

Winter Term Clinical Summary

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Working for Legal Aid in Karachi was a gratifying and humbling experience. I had the opportunity to work on many different projects. In their own way, each of these projects exposed me to different complications in the Pakistani Legal System, the variation of laws amongst different provinces in the country, and how socio-cultural norms impacted the law.

My first week at Legal Aid consisted mostly of becoming familiar with the office, meeting lawyers, administrative personnel and other colleagues whom I would be spending my time with. In addition to learning about the basics of the organizational structure, I was also given several research projects to familiarize myself with the Pakistani Legal Framework. Specifically, I read the Pakistani Penal Code provisions with regards to laws pertaining to women as victims of crime and divorce laws; I also read about the bail laws which, in Pakistan, are explicitly more favorable towards women. In addition, I conducted research on the Women's Protection Act of 2006 and the Domestic Violence Act of 2015.

What surprised me most in my research was how stunningly "behind" the legal framework was. I could not believe that Pakistan did not have a Domestic Violence law, let alone a system of therapy or procedural equity for women experiencing domestic abuse. What is more, the 2015 Act was a provincial act, meaning it was binding only in the Province of Sindh. I learned that Pakistan's sister jurisdiction, India, had only released their Domestic Violence Act in the mid-2000's. My research really contextualized much of the international conversations I had been observing over the last decade about increasing rates of rape in India and a focus on women's rights in South Asia. It made sense to me that women's rights came into the spotlight for India shortly after the publication of the Domestic Violence Act. It was an example of the law leading and perhaps influencing social norms. Of course, I don't know the details of the

movement in India, or when exactly it happened, but this was something that stuck out to me and made me wonder whether the same would be true for Pakistan, now with the release of the Domestic Violence Act.

In week two, I was able to take my research and basic knowledge of the Pakistani Legal Structure and begin applying it in interviews with Legal Aid Lawyers and meetings with their clients. Work-wise, I was shadowing lawyers in court all week alongside a few smaller research projects. I questioned many of my colleagues about their view with regards to the new law, and also learned from them about how they handled cases of domestic violence prior to and now after the release of the Act.

For the most part, people had a very bleak outlook about the potential of the Domestic Violence Act. Namely, it was a concern that the Act did not adequately account for cultural norms that many of these women, despite being abused, were still tied to. For example, what would a public litigation on domestic abuse do for the reputation of her family? It would put her at risk of not having a home, no alimony, and also put her husband in jail. Despite being abused, many of the women have no other recourse without their husbands because of a lack of financial independence and also because they would be shunned from their family homes due socio-cultural issues around reputation. What is more, certain rural areas in Pakistan still have the problem of Honor Killings, which means that a Domestic Violence case might just endanger the victim's life even more.

Another issue were the religious beliefs that many of the victims were strong proponents of. In many Islamic Faiths, including those predominantly practiced in Pakistan, public litigation with regards to family issues is deeply frowned upon. The solution to a hostile, or harmful marriage has traditionally been divorce, whether it be male initiated or female initiated. Divorce

allows the families to keep many unclean matters private, provides the woman with financial maintenance and gets her away from an unsafe situation. The legal structure in Pakistan also makes obtaining divorce rather easy for women, making it an even more attractive choice. For these reasons, virtually all of the lawyers I worked with at legal aid indicated that they would not advise their female clients of domestic abuse to bring a case under this law. Especially considering that it was so new and there was no precedent to favor woman's case.

Learning this made me wonder if similar hurdles were faced upon the passing of the Domestic Violence Act in India, what about America in the early feminism movement? Are the issues that Pakistani women are currently facing those which have been tried and tested in other legal systems, or are they unique to the religious and social cultural norms of the country? I suspect that the answer will probably be a mix, but this was one question that came out of my winter experience I hope to explore further in future research.

With regards to the specific writing product and work I did for this material in my internship: I wrote two different pieces. The first was a memorandum about India's Domestic Violence Act and Women's Protection Laws and how they have been interpreted. The hypothesis being that however the Domestic Violence Act has been interpreted in Indian courts will be similar to how it will be implemented in Pakistani Courts, if ever. There were many interesting elements in this paper. I found specifically that, in practice, the Act has been found to be inapplicable to women asserting claims against other women, even if these claims are of actual domestic violence. There were many kinks in the law such as this which I found confounding. My second writing project was longer and was a profiling research breakdown. I analyzed and broke down primary research on female under-trial-prisoners in the Sindh Province to find if there were any demographic patterns. Largely, the patterns indicated, as they have in past years,

that women who are charged with crimes are generally married, unemployed/housewives, and come from very poor socioeconomic backgrounds.

I also worked on several additional research projects to help the organization gain information about sister jurisdictions to build their cases. First, I assisted on a project that is being worked on by consultants in the organization to research and write on the “Right to Life” in the Pakistani Constitution. I researched Indian Case Law on the Right to Life and wrote a memorandum on how this right has been developed and represented in the courts. My findings were that Indian law very broadly defines the right to life, and it is almost “all inclusive.” Most importantly, the right has come to include rights to basic healthcare, water, and food. Not surprisingly, this is because these were some of the primary issues being litigated in courts the time that the Right to Life was also in the legal spotlight. The reason for this research was because it is a hypothesis that the Pakistani jurisdiction will develop its right to life in a similar manner if not identical to the Indian Jurisdiction. From what others at the organization had already researched about the Right to Life as it has been litigated in Pakistan, the hypothesis seemed to be rendering itself true.

A second large research project which I completed was for a public interest litigation that the organization is hoping to bring. Although the contents of the litigation are still confidential, it involves basic issues of the “right to life” in rural areas of Pakistan. I wrote a memorandum with regards to how the organization must develop standing for the litigation. This is because Class Actions or “public interest litigations” are still a relatively new phenomenon and are not entirely common. Therefore, the idea of “indirect standing” still has to develop in courts. I provided research on what it means to be an “aggrieved” person in most Pakistani High Courts, and whether there was precedent for a case such as ours.