The Laws of Pakistan for Protection of Women and Family in Light of Islam - A Comparative Legal Study

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Abstract
Domestic violence is a hot topic of discussion among the scholars of Islamic Law and the advocates of common law in Pakistan nowadays because laws are being introduced in this regard. The phenomena of domestic violence cannot be understood, unless, it is studied in depth in a comprehensive way. The concept of domestic violence described by the acts is the cause of discord between advocates of common law and Islamic law scholars. The Shariyah scholars point out that kinds of domestic violence are also reviewable in the light of Islamic law. Furthermore, the methods of implementation of these laws are also a controversial issue between legal scholars and Shariyah jurists. So, to provide the preferable reviews of Muslim scholars it is imperative to take into count all domestic legislations on domestic violence and analyze them in a legal way with the outlines of Islamic Law.

Keywords: Islam, Pakistan, Shariyah jurists, Family, Women, Violence.

Introduction:
Pakistan is an Islamic country where Islam is practiced as a state religion and the state claims that business of the state is run by Islamic law because the constitution of Pakistan clearly describes that the laws will be made according that the injections of Islam. So, the implementation of those laws is not allowed which are against the injunctions of Islam and the commandment of Allah Almighty. That's why, the constitution provides a mandate to the legislature for law-making to run the business of the state and it is also its core duty that if there is any law which is against the injunctions of Islam, they will enact new laws according to the Islamic outlines and nullified the laws which are against the Islamic law. Domestic violence laws are newly enacted laws in Pakistan. These laws are being discussed among the Muslim scholar, whether these are in line with Islamic law or not. So there is a great need to study these laws in light of Islam.
In this article, the research analyzes the types of domestic violence which are described by legal definitions of domestic violence laid down in different domestic laws of Pakistan in the light of Islamic law. This research comprises that what are the basic concepts of Islamic law regarding the Muslim family system in light of the juristic works of Muslim jurists and scholars. The research describes the basic roots on which the Islamic family system stands far. The leading paragraphs cover the kinds of domestic violence in the light of Islamic law that what is Islamic law’s parameters toward these kinds of domestic violence and whether Islamic law accepts these kinds of domestic violence as crime or not, and if Islamic law accepts these types as violence then how to reply them. The article also includes the issues of the implementation of domestic violence laws. The scholar is showing their concerns on implementation methods. The issues are; the role of the protection committee and protection officer created by law to resolve family disputes, the ejection of accused of domestic violence from home, where the GPS tracker to accuse, and the privacy of the household.

1. Kinds of Domestic Violence:

Domestic violence laws of Pakistan provide the different types of domestic violence which may be faced by a woman in the boundary of the household. These types of domestic violence are basically the main topic of domestic violence laws and it is thought that these laws provide protection the women against violence. The scholars of Islamic law critically analyze these types of violence but only criticize to these types of violence seem not to be justice. So, it should be analyzed according to a parallel way that maybe or not be possible or this violence may be committed or may not be committed. Islamic law does not allow any type of violence and also condemned acts of violence. It is a general perception in Muslim society generally and in Pakistani society especially that man has been given unlimited authority over woman, that’s why they can use their authority as they wish or as he thinks fit in any way according to their own will. But on the other hand, this general perception which is widespread in Muslim society that man can exercise his authority in every manner is totally unfair, unjust, and against the Quranic order, where the Qur’ân is ordered differently. That they must behave with their women and children in a gentle way. As Quran says:

وَعَاشِرُوهُنَّ بِٱلْمَعِرُوفِ ۚ

“Live with them in a gentle way (with love and affection)”

1 Al-Qur’ân 4:19
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This Quranic order is the basic concept to run and settle the matters of family. Basically, Islam does not permit any kind of violence but Islam goes towards giving a warning and providing the couple a chance to settle down their matters with love and affection and in a gentle way if there is some kind of conflict, contradiction or any kind of problem arise between couple and family. The Holy Prophet ﷺ said:

"Be kind to women, for you have taken them with the trust of God, and you have made their private parts permitted by the word of God"

And in another saying the Prophet ﷺ said:

"So Fear God with regard to women, for you took them by the trust of God"

So the basic Islamic concept about women is to be gentle, kind, and affectionate towards them in every sphere and in every kind of conflict. Even, the Islamic instructions in the matter of divorce are to be kind to them and let them stay in your home and not stop food and clothing in the period of divorce. Although Islam gives these instructions in favor of women, we see the women claim some kind of violence that they face in their households and society. These are the kinds of domestic violence described in the domestic violence laws.

A. Sexual Violence or Abuse:

“Sexual abuse includes any conduct of a sexual nature that abuses, humiliate, degrade or otherwise the dignity of the vulnerable or any other person.”

