard to the facts and circumstances of the case, punish an offender against whom the right qisas has been waived or compounded with death or imprisonment for life or imprisonment of either description for a term of which may extend to fourteen years as ta'zir :*
>
> *Provided that if the offence has been committed in the name or on the pretext of honour, the punishment shall be imprisonment for life. '*

Poorly drafted, section 311, remains mainly as it was before the October 2016 amendments except the proviso increases the punishment from a minimum of ten years to life imprisonment. If ever implemented correctly, this is a significant and welcome change to the law. However, the punishment is still not mandatory with the words *"shall be imprisonment for life"*

Human rights activists demand that a non-compoundable offence is the basic first step to ensuring justice for a victim of an 'honour' crime. Activists have struggled for years and will continue to do so for this change. It should also be known that without the offence being made non-compoundable, activists reject this law, on the bases that it will not ensure justice to the victim and demand that the law must make life imprisonment a mandatory punishment in cases of 'honour' crimes.

The law, in its present form is not entirely unredeemable, if the government shows political will and commitment towards holding the perpetrators of 'honour' crimes accountable. Furthermore, the State should assume full responsibility for the registration, investigation and prosecution in such cases.

Unless the law is actually used to bring justice, the State is fulfilling only half its duties to vulnerable citizens.

Welcome Changes to the Punjab Land Revenue Act 1967

Under the Punjab Land Revenue (Amendment) Act 2015 the 1967 Act has seen two noteworthy developments, which include under s 24 (1) (c) and s 24 (4) & (5).

Section 24- ***Mode of service of summons-*** highlights the procedural method of how a summons is served. With the 2015 amendment, it is now recognized that any adult member of the family, living in the same house as the person to whom the summons is served, may receive the summons. Once received it is considered confirmation that a summons has been properly and procedurally served. Previously, as per the 1967 Punjab Land Revenue Act, it was only when a male adult member of the family received a summons that it would be considered a summons that has been validly served.

Though this is a small step, it is a positive step in the right direction. It allows some legal recognition to the fact that members of the same household, regardless of gender, are equal. It also places on women a small yet significant enough legal responsibility, allowing them to have a voice in the process.

Furthermore, it challenges the underlying notion of inequality and attempts to bridge the gap, through the language used in legal literature. Two more amendments (below) show that lawmakers are trying to adjust the law with the new reality of life.

S 24 (4) - Keeping abreast with the digital age and by legally acknowledging electronic means as a way of serving summons the Punjab Revenue amendment has rightly recognized that in addition to a summons being issued by registered post, it is also legally valid that a summons be served via email and/or text message.

However, **S24 (5)** clarifies that for an electronic summons to be considered as properly served, conformation of receipt must be acknowledged and received. ***– AF Correspondent***

Criminal Law (Amendment) (Offences Relating to Rape) Act 2016

AF Correspondent

The amendment act was passed in a joint sitting of Parliament on 6 October 2016. Overall the provisions attempted and added are moves in the right direction. The overall aim is an attempt to make stricter the already existing provisions in the Pakistan Penal Code 1860 and to further add provisions that may benefit a victim of rape if a matter is brought to trial in a court of law. One of the most striking provisions has been including DNA testing as a form of evidence and the provision of free legal aid for a rape victim.

The new provisions include:

Section 55 has been amended to include that sentences for the following offences will not be commuted (reduced) if the following sections or definitions apply:

1. the principle of fasad-fil-arz is attracted;
2. a person has been convicted of rape (s.376 punishment for rape);
3. if a person discloses the identity of the rape victim (s.376A (new section introduced));
4. convicted of assault or use of criminal force on a woman and stripping her of her clothes (s. 354A);
5. convicted of unnatural offences (s.377); or
6. where rape is committed by two or more persons in furtherance of common intention of all. **(s 55 - Commutation of sentence of death)**

In addition to section 166 dealing with a pubic servant who violated the law as to how she/he should conduct himself, a further subsection has been added to ensure that public servants, responsible for investigating a matter, who fail to properly or diligently carry out such an investigation, will see increased punishment. The maximum punishment includes three years imprisonment, or a fine or both. **(s 166(2)- Public servant disobeying the law, with intent to cause injury to any person)**

The punishment has also increased for those that obstruct a public servant from carrying out her/his duty. The provision, already existent in the PPC has further amended to increase the penalty for such an offence. It increases the imprisonment from three months to one year and a fine from Rs. 500/- to Rs. 50,000/-.

