



Exploring the Intersection of Gender, Victimization, and Criminalization: A Critical Analysis of Legal Frameworks

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Abstract

In our civilization, we face numerous injustices. Some of these behaviors are essentially unacceptable, particularly those directed at women. These are classified as crimes, along with rape, dowry killings, mistreatment of wives by husbands or relatives, and so on, and they must be punished because of the nature of the offenses. There is continuing debate over whether or not to criminalize a variety of other behaviors and places, including prostitution, abortion, attempted suicide, and others. There are other types of wrongdoing as well, such as cybercrime and sexual offenses in public service that is highly serious yet do not fall under the criminal definition. Therefore, certain grave crimes such as rape, dowry deaths, assaults, or other forms of criminal force against women, the sale or purchase of young girls for prostitution, and cruelty committed against women by husbands or relatives of such husbands are already included in our Pakistan penal code. However, other serious crimes such as cybercrime and sexual harassment in public places are not. Therefore, the purpose of this paper is to determine which wrongdoings against women should be classified as crimes and punishable by law, as well as whether the penal code over-criminalizes these offenses and whether other wrongdoings should also be classified as crimes.

Keywords: Women, Crimes, Punishment, Injustices, Sciences

Introduction

Gender-based inequality and patriarchal systems have long been the source of women's victimization. Women were not well protected by early legal systems, and

Social norms encouraged a culture of silence on gender-based violence. As societal attitudes changed throughout time, legal frameworks changed to identify and prosecute specific types of violence against women. But as legislation grew, worries about over criminalization surfaced, raising difficulties about the unforeseen

ramifications of using criminal penalties to deal with complicated social problems. Research has repeatedly shown how difficult it is for women to access the criminal justice system and seek justice. Inadequate support services, institutional biases, victim-blaming, and other obstacles can discourage survivors from coming forward with information about incidents or filing lawsuits. The over criminalization lens examines whether the legal system unintentionally supports a punitive strategy that does not address the underlying causes of gender-based violence or offer complete support in its effort to combat it. Academic criticisms of over criminalization focus on the detrimental impacts that it may have on underprivileged populations, contending that the criminal justice system may make already-existing disparities worse. Over-reliance on punitive measures has the potential to exacerbate cycles of violence and further isolate already vulnerable people, rather than addressing the socio-economic and cultural issues that contribute to victimization. In order to address gender-based violence, some academics suggest alternative frameworks including restorative justice and community-based treatments. Instead of overly criminalizing behavior, these strategies place an emphasis on community support, rehabilitation, and addressing the underlying causes of violence in order to break the cycle of violence and prevent re-victimization (Ashworth, 2007).

There are primarily two kinds of wrongs in contemporary society. One is wrong in private (civil wrong), whereas the other is wrong in public. Individuals' interests are impacted when there is a private wrong.

People can choose to pursue an activity or not. However, when a public wrong occurs, the interests of the entire community are impacted. Public wrongs are crimes. They are wrongs to the public in the sense that they are wrongs to the community, regardless of whether the reason is social instability or fear-inducing, a breach of community values, or a violation of local law (Lamond, 2007). Grant Lamond, however, contends that the punishment of criminals is the collective responsibility of the community, not just because the public finds them wrong. The community is not the victim in a crime; rather, it is the proper entity to file charges and administer punishment. Therefore, the state should penalize crime. The question now is which wrongs are punishable by the state? Not every act of wrongdoing calls for punishment, even if all wrongdoing is guilty behavior. Therefore, the only wrongs that are subject to punishment are those that are gravely blameworthy due to their disregard for the value that was violated. Furthermore, the state will only penalize them when they transgress fundamental principles (reasonably grave wrongs). Therefore, "crimes are a subset of wrongs that are usually punishable. This broader category consists of those culpable transgressions that show disregard for the principle breached, as they indicate a failure to follow the principle adequately at the time of the transgression. The condemnatory force of conviction in the name of the community as a whole, however, limits the state's interest to the more serious type of such crime (Michalowski, 2016)

2. Objectives:

- Examine and evaluate trends of victimization related to gender in the criminal justice system.
- Examine the ways that gender affects both the chance of being a victim and the criminal justice system. Analyze how current legislative rules affect the criminal justice system's gender-based power relations and how they are challenged.
- Examine how legal systems contribute to or diminish discrimination and inequality based on gender. Examine how, in the context of victimization and criminalization, gender intersects with other variables including race, class, and sexual orientation.
- Determine the ways in which these overlapping identities influence people's interactions with the legal system.
- Evaluate how the courts, law enforcement, and prisons respond to victimization instances that are particular to a woman's gender.
- Analyze how well the current victim assistance programs are able to meet the particular requirements of victims who identify as gendered.
- Compare and contrast different worldwide legal strategies for dealing with the criminalization and victimization of women.
- List the finest practices and lessons discovered from throughout the world's legal systems.
- Examine how the general public views and is aware of the criminalization and victimization of women.