The definition of sexual abuse or violence is very comprehensive. It includes in it every person who lives in the boundary wall of a house. If he or she faces sexual abuse from other family members like if a daughter or wife is living with her mother in the house of her step-father and she faces sexual abuse from the children of the step-father or from the mother’s husband himself, it will be considered as a sexual abuse and which will be pursued in the court of law as a major crime. The law secures the dignity of the daughter and also Islam considers it Zinâ, and it is a harsh type of crime because Prophet ﷺ said that the zinâ with your neighbor’s wife is a greater sin than

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2 Al- Sajastânî, Abu Dawood Sulaiman bin Al Ashas, Sunan Abî-Dâwood, VOL.2(Beirut, Al Maktabah Al Esriyah N.D),182.
3 Al Qazvînî, Ibn-e-Mâjah, Abu Abdullih Muhammad bin Yazîd Sunan, Ibn-e-Mâjah, VOL2(Halab, Dâr Ehyââ Al Kutub Al Arabîya N.D), 1022
you kill your own son in the fear of hunger so how one can commit this crime with a girl which is living with him in a domestic relationship.⁴ Allah says:

وَلاَ يَزِمُّونَ وَمَن يَفْعَلْ ذَلِكَ يُلْقِ إِلَى الْعَذَابِ الْحَيَاةَ وَيَلْعَبُ فِيهِ مُهَانَٰةً مِّنْ تَابٍ⁵

“And do not commit unlawful sexual intercourse. And whoever should do that will meet a penalty. Multiplied for him is the punishment on the Day of Resurrection, and he will abide therein humiliated. Except for those who repent”

Allah almighty clears the punishment of the perpetrator of this sin by the Holy Prophet ﷺ and Prophet ﷺ ordered to companions when.

رُجُلٌ مِنم أَسْمَمَ أَتَى رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيمهِ وَسَلَّمَ، فَحَدَّثَهُ أَنَّهُ قَدَمَ زِنَا، فَشَهَّدَ عَلَيْهِ أَرْبَعَ شَهَادَاتٍ، فَأَمَرَ بِهِ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيمهِ وَسَلَّمَ فَرُجِمَ، ⁶

“A person who was in believers came to Holy Prophet ﷺ and said that Zina has been committed by him, the Holy Prophet testified these words to him four times and ordered his companions to punish him with stones till death.”

This is the punishment which is declared by Islam for the perpetrator who commits zinâ or commits sexual violence with the daughter of his wife from ex-husband. On the other hand, if the perpetrator of zinâ is unmarried he will be punished with lashes. Allah Almighty says:

الزَّانِيَةُ وَالزَّانِي فَاجْعَلُوا كُلَّ وَاحِدٍ مِنهمَا مِئَةَ جَلمدَةٍ ⁷

“The [unmarried] woman or [unmarried] man found guilty of sexual intercourse - lash each one of them with a hundred lashes.”

Islam does not allow any kind of sexual violence committed on the women not only inside the household but also outside the home and Islam protects the woman’s dignity and self-respect at any cost. Not only for women but children which are also included in the term sexual violence, Islam also protects them in a better way, and for the perpetrator who commits sexual violence against male children, Islam suggests them a very harsh punishment, so Prophet ﷺ said:

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⁴ Al-Nusân, Ahmad Sharif, Fatâwa Al Shari’ah
⁵ Al-Quran 25: 68,69,70
⁶ Al Bukhari, Muhammad Bin Ismail, “Sahih Al Bukhari” Kitab ul Ḥudod, VoL.8 (Al-Najât, Dâr Ṭauq.1422 A.H),165
⁷ Al-Qur’ân 24:2
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“Whoever you find doing the deed of the people of Lot, kill the doer and the subject of it”

Islam openly clears its view against sexual violence and describes its opinion against sexual abuse but on the other hand, the second thing which is trying to be added in the term of sexual violence by a feminist approach is the relationship of husband and wife in their private life. The feminists say, if a husband comes to his wife’s bed without her consent, it is considered “Marital Rape” and they said in the definition of Marital Rape as:

“Spousal sexual abuse is a form of domestic violence. When the abuse involves threats of unwanted sexual contact or forced sex by a woman's husband, it may constitute rape, depending on the jurisdiction, and may also constitute an assault.”

Islam totally condemns these types of hypothesis and do not consider it at all rather Islam considers it as violation of the rights of husband. The Prophet said:

“If a woman migrates in the bed of her husband, the angels will curse her until she comes back”

This is the Islamic stance toward sexual violence and Islam does not accept that if the husband wishes to go on the bed of his wife at any time is domestic violence or sexual abuse but this is a right of him.

B. Physical violence or Abuse:

“Physical abuse means all acts whereby physical harm is inflicted upon the vulnerable person as includes all offense under chapters XVI, XVIA, XVII, XX, XXA of Pakistan Penal Code (Act XLV of 1860).”

With the reference to PPC, said chapters lead towards a large number of crimes like murder, beating, wrongful confinement, breaking bones, cutting

8 Al-Shaybānī, Abu Abdillah Ahmad bin Muhammad bin Ḥambal, Musnad Al Imam Ahmad bin Ḥambal, VOL4 (Muasasisah ul Risalah 2001), 464.
the skin, rashes, and even sign of slap is considered as a crime. These types of domestic violence are punishable under PPC. The domestic violence done by the accused on the aggrieved person is prohibited and the law does not allow any person to commit such kind of crime against a woman or a child. The definition of domestic violence tells that the offender of physical violence may be any person who is living in the boundary wall of a house like a father, brother, mother, or any other family member who has a domestic relationship with the victim in a household. It is an acceptable fact that in marital life, many times, it seemed that the in-laws of a woman commit various types of violence against a woman. It has seemed that father or husband has beaten his daughter or wife in a very brutal way, sometimes the result of this brutal act is shown as a broken bone or in the shape of the death of the victim. In different areas of Pakistan, women have faced different types of physical violence. It is reported by the different NGOs and by different law enforcement agencies and the executive departments like the police that in the backward areas of Punjab and Sindh, a woman has faced very serious types of physical violence like acidic attack, breaking of bones, cutting off the skin, and murder, etc.\textsuperscript{11} The domestic violence laws provide protection to women against these kinds of brutal acts of violence, which is very appreciated and was the need of time to maintain the status of women in society.