It has also been added under the same section that anyone with the intent to hamper or mislead any form of investigation prosecution or attempts to issue a false case shall be punished with maximum imprisonment for three years, or a fine, or both. **(S 186 (1) & (2) - Obstructing public servant in discharge of public functions)**

A new subsection has been added under punishment for rape. This is very significant section and states that if a person is found guilty of rape **(S. 376 Punishment for Rape)** or unnatural offences **(S. 377 Unnatural Offences)** and in the force of such actions is found the cause the following offences he shall be punished with death or imprisonment for life and a fine. The offences include:

i) hurt that may dismember or sever any limb or organ of the victim;
ii) destroys or permanently impairs the function of an organ of the victim;
iii) causing injury to the head or face of the victim by causing fracture of the bone of the victim and dislocates the bone (s377(3)iv));
iv) causes fracture of the skull of the victim so that the would touches the membrane of the brain (s377 (3)(v));
v) causes injury by fracture of the skull of the victim and the wound ruptures the membrane of the brain (s377(3)(vi));
vi) Causes injury which extents to the body cavity of the trunk (s 337C); and
vii) A person who is liable to daman ('Daman" means the compensation determined by the Court to be paid by the offender to the victim) (s.337F (v) & vi).

A welcome addition has been imprisonment of a maximum of three years and a fine for the disclosure of the identity of a rape victim. It is, however, unfortunate that if the victim or those authorized by her, consent in writing, disclosure may be made. The psychological stages a rape victim goes through various phases including an angry phase in which the victim wants to reveal the event publicly. In addition to this, a victim may be pressurised by external forces, like the media, into disclosing facts. This option should not exist at all. For the sake of the victim and her/his vulnerable mental state, her/his identity should not be revealed unless under a court order. **(S. 376A - Disclosure of identity of the victim of rape)**

Another very important and welcomed development in this law has been the introduced of a systemic examination of the person accused of rape and the rape victim that includes DNA profiling to be included as a form of evidence. **(S53A - Examination of person accused of rape by medial practitioner (PPC) & 164A medical examination of the victim of rape (CrPC))**

Further amendments have been made to the Code of Criminal Procedure 1898, which are all welcome and significant, showing a determine resolve of legislators to strengthen the laws on rape.

Firstly, it requires an investigation officer, in the presence of a woman police officer or a woman member of the family to record information **(S 154 & 161 CrPC).**

A very significant and welcome development towards women victims of rape accessing the justice system and in turn strengthening the rule of law has been that the police officer must inform a victim of rape that a right to legal representation exists and free legal aid is possible, if the victim requires it, where the police officer 'shall provide the list of lawyers maintained by the Provincial Bar councils for this purpose'. **(S. 161 A Legal representation of the victim of rape)**

A trial is now required to be carried out in camera and if the identity of the victim and witnesses is to be protected, video links are now allowed. **(S352 CrPC)**

It is also welcoming to see the realisation that delays in judgements leaves perpetrators as if they are unaccountable. A case must be concluded within three months and failure to do so will require the trial court to bring the matter to the notice of the High Court. **(S. 344A Conclusion of the trial CrPC).**

Aurat Foundation, along with other women's rights based organisations and activists have cause for much celebration on this law but probably the most celebrated clause and a significant milestone in AF's struggle has been the omission of the controversial section 151 (4) of the Qanun-e-Shahadat Order 1984 which read *"it may be shown that the prosecutrix was of generally immoral character"*. It is obvious why this clause was used to discard the character of a woman victim of rape and in turn strengthen the defence case. This very obviously, detrimental and extremely unfair clause has now been omitted and the need to highlight this and celebrate this as a small step towards plugging the wide gender discrimination gap that exists in legal language and legal intent.

