

**ETHNIC, CULTURAL AND RELIGIOUS RIGHTS IN CONFLICT FROM THE
INTERNATIONAL HUMAN RIGHTS PERSPECTIVE: A CASE STUDY OF WOMEN
FROM PAKISTAN FACING DOMESTIC ABUSE IN THE UK**

Abstract

Domestic abuse to Pakistani women is endemic, and this study is formulated following the realization that their migration to the UK, where women's rights are protected, has not brought safety to the homes. Conversely, the attempts of assisting in recovery have shown conflicts that were previously unknown in ethnic, cultural, and religious rights. The main objective of the study is to determine the differences that arise when ethnic, cultural, and religious rights are viewed from the perspective of international human rights. Additionally, the influence of international human rights and the process of mitigating violence without invoking customs, traditions, or religion shall be examined. Data will be collected from 100 questionnaires selected randomly as submitted by clients over the last ten years of work and interviews to at least 20 leaders in various women's support organisations in Pakistan and the UK, and members of the judiciary working with survivors of domestic violence. Data published by women's organisations in both nationalities for the last ten years will also be considered, and the results analyzed using SPSS version 10.

Research Context

Male dominance is deeply ingrained in Pakistan communities, and as a result, ethnic, cultural, and religious rights of women are profoundly violated. Research shows that women in the minority religious and ethnic communities are at the highest risk of being abused, they receive little to no assistance because the culture allows the physical abuse of women. These traditional, social and behavioral norms and attitudes have led to a drastic rise in the number of reported

cases of domestic abuse¹. In addition, because of the prevailing systems of Purdah and Izzat, the women are socially isolated, confined to their homes, and denied the right to go outside, or seek medical help.

With global transformation at the frontline of elevating social and economic standards, migration to other countries has been simplified; tremendous impact has been witnessed, especially in the lives of women². However, in the communities where patriarchal systems are emphasized, like Pakistanis, women's empowerment is seen as a threat. Pakistani women are denied the privilege, and even after migrating to the UK where financial capability amongst women is possible, and where patriarchy systems are less favoured, domestic violence continues. The women have been pushed to more restrained spaces and become more vulnerable and more dependent on their partners. They are facing even more restrictions from males and are discriminated against enjoying their ethnic, cultural, and religious rights². It has also been reported that the majority of the cases, 60%, arise from financial incapability due to illiteracy and 30-79% from intimate partners³.

Pakistani women have experienced all sorts of violence from partners and family members who seem unconscious of geographical boundaries. This prevalence has been associated with

¹Tahir, M., 2017. Domestic Violence against Women in Pakistan and its Solution from an Islamic Perspective: A Critical and Analytical Study. Available at SSRN 2986723.

² economic, social and cultural rights of women: <http://hrlibrary.umn.edu/edumat/IHRIP/circle/modules/module4.htm>

³ Khan, A.J., Ali, T.S. and Khuwaja, A.K., 2009. Domestic violence among Pakistani women: An insight into literature. *Isra Medical Journal*, 1(2), p.54.

patriarchy and the private nature of families, which limits and sometimes forbids external interventions⁴. Domestic violence to women is diverse. It includes, but not limited to, sexual, psychological, and physical abuse. For example, according to Pakistani law, sexual violation among Pakistani women is not an offence, and when coupled with poverty, women suffer greatly. In addition, in prominent patriarchy systems, illiteracy among women and poverty have been reported as leading causes of domestic violence⁵. Statistics of domestic violence point to the paradoxical nature of living conditions. Whereas homes are supposed to shelter and shower with belongingness and peace, they are the main avenues of insecurity and feelings of being unwanted⁶. While studying domestic violence amongst Pakistani women, it was observed that slapping, kicking, pushing, throwing things, shoving, offensive threats and verbal threats are 100% likely to occur more than three times in Pakistani homes, regardless of the location, because the culture allows it⁶. Abuse among pregnant Pakistani women has also been reported⁷, with the majority of the cases arising from young age and poverty^{8,9}.