On the other hand, where Islam gives rights to women as a wife or daughter, there is also some rights for man as a father, guardian, or as a husband. A man is Qawwâm over a woman because he bears all expenses for her, so there are some liabilities for a woman that she has to fulfill these responsibilities. The first liability of a woman is to be obedient to her husband. If she disobeys her husband then Islam gives some rights to her husband to make her obedient but with clear limitations.

\textbf{a) Right of husband:} Islamic Law makes a man Qawwâm over a woman due to his natural abilities and extraordinary responsibilities. That’s why, he has been given some rights to maintain the matters of his house and perform his duties towards his family but with clear limitations. If he has some rights, definitely there is someone who has to provide these rights as his duties. It is the right of the husband that his wife must be obedient to him. If a wife denies to perform her duties willfully and does not obey her husband, in this situation, Islamic Law authorizes a husband to acquire his right to change his behavior and show some kind of strictness  

\textsuperscript{11} Human Rights Watch, Rport 2019 www.hrw.org accessed on 20-02-2022
to settle down the matter but if she does not change and continue her disobedient behavior, then the man has a right to take next step and may punish her slightly according to the Quranic order.

وَالّٰتِىۡ تَخَافُوۡنَ نُشُوۡزَهُنَّ فَعِظُوۡهُنَّ وَاضۡرِبُوۡهُنَّ فِى الَْۡضَاجِعِ وَاضۡرِبُوۡهُنَّ 12

“As for women of whom you fear rebellion, admonish them, and remain apart from them in beds, and beat them”.

This order is even from ALLAH almighty in the situation of Nushooz, and the meaning of nushooz is disobedience of a woman to her husband. First of all, ALLAH almighty says in this verse to leave the bed of disobedient women as a punishment in the first step. And Allah Almighty gave a certain duration for this separation. Then Allah Almighty allowed the husband the second step for the punishment in a very tough situation to beat the wife but with certain limitations. And these limitations are the last step to make a woman obedient. And Quran use the word وَاضۡرِبُوۡهُنَّ. To explain the order of Allah, a companion asked the Holy Prophetﷺ the limit of beating.

فَاضمرِبُوهُنَّ ضَرمبًا غَيمرَ مُبَر ِحٍ 13

“And beat them without excruciating”

It was asked about excruciating غَيمرَ مُبَر ِحٍ from Ibn-e-Abbas R.A, he said:

الضرب غير المبر بالسوال ونحوه 14

“Beat without excruciating with tooth cleaner brush/stick.”

It is prohibited for husband to beat his wife on face and Prophetﷺ said:

وَلاَ تَضمرِبِ الموَجمهَ، وَلاَ تُقَب ِحم، 15

“And do not strike on her the face, and do not slander her,”

The beloved wife of Prophetﷺ Syida Ayesha R.A said:

مَا ضَرَبَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيمهِ وَسَلَّمَ بِيَدِهِ اممرَأَةً لَهُ قَطُّ وَلاَ خَادِمًا 16

“The Messenger of God, may God bless him and grant him peace, never struck a woman nor a servant with his hand”

12 Al-Qur’ân 4:34
13 Al Qushîrî, Muslim bin Al-Hajjaj Abû al-Hasayn, Al-Sâhih Muslim, VOL.2 (Beirut, Dar Ehyââ ul Turâs Al Arî N.D).886
14 Al Zuhailî, Wahbah, Al Tafseer Al Muneer, Al Maktab Shâmîla Al Haditha,57
15 Al- Sajastânî, Abu Dawood Sulaiman bin Al Ashas, Sunan Abî-Dâwood, VOL.2(Beirut, Al Maktabah Al Esrîyah N.D),244
16 Al-Shaybânî, Abu Abdillah Ahmad bin Muhammad bin Ḥambal, Musnad Al Imam Ahmad bin Ḥambal, VOL43 (Muasasisah ul Risalah 2001), 410,
These sayings of Prophet ﷺ clear the limitation of beating a husband to his wife and Prophet ﷺ says that it is the last stage or extreme level where you can go and you can use your right. So, he ﷺ said you can beat your wife only if she becomes disobedient, then he ﷺ cleared, you cannot beat like your action leave the marks on the skin, then a companion of Prophets ﷺ said, it means you can beat your wife with a toothbrush or stick, then he ﷺ said: not to beat her on her face and then the Holy Prophet’s ﷺ wife said, the Holy Prophet ﷺ throughout his whole life did not beat any woman or a servant with his hand.

So the limitation of beating is:

I. The third option is beating the extreme level of disobedient wife
II. Do not beat on the face
III. Maximum size of the stick, which can be used for beating a tooth cleaning brush or stick
IV. Do not beat as it leaves marks on the skin
V. And Holy Prophet ﷺ did not beat any woman with his own hand.

This was the limitation which is clearly said by Islamic law for beating a woman and after this, if she does not become obedient then Islamic Law says, it is enough, grants her divorce, and lets her go on her way. After this, every type of torture is prohibited and considered a crime in law and it is punishable.

b) Rights of father or guardian:

The law of domestic violence provides very clear protection to children and all other family members from violence committed by any person in the family who has dominating position over others. This law creates a clear obstacle and gives full protection to children or those family members who are living in a family atmosphere under the guardianship of stepfather, step Brothers, grandfather, and other family members and does not allow them to commit any type of violence which is prohibited under the law because law thinks it as cruelty and cruel action against anyone is a punishable offense. The beauty of this law is that it is a protection formula for family members especially for children and women.