The Punjab Protection of Women Against Violence Act 2016: A Critique

From Page 3

officer is integral to the support and protection of the victim and to the success of the victim's case.

It is then extremely important to emphasis that the officer is trained on gender sensitive principles, which are ongoing cycles of training and capacity building, with a very good hold over relevant court procedures and rules of the family court. It is also important to emphasis that any training of the officer repeatedly ensure that the officer understand that along with the technical support provided, the role involves how to deal with the victim in order to constantly help empower her.

Furthermore, it is imperative that the officers and the committees are held accountable through tough, systemic and transparent mechanisms to ensure that their basic function, which is to protect the victim, provide her legal relief and eventual empowerment is not flawed.

Section 19, **Penalty for filing false complaint** states a person who gives false information about the commission of an violence, will be liable with imprisonment and a fine.

Section 19 is an obvious problem. A potential prison term and a fine for false claims brought against the defendant is surely to scare away an already reluctant woman victim, not familiar with court procedure,in the fear that her genuine claim, if not proven could be used by the defendant to invoke this provision.

We recommend a complete repeal of this section. The fact that the case must be proved in a court of law and that contempt of court proceedings are a legal possibility should be enough to create due process. This section is unnecessary in a country where the legal system, already so alien to women, weighs so heavily against her.

LEGISLATIVE WATCH

Legislative Watch is produced by the Resource Service of the AAWAZ Voice & Accountability Programme of Aurat Publication and Information Service Foundation at Islamabad.

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Access to Justice in Pakistan: Issues and Impediments

AF Correspondent

Throughout Pakistan's history, access to and dispensation of justice is marred with many unfortunate developments, including disruption to democratic governments and continuous terrorist attacks through out the country. The military dictatorship of Zia-ul-Haq brought with it discriminatory laws, which were very detrimental to women and religious minorities, under the guise of religion.

Since then sporadic attempts have been made to bring in pro-women policy and legal reform, including during the regime of the military rule of Pervez Musharraf the National Policy on the Empowerment of Women 2001 was approved, setting out several measures to economically empower women. It is, however, democratic rule that has brought real, meaningful legal reform to help protect and benefit women. Furthermore, the 'lawyers' movement' in 2007; and the adoption of the National Judicial Policy in 2009 by the Supreme Court are also turning points to better equip the judiciary and create more transparent and accessible systems.

Despite all these developments, a major qualitative shift in the access and dispensation of justice is yet to be seen and it requires major reforms across all tiers of law enforcement and justice institutions, particularly in the lower judiciary and police.

Access to justice is imperative in strengthening the Rule of Law. Rule of law means that clear, just and non-discriminatory laws are in place, particularly for the most vulnerable sections of society, including women, children, religious minorities and people with disability. Further, it means that clear and easy accessibility of the laws and justice institutions and processes to all citizens of the country is ensured.

The concept of the rule of law, therefore, implies that no arbitrary, discriminatory and unilateral decision shall be made to the benefit of a few, at the detriment of others. No official or authority is above the law and everyone is accountable under the law of the land. The rule of law, in fact, places limits on the power of the government. All citizens are equal under the law. No one may be discriminated against on the basis of colour, religion, ethnicity, sex or group. The laws are fairly, impartially, and consistently enforced, by courts that are independent of the other branches of government.

The basic premise of a criminal justice system is that it is accessible to all its citizens. A major part of accessibility is access to affordable legal advice for victims and proper State funding of the criminal justice system to be able prosecute a case. The promotion of justice requires that victims are able to bring their case whether to law enforcement or the court system, being confident that the system will protect them and ensure confidentiality.

In Pakistan, there is uneven access to the police (which is usually the first point of entry into the system), proper legal advice and the court system, particularly for the vulnerable sections and women. It is the lack of accessibility and delays in the justice system that has allowed Pakistan's informal justice systems to progress at such a rapid rate. Exact statistics are unavailable as to how many people access the informal justice system but it is widely accessed by the rural and socio-economically deprived segments of society. Punjab, Sindh and Khyber Pakhtunkhwa have localized names for these informal mechanisms in each province but they are widely known as jirgas or panchayats.

