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Feminist Logics as Instruments of Governance: The Politics of Protection in Pakistan

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This paper examines how laws that claim to protect women often function less as safeguards and more as techniques of governance. It argues that two logics, protectionism, which frames women as vulnerable subjects in need of state intervention, and carceral feminism, which frames punishment as the acceptable form of that intervention repeatedly appear in feminist legal reform. The first section defines protectionism as a legal logic and shows how it conditions women's access to protection on moral legibility and dependency. Then for carceral feminism, argues that the demand for safety is routinely translated into penal expansion, where justice is measured through arrests, prosecutions, and sentencing. The second section examines the intersection between protectionism and carceral feminism, arguing that protectionist frameworks and carceral policies operate as mutually reinforcing structures. The third section applies this combined "protective–carceral nexus" to Pakistan, reading Pakistan as a sharp example of how feminist claims are absorbed by the state and redeployed in the language of protection and punishment. The paper ends by asking what this means for feminist strategy going forward.

Introduction

This paper begins with a question that has followed every modern legal reform said to be "for women": When the state says it is protecting women, what is it actually doing? The research question is: "To what extent do protectionist laws and carceral policies, in seeking to protect women, actually reinforce one another in ways that expand state power while limiting women's autonomy?" Law does not just respond to harm: it defines harm, decides whose harm counts, and chooses what "justice" is allowed to look like. That means so-called feminist legal gains can sometimes strengthen the very systems that police and punish women. This is not an accidental side effect, instead it can be seen as the core function. The argument develops in three parts.

"Section One" defines protectionism as a legal logic. It shows how protectionist law rarely treats "protection" as a neutral guarantee. Instead, it sorts women into those who are worthy of rescue and those who are treated as deviant or disposable **(Stybnarova, 2022, pp. 734–736)**. This section

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also draws on feminist theory to show that being "protected" often requires women to appear as injured, vulnerable, and compliant **(Bernstein, 2007, p. 131; Brown, 1995, p. 27)**. In other words, protection is conditional and disciplinary.

The section then turns to carceral feminism, a separate but parallel logic. Where protectionism speaks in the language of care, carceral feminism operates through punishment and penal certainty. Both rely on the authority of the state, but their mechanisms differ: protectionism regulates through supervision, while carceral feminism enforces through incarceration. What begins as an attempt to confront patriarchal power is thus rearticulated within the state's coercive framework. This part traces how feminism's appeal to safety becomes entangled with legal regimes of discipline, revealing how both protection and punishment can serve as instruments of governance rather than liberation.

"Section Two" examines the intersection between protectionism and carceral feminism. The two frameworks create a circuit of care and coercion together. Protection constructs vulnerability while carcerality performs its defense through punishment. This interdependence forms what the paper calls the protective–carceral nexus, where feminist claims for safety are translated into bureaucratic routines of policing, prosecution, and sentencing **(Bernstein, 2007, p. 134; Halley & Kotiswaran, 2019, p. 397; Sweet, 2016, p. 210)**. Within this nexus, law appears to protect, but it governs through control.

"Section Three" applies this framework to Pakistan. This paper reads three moments; the Protection of Women Act 2006, the Anti-Honor Killing Amendment 2016, and the Anti-Rape Act 2021, alongside cases like Qandeel Baloch's murder and the Lahore Motorway rape case. It argues that Pakistan's legal posture toward women is not just "behind" or "patriarchal," which is the usual script. It is something else: a state performance of feminist protection that is only fully activated through punishment, spectacle, and moral control.

The Conclusion reflects on what this means for feminist legal strategy. If protection and punishment are traveling together, then asking for more criminal law might not actually be the path to safety. The aim of this paper is not to say that protection is fake or that punishment is never desired. It's to show how both become tools of governance, and how that governance rearranges what counts as womanhood, injury, and justice.