- Examine the potential impact of societal perceptions on legal reactions and the overall effectiveness of current structures.

THE NOTION OF OVER-CRIMINALIZATION

Justification is necessary for punishment; that is, when someone is punished for a wrong, the penalty must be justified by the wrong itself, and only grave wrongs can do this. However, this does not make it acceptable to penalize a criminal for less serious offenses, such as more serious ones. Therefore, crimes ought to be categorized, that is, more serious crimes ought to be set apart from less serious ones. One infraction alone is insufficient since it could lead to over criminalization. Therefore, when offenders receive the same punishment for less serious offenses as they do for more serious ones, over criminalization takes place. Thus, the penalty and the wrong must be closely related or proportionate. The same standards should apply to crime and punishment (Malik, 2017).

CRIMINALIZATION IN PAKISTAN PENAL CODE

As I previously mentioned, certain offenses are already classified as crimes against women under our penal code, and those who commit these crimes risk punishment because they include major or grave offenses. The following offenses are included in the Pakistan Penal Code as crimes against women, and they are punishable.

1. Rape (PPC Sections 375 and 376)

- The Pakistan Penal Code, Section 375, lists rape as a crime. Sexual contact with a woman against her will and without her consent is defined by law as rape.
- The penalties for rape are outlined in Section 376 and include a life sentence or a term of up to 25 years in jail, with a minimum of 10 years.

2. Kidnapping and Abduction (Section 359-369 PPC)

- Section 359 prohibits the act of kidnapping or abducting someone to unfairly restrain them.
- Section 365-B addresses the kidnapping or kidnapping of a woman to force her into marriage or into unlawful sexual relations.
- Section 366- A addresses a woman's kidnapping for forced marriage (Garimella, & Jolly, 2017).

3. Domestic Violence (Protection of Women) Act 2012:

- This legislation offers women legal defense against domestic abuse. Abuse in any form physical, emotional, psychological, or financial is included.

4. Honors Killing (many parts)

- Honor killings are covered by laws in the penal code. It is illegal to kill someone to uphold family honor. Over time, the legislation has been reinforced to discourage honor killings.

5. Acid Attacks (Section 336-B PPC)

- Section 336-B prohibits the deliberate and illegal hurling of acid at another person. The penalty consists of a fine, life in jail, or a maximum of 14 years in prison.

6. Sexual Harassment (Section 509 PPC):

- This section covers the offense of disparaging a woman's modesty through words, gestures, or actions that are meant to do so.

7. Child Marriage Restriction Act of 1929:

- This law forbids children from getting married; however, it does not specifically target women. It has to do with shielding young girls from coerced and early marriages.

It's important to remember that several factors, including awareness, societal views, and law enforcement, affect how successful certain legal provisions are. It's also possible that changes and modifications to the law have happened since I last updated, so for the most up-to-date information, check the most recent legal resources (Mehdi, 2013).

OVER-CRIMINALIZATION IN PPC 1860:

The Pakistan Penal Instrument of 1860, a legal instrument that establishes the foundation for Pakistani criminal law, is referred to as "PPC 1860". I may offer some general facts if you are talking to the problem of over-criminalization about the Pakistan Penal Code. The term "overcriminalization"

describes the disproportionate or needless criminalization of particular actions, frequently leading to an unduly complicated and onerous legal system. Unintended consequences include the criminalization of relatively minor or non-harmful behavior, overcrowding in jails, and challenges with enforcement may result from this (Faisal, Hussain, & Yasmin, 2024). Within the framework of the Pakistan Penal Code of 1860, excessive criminalization may take various forms:

1. Outdated Laws:

Social standards and values evolve with time, and some actions that were before seen as illegal may no longer be so. The penal code may punish behavior that is no longer deemed harmful or offensive if it has not been amended regularly to reflect these changes.

2. Vagueness and Ambiguity:

Suppose the penal code's wording is unclear or vague. In that case, it may be vulnerable to arbitrary interpretations and application, which could turn actions that were not meant to be criminal into crimes.