Jirgas is only one local name to describe an assembly of male village/town elders to decide a dispute between two parties. Unfortunately, an all-male, patriarchal structure decides on criminal matters, based on local customs and practices. The decisions are almost always anti-women and girls or other vulnerable groups. There is no due process; no procedure, no knowledge of the law and no appeal procedure. The Sindh High Court and the Supreme Court of Pakistan has declared these structures illegal. Despite these court verdicts the informal system is flourishing. This is because the formal court system is lacking in many aspects, that the informal or parallel justice system flourishes so widely throughout the country.

The situation of Rule of Law in Pakistan is unstable and faces numerous problems, and therefore, constitutes towards the country's major governance challenges. The World Justice Project (WJP) Rule of Law Index, 2015, in a survey of 102 countries, places Pakistan at the 98th ranking with an aggregate score of 0.38, a place among the five worst bottom countries on its record in constraints on government's powers (0.49), absence of corruption (0.35), open government (0.45), fundamental rights (0.39), order and security (0.3), regulatory enforcement (0.36), access to civil justice (0.4), and criminal justice (0.31).

There are a number of reasons for this dismal record. This includes frequent interruption in civilian rule, colonial provenance of overwhelming part of criminal justice legislation, blatant and consistent interference in judiciary and police affairs by the executive and the ruling elite and contradictions and overlapping of legal pluralism characterised by the mix of Anglo-Saxon, Sharia and customary laws and practices. Furthermore, though the rights to justice, information and a fair trial are all enshrined in the Constitution, and a range of civil and political rights is provided in legislation. In reality, however, these rights remain elusive, particularly for the poor, minorities, women, children and other vulnerable groups.

Criminal justice legislation is not applied consistently, leading to variable and unpredictable procedures across institutions and poor justice outcomes. There has been insufficient federal leadership to drive through legislative and regulatory reforms, and to clarify the intended effect of the 18th Amendment on provincial level criminal justice policy. The colonial provenance of much criminal justice legislation, including the Penal Code 1860 (PC 1860), Police Act 1861, and Code of Criminal Procedure 1898 (CCP 1898) means registration, investigation, prosecution, case management and adjudication processes are outdated and often disregarded.

The major impediments in accessing justice include:

Institutional barriers: Criminal justice sector institutions are weak, uncoordinated, and lack a service-delivery focus. They are constrained by weak basic organisational capabilities; institutional rivalries; insufficient training capacity; no streamline procedures, low-skilled and poorly incentivised staff; weak data collection, analysis and sharing. Police investigators regularly fail to forward copies of First Information Reports (FIR) to the District Public Prosecutor and investigation reports to prosecutors within statutorily defined periods.

The public prosecution services, as relatively new institutions across Pakistan, suffer from a lack of independence, insufficient training, and poor resources. There is also inadequate infrastructure; lack of independent oversight; ripe with corruption and there is huge political interference in decision-making. In 2014, prosecutors in Punjab dealt with an average of 668 cases each, more than double the number accepted as manageable, which created an extrodinary burden and hindered them from doing their job in a proper manner.

The judicary, particularly lower judiciary, lacks complete understanding of GBV violence and the underlying causes of women defendants. No training is provided to the lower or superior judiciary.

The low number of crimes investigated and prosecuted reflects institutional weaknesses within the police as much as the prosecution services. In Punjab during 2015, for example, of 29,961 cases registered, only 10,452 were investigated. The military has further increased its influence over the internal security agenda, at the expense of the credibility of the civilian criminal justice system.

Police and prosecutors lack the skills necessary to investigate and prosecute serious crimes. In 2014, the conviction rate in Punjab was 26.78%. The rate was even lower for cases involving physical evidence or specialist investigation skills such as kidnapping, homicide and violence against women and girls. Cases are not investigated in accordance with modern processes.

There is high levels of pre-trial detention. In April, 2015 the Law & Justice Commission estimated the total population in Pakistan's 88 prisons at 80,169, representing an occupancy rate of 171.6% against official capacity.