Methodology

This paper uses a qualitative, interpretive research design grounded in discourse analysis and socio-legal interpretation. The "data" for this study consists of three categories: (1) statutory reforms and legal texts, including the Protection of Women Act 2006, the Anti-Honor Killing Amendment 2016, and the Anti-Rape Act 2021; (2) publicly documented case narratives, including the murders of Qandeel Baloch, the Lahore Motorway rape case, and the Zainab rape case; and (3) media commentary, parliamentary debates,

and state-issued policy documents surrounding these events. These sources were selected as "critical cases" because they function as flashpoints in which feminist discourse, moral legibility, and state authority publicly converge.

The analysis follows a feminist discourse-analytic methodology examining legal texts for their doctrinal content and for the political logics they convey. These include case narratives regarded as state-mediated constructs of injury, respectability, and deviance, alongside media and policy discourse examined for its translation of feminist language into administrative and punitive practices. The interpretive lens is drawn from governance feminism, carceral feminist critique, and postcolonial socio-legal theory. Instead of measuring "effectiveness" or results, the approach traces *how* protectionist and punitive rationalities are produced, circulated, and institutionalized. This methodological approach allows the paper to treat Pakistan's legal reforms as discursive and political phenomena – sites in which feminist claims are processed through the state's classificatory and penal machinery while recognizing that the cases analyzed are representative rather than comprehensive.

Protectionism as Legal Logic

Protectionist legal logics appear wherever the law claims to "protect" women from harm but does so in a way that assumes their dependency and disciplines their conduct. Nicole Stybnarova, writing about migration regimes in both nineteenth-century America and contemporary Europe, makes the point that protection is almost never neutral. It is a sorting device. It draws a bright line between women who are considered worth saving and women who are coded as threats, immoral, or illicit, and therefore subject to containment (Stybnarova, 2022, pp. 734–736). In anti-trafficking campaigns, for example, the rhetoric of saving women from sexual danger did more than signal care. It allowed the state to regulate women's movement, sexuality, and economic choices by labeling some movements "rescue-worthy" and other movements "criminal" (Stybnarova, 2022, p. 739). In other words, "protection" is not just a promise. It is an administrative technology.

Recent legal practice in Pakistan reflects this logic clearly. Human Rights Commission of Pakistan (HRCP) data shows that between 2017–2022, less than **3%** of registered rape cases resulted in conviction, and over **70%** of complaints were either dismissed at the FIR stage or withdrawn due to police pressure. These procedural chokepoints operate as administrative tests of moral legibility where women who fail to meet expectations of "respectability" or "proper conduct" are filtered out before the law even reaches substance.

This basic structure repeats itself in other areas of law. The Stanford Encyclopedia of Philosophy's entry on feminist jurisprudence notes that early twentieth-century "protective" labor legislation for women in industrial work, which was celebrated at the time for preventing exploitation, was also used to keep women out of better-paying night shifts and certain higher-paying sectors in the name of safety. The message was that you may work,

but only under terms the state marks as safe for you. The law acknowledges harm, but only to set the boundaries for how and where women are allowed to appear in public, waged, or semi-independent life (Stanford Encyclopedia of Philosophy, "Feminist Philosophy of Law," 2023).

But Janet Halley warns that when the state picks up the language of feminist protection, it is not simply a borrowing, it is a processing. Feminist ideas of protection get translated into bureaucratic categories that work within existing regulations. "Women deserve to be safe" becomes a list of eligibility screenings, moral judgments and compliance requirements. Instead of gaining autonomy, it becomes the condition on which it is doled out (Halley et al., 2018, pp. 421, 424).

Wendy Brown's work is helpful in explaining what this does to subjectivity. According to Brown, when the law recognizes you mainly through your injury, it builds a political identity that is organized around being seen as harmed rather than seen as capable (Brown, 1995, p. 27). Applied to protectionist legal frameworks, this means women don't access standing as full agents. They access standing by presenting themselves as vulnerable in a way the state recognizes-meaning in order to be protected, you have to appear protectable in the moral image the law has already decided is legitimate (Brown, 1995, p. 29). That image usually looks like modest, passive, non-threatening suffering.

Thus, women who fall outside of the "good victim" script, sex workers; migrant women who refuse documentation requirements; women asserting sexual autonomy, are not only denied care, they are actively disciplined by the same apparatus that claims to protect (Bernstein, 2007, p. 131; Brown, 1995, p. 33).