Islam has authorized a father to protect his children from the bad waves of society and also give them a suitable atmosphere at home for the betterment of their future and brought up civilized people in society. To achieve this goal and to make the children civilized citizens, Islamic law put some responsibilities on the father. Allah Almighty says:
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“O ye who believe! Save yourselves and your families from a Fire”

This is a core and basic order from Allah Almighty which give the notion to save the family members from sins and protection of family members from bad habits and bad society. Then the Holy Prophet ﷺ further interprets Allah Almighty’s order in his great saying which is absolute and universal truth by saying:

کُلُکُمم رَاعٍ وَمسَنُولٌ عَنم رَعِیٮهِ،......وَالرَّجُلُ فِی أَهملِهِ رَاعٍ، وَهُوَ مَسْنُولٌ عَنم رَعِیٮهِ

“All of you are shepherds and each of you is responsible for his flock…..A man is the shepherd of the people of his house and he is responsible.”

These two orders show the importance of the protection of the family and make the father responsible for the education of the family and make them disciplined in the light of Allah’s order. The Holy Prophet ﷺ said:

ما نَحَلَ وَالِدٌ وَلَدًا مِنم نُحملٍ أَفمضَلَ مِنم أَدَبٍ حَسَنٍ

“There is no gift that a father gives his son more virtuous than good manners.”

These sayings of Allah Almighty and Holy Prophetﷺ show the importance of the topic of educating of family and making them disciplined. Islamic Law after showing the importance of this topic provides mechanisms and limitations to what extent a father or guardian can use the powers which are delegated to him by Allah Almighty. Islamic Law provides a mechanism for the education of the family. And Holy Prophet ﷺ said:

مُرُوا أَوملاَدَكُمم بِالصَّلًَةِ وَهُمم أَبمنَاءُ سَبمعِ سِ نِینَ، وَاضمِرُوبُوهُمم عَلَیمها وَهُمم أَبمنَاءُ عَشمرٍ،

“Command your children to pray when they become seven years old and beat them for it (prayer) when they become ten years old”

This order of the Holy Prophetﷺ is used as a piece of evidence to establish the hypothesis that for the betterment of a child or any other family member, he can beat a child. But then the Islamic jurists have described the limit of this beating in their work which they obtain from different Islamic texts.

Al Qâhastânî Said:

18 Al-Bukhri Muhammad Bin Ismail , “Sahih Al Bukhari” , VoL.2 (Al-Najât, Dâr Tãaq.1422 A.H), 31
19 Al-Tirmazî, Muhammad bin Eisa abu Eisa, Sunan Al-Tirmizî, VOL.3(Beirut, Dâr ul Gharb Al Islamî, 1998), 402.
20 Al- Sajastânî ,Abu Dawood Sulaiman bin Al Ashas, Sunan Abî-Dâwood, VOL.1(Beirut, Al Mactbah Al Esriyah N.D), 133
“Meant by beat is with hand not with stick.”

In Fāwa Shami:

“No more than three strokes”

The Prophetﷺ said:

“If one of you is hit, let him guard his face”

The Prophetﷺ said:

“Hung the whip where the people of the house could see it; it is for their discipline”

This order of the Holy Prophetﷺ shows the importance of discipline and how it is necessary to make them educated and gentle-mannered.

There is some special discrimination which is granted by Islamic law to the parents to make the children disciplined and educated. If a father beats his child and crosses limits, and beats brutally like he breaks his leg or his arm or he kills his own child. Islamic law does not punish the father as Qisâs but the state can punish him under Tazîr and may give him a sentence of several years as the judge thinks fit or as the state declares in its law manuals because there is a jurisprudential principle near the majority of jurists (Jamhoor):

“The fatherhood prevents the retribution”

But fathers can be punished under Tazîr by State according to its law manuals.

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23 Al- Sajastânî, Abu Dawood Sulaiman bin Al Ashas, Sunan Abî-Dâwood, VOL.2 (Beirut, Al Maktabah Al Esrîyah N.D),574

24 Al Hâfiz Ibn e Asakir Abu ui Qâsim Al Shâfî, Tarikh e Damascus, Vol.46 (Beirut, Dâr ul fikr 1995),341

25 Ibn e Aâbidîn, Muhammad Amîn Bin Umar, Radd ul Mukhtâr, Vol 4 (Beiru, Dar Al-Kotob Al-Ilmiyah 1992),534,

26 Al Mâwardî, Abu Al Hasan, Al-Ahkâm al-Sultania w'al-Wilâyat al-Diniyya, (Beirut, Dar Ul Fikr, 1992) ,230
These are the limitations of punishment that can be given to the children to make them disciplined and to educate them. This order and limitations are for both father and guardian. If the father and guardian go beyond the limitations and if they beat their children brutally, they can be accountable by law under Tâzîr.27

C. Economic Abuse;

“Economic abuse has been recognized as domestic violence under all three laws in Pakistan. Punjab defines it as “denial of food, clothing, and shelter, in accordance with the defendant’s income” or “taking away the income of the aggrieved person without her consent.” Sindh and Baluchistan define it as “deprivation of economic or financial resources or prohibition or restriction to continue access to such resources which the aggrieved person is ordinarily entitled to.” The laws against domestic violence also provide protection to a woman in terms of economic violence. The definition of economic violence shows that it is a type of violence in which a woman faces the deprivation of food, clothes, and shelter, and these laws protect the economic rights of a woman and provide a remedy in case of her deprivation. There are many cases that come to the practice of courts where women sue their husbands for the acquisition of their economic rights. So these laws emphasize the provision of economic rights for the women who are entitled to.