Political barriers: Political will is the only real sustainable way reform will be possible. Pakistani leadership, whether democratic and representative or under a dictatorship, has lacked the political will and oversight to change things. Therefore there is been problems in tackling corruption, reforming eroding institutions such as law enforcement agencies and standard setting bodies and empowering the ordinary citizens.

Legal barriers: Due to gaps in the legal framework, Pakistan has failed to protect the most vulnerable sections of society, which goes against constitutional guarantees, fundamental human rights and international obligations. Unjust and discriminatory laws, such as Qisas and Diyat Provisons in the PPC, half testimony of women under Law of Evidence, the Hudood Ordinances, the misuse of Blasphemy Law and several other procedural flaws like compoundability on offences like 'honour' crimes discriminate against ordinary people, women, girls and religious minorities.

There is a low level of understanding of laws and rules among staff of justice sector institutions, and where they are understood, they are frequently ignored.senior judges often lack basic legal reasoning and critical thinking skills, and seek guidance from under qualified lawyers on simple points of law.

Social barriers: Societal attitudes and fear of reprisal, due to customs and norms restrict people, particularly women and girls, in many parts of the country from going out of the house. The system with colonial legacy and perpetual malpractices have demonized and dehumanized lower ranks of police. The legal system is alien and costly, and people have lost confidence in the formal court system. Parallel judicial systems like jirgas and panchayats play havoc with the lives of women and girls.

These shortcomings result in unequal access to justice, slow and expensive justice services, poor quality investigations, low conviction rates and high pre-trial detention. This weakens confidence in the formal justice system, encourages recourse to non-state providers, and undermines the already contested legitimacy of the state.

16 Days of Activism against Gender-based Violence is a regular feature every year around the world as part of a global movement to raise awareness, to address policy and legal issues, to campaign for the protection of survivors of violence and to call for the elimination of all forms of gender-based violence. The 16 Days of Activism against gender violence is an international campaign originating from the first Women's Global Leadership Institute sponsored by the Center for Women's Global Leadership in 1991. Participants chose the dates, November 25 as International Day for the Elimination of Violence against Women and December 10 as International Human Rights Day, in order to symbolically link violence against women and human rights and to emphasize that such violence is a violation of human rights. This 16-day period also highlights other significant dates including November 29 as International Women Human Rights Defenders Day; December 1 as World AIDS Day; and December 6, which marks the Anniversary of the Montreal Massacre. The 25th of November, the day that marks the start of the campaign, was declared International Day for the Elimination of Violence against Women at the first Feminist Encounter for Latin America and the Caribbean held in Bogotá, Colombia in 1981. This day was chosen to commemorate the lives of the Mirabel sisters in 1960 by the dictatorship of Rafael Trujillo in the Dominican Republic. The day was officially recognized by the United Nations in 1999 as the International Day for the Elimination of Violence against Women. Since the General Assembly designated November 25, as the international day for the elimination of violence against women, the circle of engagement has widened. More groups and individuals are getting involved to prevent and address these heinous violations of women's human rights. There has been significant progress at the national level as many countries have adopted laws and comprehensive action plans to address the issue.

The history of the Mirabal sisters

Patricia Mercedes Mirabal: 27 February, 1924 - 25 November, 1960
Minerva Argentina Mirabal: 12 March, 1926 - 25 November, 1960
Antonia Maria Teresa Mirabal: 15 October, 1935 - 25 November, 1960

The Mirabal Sisters, Patricia, Minerva and Maria were natives of the Dominican Republic and were ardently opposed to the cruel dictatorship of Rafael Leonidas Trujillo. They defied the flow of conformity and stood out as National Heroines. They grew up in an affluent family and were well cultured and educated women at a time when most women did not receive a good education. The Mirabal-Reyes family was a prosperous family from a town in Salcedo called Ojo de Ague on the north coast, near to La Vega. The Mirabal sisters were born to Enrique Mirabal Fernandez who married Mercedes Reyes Camilo (also known as Chea).

Patricia Mercedes Mirabal, born on February 27, 1924, was given her name as her birth date coincided with the anniversary of the Dominican Republic's Independence Day. Patria supported her sister Minerva in her anti-government efforts and opposed the dictator Trujillo. Patricia was famous for saying, "we cannot allow our children to grow up in this corrupt and tyrannical regime, we have to fight against it, and I am willing to give up everything, including my life if necessary".