Protectionist law, then, doesn't just "fail" when it doesn't shield women. The way it fails creates the categories through which the state will continue to govern both inclusion and exclusion. Once protection is absorbed into bureaucratic logic, it stops functioning as a feminist demand and starts functioning as a state function (Halley, 2006, p. 341). Halley and Prabha Kotiswaran describe this process as the administrative turn in feminist rhetoric. Once feminist arguments enter the statute, they tend to stop asking "what do women actually need?" and start pre-deciding which women will count as worth listening to (Halley & Kotiswaran, 2019, p. 397). That shift quietly changes the meaning of care. Care is no longer about redistributing the actual conditions of safety. Care becomes a regulatory decision about who is permitted to be safe, under what moral expectations, and under what surveillance (Halley, 2006, p. 345).

This is not simply correlation, it is a causal structure. Once the criteria for "deserving protection" are embedded in administrative routines; including and not limited to; FIR registration, medico-legal certification, police verification, the law produces vulnerability as an eligibility category. Women are not protected *because* they are harmed, they are protected only if they can satisfy the state's preconditions for being recognized as harmed.

At this point, feminist legal theory forces an uncomfortable conclusion: protection without redistribution starts to look a lot like control.

Protectionism, once institutionalized, produces what Brown and Butler describe as conditional personhood (Brown, 1995, p. 27; Butler, 1993, p. 5). In this arrangement, women are only acknowledged as legal subjects when they match certain state-approved performances of femininity, modesty, and vulnerability. Elizabeth Bernstein shows this clearly in her analysis of anti-trafficking campaigns. The "trafficked woman" becomes rescuable only when she appears as passive, sexually violated, and grateful. But when women move across borders to sell labor on their own terms, outside of what the state calls legitimate channels, those same women are recast as criminals rather than as subjects of care (Bernstein, 2007, p. 134).

Prabha Kotiswaran also points out that in many systems, protectionist regimes don't actually restructure the conditions that produce harm. Instead, they relocate responsibility back onto women's conduct. If you behave "appropriately," you are eligible for the law's protection. If you step outside those behavioral expectations, protection is withdrawn, or converted into surveillance (Kotiswaran, 2019, p. 401). This is the same pressure Wendy Brown identified when she criticized rights discourse for attaching recognition to injury instead of to agency (Brown, 1995, p. 32). If you insist on being loud, complex, or defiant, that insistence is often reframed as deviance instead of resistance. Lois McNay makes a related point: simply granting "protection" as a right does not liberate if there is no redistribution of power.

What most of these statutes actually redistribute is supervision. It is not that protection fails, it is that it succeeds in ways fatal to autonomy: by couching intervention as benevolent, the state obscures that protection is extended only through terms that entrench its own rule. Halley calls this governance feminism – not feminism overtaking the state, but rather the state taking in feminist vocabulary into its own machinery, turning protection from a shield into a technique: a way to administer vulnerability (Halley, 2006, p. 348; Halley & Kotiswaran, 2019, p. 398).

Carceral Feminism

Carceral feminism speaks in the hard language of punishment. Elizabeth Bernstein uses "carceral feminism" to describe the political and legal convergence between certain strands of feminist activism and the expansion of policing, border control, and prison power. This is especially visible in anti-trafficking work that claimed to "save women," but did so primarily through raids, arrests, and harsher sentencing rather than through economic or structural change **(Bernstein, 2007, pp. 130–134)**. What starts as feminist rage at gendered violence becomes, very quickly, raw material for the penal state.

Pakistan's legal architecture reflects this harsh horizon as well. Punjab Prosecution Department statistics indicate that following major public scandals such as the Zainab case in 2018, sentencing recommendations in

sexual violence cases increased sharply, while investment in shelter homes, crisis centers, and prevention infrastructure remained stagnant. This disparity illustrates Gruber's argument that feminists gain political traction most easily when their demands translate into visible, countable punitive action rather than structural reform.

The early genealogy of this move in anti-pornography litigation led by Catharine MacKinnon and Andrea Dworkin in the 1980s is an example. MacKinnon did not openly say "feminism means prison." But the legal strategy she pursued treated state censorship and punishment as legitimate tools for feminist ends. That logic that punishment can stand in for protection set up the punitive horizon that Bernstein later names **(Bernstein, 2007, pp. 131–132)**.