Islamic Law also provides the same rights to every woman who is living with a man in a domestic relationship within the household and says to man that it is his responsibility to provide clothes, food, and shelter to a woman in a gentle way according to his means but if a man fails to do so, the Islamic Law provides the remedies or Islam gives some extraordinary rights to a woman for completion of her rights. So Allah Almighty gives the order to man for the provision of economic rights as:

\[\text{اَسْكَنْنِهِنَّ مِن حَيَّةِ سَكَنَتُمْ مِنَ وَجِيبِكُم}^{28}\]

“Let the women live (in ‘iddat) in the same style as ye live, according to your means.” This verse of the Holy Quran comes for the matter of a woman who is a divorcee, but if Allah Almighty may give this order for the woman who got divorced and who is in the Iddat period, so the woman or the wife who is

27 Al Anbābī, Shams ui Din, Muhammad bin Muhammd, Risālah Fī Riyazatis sibiyan, (Bereiut, Dārul Bashâr al Islamia, N.D), 42.
28 Al-Qur’ān 65:6
living with her husband is more entitled to give the right of shelter in a gentle manner.\textsuperscript{29}

Allah Almighty gives another order to provide food and clothes in the holy Quran for the protection of the economic rights of a woman and said it is the responsibility of a man to provide food and clothing to the woman or wife who is living with him in a domestic relationship as:

\begin{quote}
لِيُنمفِقم ذُو سَعَةٍ مِنم سَعَتِهِ ۖ وَمَنم قُدِرَ عَلَيمهِ رِزمقُهُ فَلميُنمفِقم مِمَّا آتَاهُ اللَّهُ
\end{quote}

“Let the man of wealth provide according to his means. As for the one with limited resources, let him provide according to whatever Allah has given him.”

وَعَلَى ٱلْمَوملُودِ لَهُۥ رِزمقُهُنَّ وَكِسموَتُهُنَّ بِٱلْمَعمرُوفِ

“But he (father) shall bear the cost of their food and clothing on equitable terms”

This verse of the Holy Quran describes the rights of the woman who is feeding to her child but this order is not only for the woman who is feeding but is implied for whole women, who are living in domestic relationships with her husband. So this order of Allah Almighty is further clear by the saying of the Holy Prophet ﷺ where he says:

وَلَهُنَّ عَلَيمكُمم رِزمقُهُنَّ وَكِسموَتُهُنَّ بِالْمَعمرُوفِ

“It is your obligation towards women to provide them food and clothing in a gentle way”

So the economic rights which are provided by the domestic violence laws are same like that Islamic law and there is no difference because Islamic law also emphasized to provide these rights to a woman or wife for fulfillment of her needs. So Islamic law gives some rights to a woman because Holy Prophet ﷺ says:

جَاءَت هِنمدٌ بِنمتُ عُتمبَةَ، فَقَالَتم: يَا رَسُولَ اللَّهِ، إِنَّ أَبَا سُفميَانَ رَجُلٌ مِس ِكٌ، فَهَلم عَلَيَّ حَرَجٌ أَنم أُطمعِمَ مِنَ الَّذِي لَهُ عِيَالَنَا؟ قَالَ: لاَ، إِلاَّ بِالْمَعمرُوفِ

“Hind bint `Utba came and said, "O Allah's Messenger (ﷺ)! Abu Sufyan is a miser so is it sinful of me to feed our children from his property?" Allah's
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Messenger (ﷺ) said, "No except if you take for your needs what is just and reasonable."

In another book there are clearer words of Holy Prophet ﷺ, the Holy Prophet ﷺ says:

خُذِي مِنم مَالِهِ بِالْمَعمرُوفِ مَا يَكمفِيكِ، وَيَكمفِي بَنيكِ

"Take from his property what is customary which may be sufficient for you and your children."

Islamic law provides these rights to a woman until she is obedient to her husband and does not commit any type of Nushooz and she is fulfilling her marital duties which are obligatory on her by Allah Almighty. If she disobeys her husband or refuses to fulfill her marital duties then Islamic law allows a husband that he can refuse to pay her economic duties which are obligatory on him by Allah Almighty. So Ibn-e-Qudâmah said:

فَمَثَى امتنعت مِن فَراشِهِ، أو خرجت مِن منزلِهِ بِغير إذنِهِ، أو امتنعت مِن الانتقال مِعَهِ إِلَى مَسكنِ مثَنى، أو مِن السفر مِعَهِ، فَلا نفقة لِبا وَلا سكنِي، فِي قول عامة أهل العلم: منهم: الشعي، وحماد، والمالك، والأوزاعي، والشافعي، وأصحاب الرأي، وأبو ثور.

When a woman refused to go on her husband's bed or she went outside the home without his permission or she refused to re-shift on a new place or in a new house or she refused to travel with him, in this condition woman is not entitled to any type of maintenance by her husband. A great number of jurists are strongly agree with this statement.

This is the only condition when a husband can refuse to pay maintenance to a woman but on the other hand, if a husband willfully refuses to pay the maintenance and is not ready to fulfill his duties then the wife has the right to go the court to ask his right, the court may force to husband to fulfill of his duties. But if a person is unable to pay maintenance then a wife has the right to seek separation degree from court. Ibn-e-Qudama said:

أَن الرجل إذا مَنَع امَرَأته النَفقة لعَسرته وَعَدم مَا يَنفقه فَأنَلَّتْ مَنْهَيْهِ بِنِعْمَةٍ بَينَ الصر.