Minerva Argentina Mirabal, born on March 12, 1926, showed signs of her great intelligence from a very early age. Minerva attended the University of Santo Domingo and it was there she met her future husband Manuel (Manolo) Tavarez Justo. They married on November 20, 1955 and had 2 children, Minu and Manolito. Minerva was famous for saying "....it is a source of happiness to do whatever can be done for our country that suffers so many anguishes..."

The youngest of the Mirabal sisters, Maria Teresa was born on October 15, 1936. Mathematics was Maria's domain. She looked up to her sister Minerva and admired her actions and later became involved in her sisters political activities. Maria was famous for saying ".....perhaps what we have most near is death, but that idea does not frighten me, we shall continue to fight for that which is just..."

Rights activist and editor of Legislative Watch passes away

Wasim Wagha was an integral part of the AF team, having joined the organisation since September 2003. He was the longest serving co-editor of this newsletter. His contributions and intuitive understanding were exceptionally valuable and made the newsletter richer and ever more more relevant.

Wasim completed a masters in Siraiki language in Islamia University, Bahawalpur in 1998. He also studied for an M.Sc from South Bank University, London in 1994. Wasim had extensive research experience and insight into indigenous riverine people, particularly challenges faced by women and other vulnerable people. He was also an expert in local languages and their importance towards empowerment and awareness. He was a true rights activist, who independent of his job, was always present and vocal on the rights of the deprived section of society. He was the son of prominent and senior Siraiki scholar and linguist, Dr. Ahsan Wagha.

Wasim worked across various projects at AF, supporting numerous programmes and providing

timely insights and advice. His most recent post was manager resource centre. His love for the books and documents in the AF library was inspiring for all at AF. He was a source of great knowledge, which he passed on to other CSOs, students and the media.

Apart from his professional high standards, Wasim was one of the most loved colleagues at AF. He was humble, sincere and kind beyond words and a true example to those around him. He was a wonderful father to his children and a great friend and mentor to have around.

He was well known in the development sector as a progressive and budding professional and at AF as a wise and kind person. His death, after a sudden and short illness, has left all his friends at AF devastatingly sad and with a great void to fill. He will be greatly missed.

Wasim has left behind his wife, Shazia, who is a teacher at a private school, his two children, both his parents and sisters. Khuda Hafiz Wasim (1971 - 2016)

Pre-SAARC Regional Women Leaders' Conference

Islamabad: Women community leaders from the SAARC region call for greater political participation and mechanisms to end violence against women. This was agreed upon and expressed by participants of the two day pre-SAARC regional women leaders' conference, orgainised by AAWAZ voice and accountability programme. The two day conference was held in Islamabad, on 27-28 January, 2016.

Delegates from Afghanistan, India, Nepal, Pakistan and Sri Lanka participated in the conference and narrated the great success stories from women's movements that led to big changes at all national, regional and global levels. Messages from the delegates from Bangladesh, Bhutan and Maldives were read out at the conference.

The delegates reiterated demands for easy travel and visa facilitations across the South Asian countries. They also reiterated that mechanisms must be established at national levels of all countries if protecting women against violence is to become a reality.

A large number of officials from the ministry of human rights, foreign office, relevant government departments, women parliamentarians five out of seven women ambassadors posted in Islamabad, civil society, development partners including AAWAZ partners, media, academia, human rights activists and grassroots women leaders attended the conference.

Ms. Shaista Pervaiz Malik

A resolution was agreed upon and endorsed by all country representatives and panelists. It was signed by Ms. Shaista Pervaiz Malik, MNA and Secretary of the Women's Parliamentary Caucus and Mr. Harris Khalique, team leader, AAWAZ.

Resolutions 1 & 2 capture, unambiguously, the agreed AAWAZ outcomes for the conference. Firstly, the establishment of SAARC women community leaders' for setting up sustainable mechanisms within the SAARC forum. Secondly, setting up of a SDG Desk with specific focus on the SDG 5 & 16 at the SAARC Forum, supported and monintored by the Alliance.