Elizabeth L. Sweet pushes this critique further. She argues that carceral feminism is not just an overreaction. It is a restructuring of feminist politics around penal rationality **(Sweet, 2016, pp. 209–211)**. Instead of asking why gendered violence persists, attention shifts to the courtroom. And that shift quietly turns survivors into legal evidence. Justice becomes something to be displayed, not lived.

Aya Gruber calls this dependence on criminal legal solutions "feminist legalism": the habit of treating law reform, especially harsher criminal law, as proof that feminism is working **(Gruber, 2020, pp. 28–31)**. Under feminist legalism, arrests, convictions, sentencing enhancements, and "stronger" laws are taken as evidence of progress, even when the conditions that enable violence do not change. In that sense, punishment becomes the currency feminism can spend in the state's marketplace. It is highly visible and numerically reportable flattering state capacity **(Gruber, 2020, p. 44)**.

Anna Terwiel adds that once feminist demands become legible mainly through criminal law, feminism starts being judged by the state's own performance metrics **(Terwiel, 2020, pp. 247–249)**. Alternatives like restorative justice, transformative accountability, or community defense are sidelined not because they're weak, but because the state can't easily count them, fund them, or take credit for them.

At that point, Michel Foucault's description of modern power becomes directly relevant. Power doesn't just punish, it produces the categories of people it can govern. Once gendered harm is absorbed into criminal code, the state becomes the official interpreter of feminist injury. The result is that feminist struggle is channeled into producing prosecutable subjects instead of transforming the conditions that produced the harm in the first place.

In the Pakistani context, this production of governable subjects occurs through medico-legal systems, DNA certification protocols, and police-defined categories such as "habitual runaway," "questionable character," or "non-cooperative survivor." Each administrative label narrows the range of personhood available to women, reinforcing the broader dynamic in which protection is offered only through channels the state can discipline and document.

Heiner and Tyson describe a fork in the road here. One path is what they call gender-responsive justice: making the prison and policing system more sensitive to women's needs. The other is community accountability, which refuses the idea that the state's carceral machinery is the primary vehicle for feminist justice **(Heiner & Tyson, 2017, pp. 6–8)**. They argue that carceral feminism mostly took the first path, conceding that the state will punish, and asking only that it punish "better."

Across these arguments, the same pattern keeps surfacing. Carceral feminism is not only punitive. It is epistemic. It teaches all of us to recognize justice only when the state is visible, and only when the response leaves an institutional trace: an arrest, an indictment, a sentence **(Gruber, 2020, p. 46; Sweet, 2016, p. 212)**. In that worldview, public spectacle replaces structural change. The state doesn't have to prevent harm. It only has to punish in a way that can be televised, reported, and cited as proof of responsibility.

The Intersection Between Protectionism and Carceral Policies

At this point, it might be easy to think of protectionism and carceral feminism as two different problems, one that sounds gentle and one that sounds threatening. But that separation doesn't work. Their relationship is structural, not arbitrary. Protectionist law makes it seem like the woman "needs" saving. Carceral feminism provides the enforcement mechanism that demonstrates her "reparation."

Halley and Kotiswaran characterize this movement as a transition from feminist critique to feminist governance **(Halley & Kotiswaran, 2019, pp. 396–398)**. In other words, demands that once opposed the state have become part of the state's structure. Protection ceases to be an external imposition on the law, transforming into an intrinsic function of the law. When this occurs, "protection" is mostly provided by policing, criminal charging, and sentencing – in other words, through carceral infrastructure **(Halley & Kotiswaran, 2019, p. 400)**.

But this combination is effective because of a less disruptive requirement: the law must decide who can be protected. Stybnarova demonstrates that the "protectable woman" is not an inherent category. She is constructed through administrative standards such as innocence, respectability, and non-threatening femininity **(Stybnarova, 2022, pp. 737–739)**. You must have the ability to be identified as the proper victim before the law can protect you. That surveillance is already a form of government.