"If a man does not pay the amount of maintenance of a woman, the woman has the right to show patience or to get a divorce."

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34 Al Qushîrî, Muslim bin Al-Hajjaj Abû al-Hasayn, , Al-Sahîh Muslim, VOL.3 (Beirut, Dar Ehyââ ul Turâs Al Arbî N.D),1338
35 Ibn-e-Qudâmah, Muwafiq ul Din, Al Mugnî, vol 8,( Beirut, Dar Al-Kotob Al-Ilmiyah ,1995), 236
36 Ibn-e-Qudâmah, Muwafiq ul Din, Al Mugnî, vol 8,( Beirut, Dar Al-Kotob Al-Ilmiyah ,1995), 236
This is the protocol of Islamic Law for the protection of woman’s rights in a situation of economic violence.

D. Emotional, Psychological, and Verbal Abuse:

The domestic violence laws also restrain the violence against women which is committed by a man in terms of emotional, psychological, and verbal abuse. In this type the domestic violence, laws describe different types of abuses which a woman faces in her household from her life partner or from the other persons of a family who are living with her in a domestic relationship. There are types which are described under this violence;

a) The threat of divorce and second marriage: No doubt the threat of second marriage or divorce creates psychological pain and tension so this is maybe a kind of domestic violence. But according to the law, these are the special conversation between husband and wife and this conversation cannot be accountable under law. However, morally it may be considered as a threat but not should be accountable in the eyes of the law. The threat of divorce or second marriage to a woman may cause psychological harm to a woman and may affect the abilities of a woman. So morally the threat of divorce or second marriage to a woman is not allowed. However, Islam advises both husband and wife to live in a gentle manner and in a humble and peaceful environment. So Allah says:

37 Al-Qur’ân 4:19
38 Ibn-e-Mâjah, Abu Abdullah Muhammad bin Yazîd Al Qazvînî, Sunan Ibn-e-Mâjah, VOL.1,(Halab, Dâr Ehyââ Al Kutub Al Arabiya N.D), 636

In a saying of Holy Prophet ﷺ:

خیرکم خیرکم لاهله، وانا خیرکم لاهلى

“The best of you is the one who is best to his wife, and I am the best of you to my wives.”

So to be a rued or threat giving p all the time is an immoral act but as law, it is a debate able thing because Allah Almighty gave an example in Holy Quran in this matter, when the wives of the Holy Prophet ﷺ were demanding something to Holy Prophet ﷺ and He ﷺ became sad and separated himself from the wives, this separation continued till one month then Allah Almighty send this verse as warning or threat for betterment or for improvement of their marital relationship and Allah Almighty says:
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بياتي النبّي ﷺ فل لرزاوجتك إن كنت رذد الأحياء الدنيا وزينتها فتعالين أمتخفين وأسرحكذ سراحًا جميل

“O Prophet, tell your wives: “If you seek the world and its embellishments, then come and I will make some provision for you and release you in an honorable way.”

This saying of Allah Almighty shows that a threat or warning may be given to the wife for the betterment of the marital relationship but not all the time and only to teas them.

b) Bringing false allegation on the character of a female: Bringing a false allegation on a woman's character to damage her dignity and self-respect is a serious crime in law and in Islamic law also. Islam does not entertain this type of act in a normal way but also announces the harsh punishment for the person who put any false allegation on a good character’s woman to save her self-respect and dignity. So Allah Almighty says:

وَالَّذِينَ يَرممُونَ الْمُحمصَنَاتِ ثُمَّ لَمم يَأمتُوا بِأَرمبَعَةِ شُهَدَاءَ فَاججلدوهُمم ثَمَانِينَ جَلَدَةً

“As for those who accuse chaste women and do not bring four witnesses, strike them eighty lashes.”

This is the Islamic way to treat the person who brings false allegations. But if this allegation is brought by the husband Islam gives another way to deal with this matter in a humble way without violence and gives the method of “Liaān” that if the husband put an allegation on her wife and he is unable to prove it by witnesses then he must go to the front of a judge and adopt the Liaān method, the judge will take the oath from husband four times that his allegation is true and on fifth time he will say that if he tell a lie then he will deserve the curse of Allah and likewise the judge will take oath from wife four times that he is telling a lie and fifth time she will say that if he speaking truth, she will deserve the curse of Allah then the judge will separate them and their marriage will be canceled. But violence is not allowed.

c) Willful or negligent abandonment: to ignore the wife willfully or neglect her for the purpose of teasing her is an unlawful act by these laws. These laws stop a husband that he should not neglect his wife willfully only for the purpose of torture and creating psychological tension for her. Islamic law also disliked this type of act and advised to husband to live with her in a gentle way and in a peaceful environment if she is an obedient wife and she is fulfilling her necessary and obligatory marital duties imposed on her by Allah Almighty. If a person willfully neglects his wife without

39 Al-Qur’ān 33:28
40 Al-Qur’ān 4:4
41 Al-Qur’ān 24:6,7,8,9
any reason and she is an obedient wife then Islamic law gives the right to the wife that she can get a separation decree from the court.