It is proposed that a SAARC Women Community Leaders' Regional Alliance be set up as a realization of the magnitude of women community leaders' shared socio-political and economic achievements on the one hand and, their continued, often spiralling, marginalization in local and macro level decision-making.

Panelists at the opening of the pre-SAARC conference

Resolution

27 - 28 January 2016

PRE-SAARC WOMEN COMMUNITY LEADERS' REGIONAL CONFERENCE

The conference calls:

1. To establish a SAARC Member States' Community Women's Alliance and, therefore calls upon the South Asian Association for Regional Cooperation (SAARC) to recognise it.
2. To establish a Sustainable Development Goals (SDGs) Desk with particular emphasis on SDG 5 and SDG16.
3. To encourage its members for submitting periodic reports on SDG 5.
4. To declare a policy and suggest mechanisms for zero tolerance for all forms of Violence Against Women across the SAARC member states in line with SAARC's commitment to Gender Equality and Women's Importance.
5. To encourage its member states to review, revoke and abstain from laws, policies and institutional mechanisms that control and impede women's activism and assembly for promoting human rights.
6. SAARC to assert upon its member states to ensure inclusion and representation of women's groups, women community leaders and feminist groups in all peace and security initiatives at decision-making levels.
7. SAARC to encourage its member states to monitor, articulate punitive action against and ensure eliminating anti-women stereotypical content in media.

SAARC Community Women's Alliance proposes an inclusive and democratic regional grassroot women leaders' led regional forum, with rotational chair and membership, that advances the knowledge of women and champions them as experts in order to influence policies and programmes related not only to community development and risk prevention-response but are of national and regional significance, affecting the lives of the communities they belong to.

Dr. Sima Samar, Chairperson, Independent Afghan Human Rights Commission, who was the chief guest at the inaugural session highlighted the struggle of Afghan women against repression and called for the promotion of women's political participation and economic empowerment in South Asian societies, particularly where women are largely excluded.

Dr. Noreen Khalid, head of the AAWAZ programme highlighted salient features of the conference. She said the conference is being held to formulate recommendations for the upcoming SAARC Summit in Islamabad to be held later on in the year. She said South Asian women have a definite voice and effective role to play in matters related to their lives and sohuld be in leadership positions at all levels of society.

Dr. Sima Samar

Ms. Chandni Joshi

Ms. Chandni Joshi, former regional head UNIFEM, called for ending violence against women and giving them equal opportunities as they have already exhibited their excellence and strength in almost all spheres of public and private life.

The countries in South Asia cannot progress unless they include the excluded and the marginalized and give women their equal place in the leadership right from local to the highest levels to attain peace in the region, says Kamla Bhasin from South Asian Network of Gender Activists and Trainers (SANGAT).

Speaking at the conference she called upon the SAARC leaders to devise a reporting and review mechanism to keep track of implementation on the SAARC Social Charter and to check violations of human rights. She said

Ms. Kamla Bhasin

interation between people of the two the countries should remain and visa restrictions should be made a lot more restringent, becuase political leaders meet openly and frankly, when they wish to do so.

Mr. Naeem Mirza, COO Aurat Foundation, demanded the repeal of discriminatory laws and the total ban of unconstitutional parallel judicial systems such as the Shariat court and Council of Islamic Ideology, in line with the judgements of the Supreme Court of Pakistan.

Ms. Khawar Mumtaz, former chairperson of the National Commission on the Status of Women, Pakistan, said the Commission has done a lot of research work on how to embed gender dimension in policies and plans. With a more empowered commission, we can further highlight the issues around gender equalities and protection of women.

Ms. Farida Shaheed, Executive Director, Shirkat Gah, Women's Resource Centre said we need a feminist leadership to bring about change in the lives of women. She said there are thousands of Malalas in Pakistan who have courage to change things.

The AAWAZ programme, implemented by Aurat Foundation, SPO, SAP-PK and Sungi and managed by DAI, with funding from DFID, works in 45 districts of Punjab and Khyber Pakhtunkhwa. to promote democratic practices in Pakistan.