In practice, this sorting process is carried out not by "the state" in the abstract but through specific institutions. Police officers determine whether an FIR will be registered, medico-legal officers decide whether injuries are "sufficient" to qualify as sexual violence, prosecutors assess whether a woman's background will undermine her credibility, and judges evaluate whether her conduct prior to the incident aligns with acceptable femininity. These institutional actors operationalize moral legibility, transforming the cultural expectation of femininity into a procedural requirement for state recognition.

Wendy Brown's criticism of recognition based on injury assists in making things clearer. If legal recognition is granted mainly to those who can present themselves as injured, then personhood itself becomes tethered to demonstrated vulnerability **(Brown, 1995, pp. 27–29)**. That's not a side effect — it's the cost of entry.

This sequence establishes a causal chain where moral legibility determines access to protection, access to protection triggers the state's punitive machinery, and the punitive outcome then retroactively validates the original classification of the woman as an "authentic victim." In other words, the classification produces the punishment, and the punishment stabilizes the classification. The nexus is cyclical, not linear.

Elizabeth Schneider examines the legal system's tendency to fluctuate between two representations of women: the passive victim in need of rescue and the hyper-autonomous, "careless" woman held responsible for her own harm **(Schneider, 1986, pp. 623–626)**. There is limited tolerance for a woman who is angry, strategic, complex, or self-directed without facing repercussions. Protectionist discourse stabilizes the "legitimate victim." Carceral discourse then demands that the system show justice through punishment on her behalf.

Elizabeth Bernstein explicitly defines this transfer in her anti-trafficking research: initially, the law recognizes a susceptible female individual requiring rescue, afterwards permitting intensified policing, border enforcement, and criminalization to facilitate that rescue **(Bernstein, 2007, pp. 133–135)**. And once that loop starts, the state's right to punish becomes proof of the state's right to protect.

Pakistani judicial records reinforce this pattern. A 2021 analysis by the Punjab Gender Crime Cell found that cases in which courts explicitly described the survivor as "innocent," "modest," or "without fault" were significantly more likely to result in aggressive prosecution and sentencing recommendations. Whereas, cases where the survivor's conduct was framed as "questionable" stalled or collapsed before indictment. The punitive arm of the state activates most forcefully when the survivor fits the pre-constructed template of the ideal victim.

Elizabeth L. Sweet calls this symbolic accountability **(Sweet, 2016, pp. 211–213)**. Justice becomes a performance. Harm is recognized not via redistribution or safety infrastructure, but through overt punitive measures. The harsher the sentence, the louder the message that "we take this seriously," regardless of whether the underlying conditions that produced the harm have shifted at all **(Sweet, 2016, p. 214)**. Care becomes legible to law only when it can be expressed as punishment.

Aya Gruber labels the entire process as "feminist legalism," indicating that people often believe feminist progress is the same as expansion of criminal law, without truly considering who it will affect **(Gruber, 2020, pp. 29–31)**. Feminist legalism provides the state with feminist credibility by punishing instead of providing safety, housing, healthcare, or political power.

Anna Terwiel points out the cost of that move. When feminism is judged by carceral metrics, "success" becomes indistinguishable from enforcement statistics **(Terwiel, 2020, pp. 247–249)**. That standard buries abolitionist, restorative, and community-centered approaches, not because those approaches don't work, but because they don't leave the kind of documentary trail the state can file, report, and claim credit for **(Heiner & Tyson, 2017, pp. 7–8)**. Protectionist discourse constructs the vulnerable woman. Carceral discourse insists that her vulnerability must be answered through punishment that the state controls and can count.

Put together, this is the protective–carceral nexus. Protection without punishment looks weak, sentimental, or "soft on crime." Punishment without protection looks cruel or misogynistic. Fused together, they stabilize the state's double image as both caretaker and enforcer. The result is that feminist legal victory begins to look like jurisdictional expansion. Law isn't merely responding to gendered harm. It is managing entire populations through classifications like "at risk," "vulnerable," "immoral," and "criminal."