But if the wife does not obey her husband and does not fulfill her marital duties which are imposed on her by Allah Almighty then the husband has the right to create some psychological tension by separation of bed or willfully neglect to her for the betterment of marital life. Allah Almighty says:

وَالَّاتِي تَخَافُونَ نُشُؤُوهُنَّ فَعِظُوهُنَّ وَاهمجُرُوهُنَّ فِي الْمَضَاجِعِ ٤٢

“As to those women on whose part you see ill conduct, admonish them, and abandon them in their beds.”

Islamic law allows a husband to create some psychological or emotional tension when his wife shows negligence on her part or she becomes disobedient to her husband in fulfilling her marital duties which Allah Almighty imposed on her.

2. Ejection of Aggrieved Person From his Own Property:

The ejection of a person from his own property is not allowed in any law in the world. There is no example that can tell that a person can be deprived of his own property for his sin or for his crime. It is seen that if a person commits a crime, he can be sent to jail but he cannot be ejected from his property. “The Universal Declaration of Human Rights says: Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property.” ٤٣ So the ejection or deprivation from the property is a violation of basic human rights.

In the case of family law, it is seen in Western societies if a person is accused of some kind of violence against his family members, he took away from his own property for a certain period of time, and he cannot enter his household in that certain period if he tries to enter in his own house, he is considered as criminal and he will face serious legal action. ٤٤ And also Islamic law says about this that:

الأموال المملوكة: وهي الأموال التي لا تخرج من ملك صاحبها إلى غيره، إلا بسبب شرعي، كالتراث، والوصية، والهبة، والشفاعة، والعقد، وغير ذلك ٤٥

that no one can be deprived of his own property without the reason said by Islamic law like inheritance, will, gift, suffice, contract, etc.

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٤٢ Al-Qur’ān 4:34
٤٣ Article 17, Universal Declaration of Human Rights,1948
٤٥ Al-Zuhîlî, Wahbah, Fiqh ul Islami wa Âdilatuh, vol 6 (Syria, Dar ul Fikr N.D), 591.
Islamic law sees this matter in a different way and does not eject any person from home. If some kind of dispute arises among the family, Islamic law orders both husband and wife that they should resolve this matter with consensus but if they are unable to reach any point, they can appoint arbitrators from both sides. One arbitrator is from the side of the wife and the other is from the husband and they should settle their matter with the method of arbitration.\textsuperscript{46} If arbitrators of both sides felt that this matter cannot be settled down by their struggle, they will separate them in a gentle manner but no one of them will be ejected from their house as a result of despite.

If the aggrieved persons are parents according to the law, then what would happen to parents in the matter of ejection from home? Islamic law has a clear provision in this regard and gives special immunity to parents and Holy Prophetﷺ said when a person comes to himﷺ and complained about his father:

يَا رَسُولَ اللَّهِ إِنَّ لِي مَالًا وَوَلَدًا وَإِنَّ أَبِي يُرِيدُ أَن يَجْنَاحَ مَالِي

Then Holy prophetﷺ said:

فَقَالَ أَنِمَّتَ وَمَالُكَ لأَبِيكَ

“O Messenger of Allah, I have wealth and children, but my father wants to take all my wealth.” He said, “You and your wealth are for your father.” So this order of the Holy Prophetﷺ shows the authority of the father over his children. The ejection of parents cannot be made on behalf of children.

3. To Wear Ankle or Wrist Bracelet GPS Tracker:

Dr Imran Ahsan Nyazee explained the issue of wrist bracelet GPS trackers which have been made compulsory to ware for the offender of domestic violence. He said “The law envisions compulsory wearing of ankle or wrist bracelet GPS tracker for offenders of violence which appears to be quite innovative. But again, the issue which needs to be analyzed from the Constitutional perspective is whether by doing so his personal liberty is not jeopardized or compromised. The State can inflict punishments on offenders but they should not be inhuman and against the dignity of the culprits. Let us go beyond the constitutionality of this provision and refresh our minds that the same mechanism of wearing wrist bracelets GPS trackers was contemplated for suspected terrorists sometime back. Have we achieved our goal and made all the suspected terrorists wear such bracelets? If that target

\textsuperscript{46} Al-Quran 4:35
\textsuperscript{47} Ibn-e-Mâjah; Abu Abdullih Muhammad bin Yazîd Al Qazvînî, Sunan Ibn-e-Mâjah, VOL.2.,(Halab, Dâr Eḥyâā Al Kutub Al Arabîya N.D), 769
is still crying for its execution, how would it be implemented in a familial sphere is a question worth considering”. 48

So according to Islamic law scholars, the wearing of a wrist bracelet GPS tracker is a violation of fundamental human right because nowadays human is free no one can be restricted from his freedom and his dignity. The wearing of GPS tracker on a human being is trying to make him a slave which is not admissible and against human rights. It is not the solution to solve the family matters but this act may create more tension between the family and after this type of restriction the family cannot remain united and the separation of family is possible. This separation of family cannot be the ultimate solution to conflicts in family matters at all.

4. Privacy of Home and Mandate of Protection Committee:
Section 15 of the Punjab Protection of women act describes the power of the protection officer to enter the home. The law says: “The District Woman Protection Officer or a Woman Protection Officer, at any time, enter in any place or house for the purpose of rescuing an aggrieved person but such official shall not rescue the aggrieved person without her consent.” This law is affecting the privacy of households which is granted by the constitution of Pakistan as well as by Islamic law where no one can interfere with or demolish the privacy of households in Pakistan. The protection of households is considered a fundamental right of Pakistani citizens. 49 Nobody is allowed to enter the boundary wall of a house without the permission of the master of the house and it was also safeguarded by the law of Pakistan where even the police department is not allowed to enter a household without permission, and without a special warrant of court but here a protection officer can easily enter in the household without permission of the house-master. 50 In this situation, there is a great possibility exist that this law may miss use by the officials and authorities.