⁴Kapadia, M.Z., Saleem, S. and Karim, M.S., 2010. The hidden figure: sexual intimate partner violence among Pakistani women. *European journal of public health*, 20(2), pp.164-168.

⁵Tarar, M.G. and Pulla, V., 2014. Patriarchy, gender violence and poverty amongst Pakistani women: A social work inquiry. *International Journal of Social Work and Human Services Practice*, 2(2), pp.56-63.

⁶Farooqi, Y.N., 2004. Domestic violence and Pakistani women. *Journal of Research (Humanities)*, 15, pp.71-81.

⁷Karmaliani, R., Irfan, F., Bann, C.M., McClure, E.M., Moss, N., Pasha, O. and Goldenberg, R.L., 2008. Domestic violence prior to and during pregnancy among Pakistani women. *ActaobstetriciaetgynecologicaScandinavica*, 87(11), pp.1194-1201.

⁸Zakar, R., Zakar, M.Z. and Abbas, S., 2016. Domestic violence against rural women in Pakistan: an issue of health and human rights. *Journal of family violence*, 31(1), pp.15-25.

⁹ Naveed, B., 2011. Violence against women in Pakistan. *Ethics in Action*, 5(6).4

Research also shows that women who are unable to bear male children are physically and emotionally abused by partners and in-laws¹⁰. The level of abuse is a notch higher if unable to bear any children, irrespective of who is infertile^{11, 12}. In a simplified version, domestic violence in Pakistani communities to women does not recognize boundaries, mainly because Pakistani communities carry their cultural teachings everywhere. Although many women are aware that their rights are being violated, some are unable to present the cases to relevant authorities because they are either too sick, young, ill, or do not know who to approach¹³. Some think that the violent nature of their partners is normal and yet others fear for the future of their children or the payback in case their attempts of seeking help fail.

In real sense, these cultural teachings violate a fundamental right, the Human Rights Act 1998, which protects everyone who is living in the UK. The violations are specified in three sections. First, Article 2, which explains the right to life, states that no one has the authority to end another person's life. It proceeds to give astringent warning that the wrongdoing happens, the Government should take appropriate measures to safeguard life. This has been violated because men and family members seem unconscious of the value of women's lives. Second, Article 3,

¹⁰Sami, N. and Ali, T.S., 2012. Domestic violence against infertile women in Karachi, Pakistan. *Asian Review of Social Sciences*, 1(1), p.15.

¹¹Sami, N. and Ali, T.S., 2006. Psycho-social consequences of secondary infertility in Karachi. *JPMA. The Journal of the Pakistan Medical Association*, 56(1), p.19.

¹²Ozturk, R., Taner, A., Guneri, S.E. and Yilmaz, B., 2017. Another face of violence against women: Infertility. *Pakistan journal of medical sciences*, 33(4), p.909.

¹³Ali, T.S. and Khan, N., 2007. Strategies and recommendations for prevention and control of domestic violence against women in Pakistan. *Journal of Pakistan Medical Association*, 57(1), p.27.

which explains freedom from torture, explains that no one should be subjected to cruel treatment. This has been violated because women are subjected to physical, emotional, and psychological torture. And lastly Article 14, advocates for protection against discrimination. Clearly, Pakistani women who are minority groups are abused the most.