3. Lack of Proportionality:

If the punishments for some crimes are excessive in comparison to the harm the activity causes, over criminalization may also take place. Due to this lack of proportionality, relatively minor offenses may receive unduly severe penalties (Khan, & Kanwel, 2023).

4. Criminalization of Personal Conduct:

According to some, crimes should only be punished by law if they seriously hurt other people or society at large. Over

criminalization happens when the law makes small-scale personal behavior illegal. Legal reform might be required to alleviate the over criminalization of some crimes. This could entail removing offenses that aren't essential, updating the penal code regularly to reflect modern society's ideals, and making sure that punishments are appropriate for the harm they inflict. It is noteworthy that the discourse surrounding criminalization is not exclusive to any specific legal framework; rather, it is a part of continuous conversations in legal and policy circles across the globe. To obtain more precise and comprehensive information regarding over-criminalization in the context of the Pakistan Penal Code, it is advisable to speak with legal experts or scholars in Pakistan (Burney, 1999).

Suggestions and Recommendations

The problem of over-criminalization and the mistreatment of women are complicated issues that call for a multifaceted solution. To effectively tackle these concerns, comprehensive measures that uphold women's rights, advance gender equality, and guarantee a just and fair legal system must be put into place. The following suggestions aim to tackle the issue of women being victimized and the notion of over-criminalization:

Encourage the Teaching of Gender Equality:

Include instruction on gender equality in school curricula to promote awareness and comprehension in children at an early age. Put in place educational initiatives that uphold gender norms and encourage equality and respect for people of all genders (Kanwel, Khan, & Usman, 2023).

Boost Legal Defenses:

Strengthen and implement legislation that focuses on crimes against women, such as harassment, sexual assault, and domestic abuse. Encourage tougher punishments for those who commit acts of gender-based violence to dissuade future abusers and make it clear that such behavior will not be accepted.

Promote Services Centered On Survivors:

To guarantee that victims of gender-based violence receive comprehensive assistance, more money should be allocated to support services like counseling, hotlines, crisis centers, and legal aid. Establish training courses for law enforcement and medical personnel to enhance their ability to assist victims and foster a more encouraging atmosphere (Khan, M. I., Nisar, A., & Kanwel, 2023).

Evaluate and Reform Laws:

Examine all current criminal laws in detail to find and address instances of over-criminalization that disproportionately impact women. In order to ensure a just and equitable legal system, work toward the repeal or revision of laws that contribute to the over-criminalization of women.

Empowerment and Community Engagement:

Encourage community involvement to increase understanding of the effects of over-criminalization on women. Promote the creation of neighborhood-based initiatives that give women more clout in the political, social, and economic spheres.

Take Care of Systemic Problems:

Investigate and resolve structural problems in the criminal justice system that lead to the over-criminalization of some actions, especially those that impact women.

Provide judicial, legal, and law enforcement professionals with training programs to increase their sensitivity to and knowledge of gender-related issues.

Investigation and Gathering of Data:

Spend money on studies that concentrate on underrepresented groups to gain a deeper understanding of the underlying causes of victimization and over-criminalization. Enhance data collection techniques to acquire precise and thorough statistics on the incidence of gender-based violence and the effects of over-criminalization.

Global Cooperation:

Work together with global organizations and share expertise to implement global best practices for combating the over-criminalization and victimization of women.

By putting these suggestions into practice, communities, advocates, and legislators may collaborate to build a culture that values women's safety and well-being and maintains a just and equitable legal system that stays clear of the traps associated with over-criminalization (Kanwel, Hassan, & Ayub, 2023).

CONCLUSION

In conclusion, there is a complicated and urgent social issue at the junction of women being victimized and the idea of over-criminalization. The testimonies of women

who have been victims of abuse highlight the critical need for extensive social and legal reforms. In the context of women's victimization, over-criminalization may unintentionally prolong cycles of injustice by burdening survivors excessively and discouraging them from seeking assistance. Lawmakers must reevaluate current laws and regulations to make sure that the rights and welfare of victims are given priority to properly handle this situation. This entails a thorough analysis of the criminal justice system to achieve a balance between the needs of survivors and the accountability of perpetrators. In addition, initiatives must be focused on developing a culture of awareness, education, and empowerment that questions negative stereotypes that support the mistreatment of women. Working together, communities, advocacy organizations, and legal institutions may create a framework that is more responsive and caring. One way society may progress toward a more just and equitable future is by tackling over criminalization and prioritizing the experiences of women in reform attempts. This will ensure that victims are not further alienated by the very structures meant to protect them. We can only hope to create a society that guarantees the security, worth and empowerment of every woman by working together and making a commitment to change.

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