Where the Islamic law, does not allows to any person to enter in a house at any cast without the permission of master of the house because Allah Almighty says:

48Nyazee, Imran Ahsan “Punjab Protection of Women Law: (Cicago, An Appraisal Publisher 2020)
49 Article 14, Constitution of Pakistan
50 Section 102(3), 103(1), Code of Criminal Procedure,1898
51 Al-Qur’ân 24:27
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“O you who have faith! Do not enter houses other than your own until you have announced [your arrival] and greeted their occupants.” Then in next verse Allah Almighty more clear the matter and says:

فِإِنَّ لَمْ تَجِدُوا فِيهَا أَحَدًَۏا فَلَٰ تَدمخُوهَا حَتَّىٰ يُؤمذَنَ لَكُمم ۖ وَإِن قِيلَ لَكُمُ آرمِجِعُوا فَٱرمِجِعُوا

“Then, if you do not find anyone therein, do not enter until you have been given permission, and if you are told to go back, you should go back.”

Islamic law, even does not allow to anyone to make a sight in to the household. The Holy Prophet ﷺ said:

لاَمَ اَنَّ امِيرَ اَطَّلَعَ عَليْكَ بِغَيْمَرِ إِذ منٍ ۚ فَخَذَفَمَتَهُ بِحَصَاةٍ ۖ فَفَقَأَمَتَ عَيمنَهُ ۚ لَم يَكُنْ عَليْكَ جُنَا

“If a person were to look at you without permission, and you took a pebble at him and puffed out his eye, it would not be against you.”

The whole practice which is described by Holy Quran is to protect and maintain the sanctity of the boundary wall of the household. But the Islamic jurists say if a person commits a crime of a very serious nature and is hidden in a house then Walîy ui Amr may enter the house in the public interest to remove the sin and for maintenance of peace but crime should be very harsh nature like murder, zina. In our today situation, the judge is performing this duty.

The mandate given to the protection committee is also questionable because Islamic law did not obtain such type of measures to resolve family disputes. And Islam goes to another way which is called Taḥkîm. Allah says:

فَآبِعْنِوَا حَكِيْمًا مِن أَهْلِهِ ۖ وَحَكِيْمًا مِن أَهْلِهَا

“Appoint a mediator from his family and another from hers.”

According to this order, Allah Almighty orders to appoint two mediators from both sides which are from their families, one from the family of the husband and the second from the family of the wife. That's why they can understand the family matters of both sides easily in a better way and if they reach some conclusion they will give some better outcome of this mediation, but Islam does not allow such type of practice which is done by the government in the shape of protection committee which is maybe headed by a man or woman which can easily enter in the household to demolish the privacy of family and home and maybe it gives very dangerous result for the family life.

52 Al-Qur’ân 24:28
54 Al-Māwardî, Āhkâm ui Sulṭāniyah, (Beirut, Dār ul Kutub Al Ilmîya N.D)314
55 Al-Qur’ân 4:35
Conclusion:
After the comprehensive study of Islamic law in the context of domestic violence, it is clear that Islamic law does not permit any kind of domestic violence in the family sphere. Islamic law permits the husband or the guardian to make his family members disciplined and educated so that he take some necessary steps in a humble way and in a gentle manner but he is not allowed to commit any type of violence in the name of discipline or education of children, wife, and other family members which will be lead to cruelty and immoral behavior. So these laws pointed out some important issues about the behavior of husbands and guardians toward the family members and wives. But, there is also a need to reconsider these laws according to Islamic teachings because Islam is a national way of life, and Islamic teachings are fully observed in the daily life of Muslim society. So, it is needed for a society that these laws must be part of society for the protection of women and children from the cruel behavior of their guardians, husband, and other family members if they commit. When we reconsidered these laws according to the teaching of Islamic law, the Western version and Western thinking will remove from it, then implementation of these laws will be very easy for government and society and Islamic scholars may adopt these laws as protection of family and woman rights.

Findings:
It is said that when Allah Almighty has made a man equal with no discriminatory aspects then there must should be the recognition of such laws by which man and woman keep their safety and defend their well-being, so that there should be a balance in the society. There is a need for respect and integration among all sections of society. In the Islamic way of thinking, importance is primarily given to human communities, their integrity, security, welfare, and progress. There is no doubt that the existence of a law is by itself advantageous to actions under it, in a sense that, although it might have been possible to bring such an action under another law or the general law. It is the need of the time that Domestic Violence Laws should be implemented for the safety of woman’s rights. It must be noticed that the issue of domestic violence being committed on pseudo-Islamic grounds must be eliminated. To ensure the protection of the family system the guidelines of the constitution must be observed as it is a core concern of the Constitution of Pakistan. Subject to the constitution, full implementation of the relevant
provisions of the CEADW and other Declarations that ensure the woman’s rights and the whole family member is necessary. The Islamization of Domestic Violence Laws in Pakistan is inevitable. The formation of a protection committee for the solution of family matters is against the injections of Islam and the mandate given to this committee violates the orders of the Holy Qurân, it should be in line with the teachings of Islam. The matter of the ejection of the accused from home and putting GPS tracker to make him away from the boundary wall of his home should be reconsidered, in line with the constitutional commands and international human rights law.