This study is formulated from the realisation that the migration of Pakistani women to the UK has not terminated domestic violence or assisted in resolving the matter. They migrate using temporary work permits, student or spousal visas because they see the UK as a stable environment and a safe space from domestic violence, or in its summarised form, from a ‘fragile’ environment to a ‘stable’ one¹⁴. The sad thing is that upon arrival and residence, women are not adequately protected by the laws of the land from violent partners and family members, and their immigration status complicates the process of seeking help. Because of the low literacy levels, they end up relying on their partners, and family members, lack of control over identity, fear from losing immigration status, and lack of knowledge about the laws force them to bear the harsh living conditions¹⁵. Despite the UK having strict rules against domestic violence, research has pointed that conflicts among ethnic, cultural, and religious rights, when examined from the perspective of international human rights, complicate the recovery efforts of the survivor¹⁶. This

¹⁴Chowbey, P., 2016. Employment, masculinities, and domestic violence in ‘fragile’ contexts: Pakistani women in Pakistan and the UK. *Gender & Development*, 24(3), pp.493-509.

¹⁵ women and Migration: <https://www.migrationyorkshire.org.uk/userfiles/attachments/pages/625/g-6-womenandmigration-iun-june-2015.pdf>

¹⁶ monitoring And Protecting The Human Rights Of Women: https://www.ohchr.org/Documents/Publications/Chapter28_MonitoringAndProtecting.pdf

increasing statistic of violence has caught the attention of legal experts and organisations, but only has set the objective to identify and settle the differences in the conflicting rights for proper response to domestic violence. This study shall, therefore, focus on the points of conflict of ethnic, cultural, and religious rights from the perspective of international human rights, with the aim of, not propagating the failures, but understanding and resolving the problem for proper formulation of laws and subsequent prevention strategies.

Research questions

1. Which are the main areas of conflict of ethnic, cultural, and religious rights from the perspective of international human rights and which attempts have been made in bridging?
2. What are the ethnic, cultural, and religious rights of women in Pakistan and the UK? How do they differ with international rights? How is the difference influencing the process of recovery of Pakistani women living in the UK from domestic violence?
3. Given the disparities in the law, to what extent are third parties allowed to intervene in the context of an ethnic, cultural, and religious violation of women's rights? This is drawn from Pakistan's Domestic Violence (Prevention and Protection) Act, 2012, and the Protection of Women (Criminal Laws Amendment) Act, 2006 Article 14. In the former, it is argued that the Federal Government shall ensure that the National Commission on the Status of Women (NCSW) shall review cases of domestic violence frequently and suggest amendments while the latter states that the law will ensure the dignity of the man and not violate the privacy of the home.
4. How do Pakistani women perceive the culture that permits domestic violence?

5. Do the testimonies show a culture of stereotyping about facing domestic abuse?

Research methods

Data will be collected randomly from archived questionnaires of 100 of the past clients, Pakistani women facing violence in the United Kingdom for the last ten years and 20 interviews from leaders in various women's support organisations in Pakistan and the United Kingdom and members from the judiciary who have worked with survivors of domestic violence. Here, priority will be given to members who have more than seven years of professional experience and a record of changes in excellence and data published by the organisations in Pakistan and the United Kingdom reviewed. Data will be analysed using SPSS version 10.

To understand how the Human Rights Act 1998 is being violated, Data will be collected from survivors of domestic abuse and the practice in family courts. This shall be backed up with an online survey through an organisation assisting Pakistani women. The survey will specifically seek to understand the beliefs and attitudes imposed by the culture and women's perception when they seek protection from the authorities and the Courts. The results will be analysed using an online survey monkey analysis tool. Data will also be collected using focus groups with Pakistani women who have faced domestic abuse in the UK. Since this approach does not consider Pakistani women who would choose not to discuss their woes in public, it will be followed by individual telephone interviews and face to face interviews with victims.

Significance of the research

There is a plethora of information about women's right and equal, if not more, emphasis on the importance of respecting them. There is, however, insufficient coverage and in consequence,

published information about the areas of conflict in ethnic, cultural, and religious aspects when viewed from the dimension of international human rights law. These differences have posed severe challenges to legal practices implemented in the mitigation of domestic violence. It is from this gap and the identified problem that this research is formulated. It follows the belief that identifying the areas of conflict will help significantly in formulating future policies that will protect women from domestic violence within the UK and Pakistan.

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