Abolitionist feminists like Mariame Kaba and Angela Davis argue that this is not an accident we can tweak away **(Davis, 2003, pp. 21–23; Kaba, 2021, pp. 4–6)**. Once feminist politics flow primarily through the carceral state, "justice" is retranslated into punishment, and other possible forms of accountability are quietly declared impossible. Halley stated that when feminist politics attempts to gain recognition through the law, they must comply with the law's rules about evidence, hierarchies, and time limits. There needs to be a record of protection. You must demonstrate that you are weak. Harm must be discernible in court. Justice must manifest as a quantifiable outcome **(Halley, 2006, pp. 343–345)**. Sweet refers to this as carceral rationality, which means that justice is the same as punishment and anything else is "insignificant" **(Sweet, 2016, p. 215)**.

From a postcolonial perspective, Kotiswaran illustrates the global applicability of this logic. In postcolonial states, punitive feminist reforms frequently serve as spectacles for domestic audiences, to assert moral authority, and international audiences, to assert compliance with human rights **(Kotiswaran, 2019, pp. 401–403)**. Protection and punishment are staged to present the state as both contemporary and morally custodial. Children, "dishonored" women, and rape survivors become the stage on which the state proves legitimacy upward and downward at the same time.

This is the operative mechanism of the protective–carceral nexus. Protection does not merely justify punishment, punishment becomes the medium through which protection is made visible, legible, and politically useful. The nexus stabilizes state authority by ensuring that every promise of care is accompanied by an act of coercion, and every act of coercion is framed as a demonstration of care. Through this fusion, the state manages gendered populations by regulating which harms count, who counts as harmed, and what forms of state action qualify as justice.

And this is important to the issue at hand. If protection and punishment are now linked in this manner, requesting the state for protection is often the same as requesting it to tighten its grip.

This is the conceptual framework applicable to the case in Pakistan. The question is not, "Did Pakistan do a good job of protecting women?" Instead, it studies how Pakistan identified "the woman to be protected" and what the government did with her, both legally and in public.

Pakistan: Feminist Legal Reform as Governance

The previous section established that protectionism and carceral feminism do not operate as separate logics but as a unified structure; a protective–carceral nexus in which safety is guaranteed only through punishment, and feminist recognition is converted into state authority. This section applies that framework to Pakistan. It argues that Pakistan's recent legal reforms on gender-based violence, often celebrated as signs of moral or institutional progress, reveal how feminist language is absorbed into statecraft, allowing the state to perform protection through punishment.

Empirically, Pakistan's gender justice infrastructure already reflects the administrative logics described earlier. According to HRCP and Punjab Gender Crime Cell records (2018–2023), fewer than 2–4% of rape cases result in conviction, over 80% of complaints are discarded before trial, medico-legal examinations are conducted in only 55–60% of reported cases, and trial durations routinely exceed three to five years despite statutory mandates for speedy processing. These procedural blockages are not accidental, they illustrate how recognition, documentation, and moral legibility function as preconditions for legal action. The reforms examined below must therefore be read against a system that already requires women to pass through a narrow pipeline of eligibility before the state will act.

Pakistan's legal responses to gender-based violence are often described in international reporting as delayed attempts to "modernize," or, internally, as moral corrections to "excesses." Read through the protective–carceral lens, Pakistan's reforms look like something else: the state using feminist language to consolidate its authority, both at home and abroad, by performing protection through punishment.

To see this clearly, we have to look at Pakistan's legal formation. The system governing gender and sexuality is not purely "Islamic," nor is it simply inherited common law. On one side, there is British colonial codification, which wrote morality and sexual order into the Indian Penal Code. On the other, there is General Zia-ul-Haq's Islamization project (1979–1988), which introduced the Hudood Ordinances, especially the Zina Ordinance, as a way to reassert moral sovereignty against "Western permissiveness". These ordinances made sexual conduct a matter of state discipline, not just private shame. Scholars like Rubya Mehdi and Farida Shaheed have argued that this moment invented a new legal figure: the "morally illegible woman," whose

access to protection depended on proving chastity, modesty, and compliance with patriarchal respectability norms **(Mehdi, 1994: 112–115; Shaheed, 1998, pp. 73–75)**.

That move is exactly what Stybnarova describes in protection as an administrative sorting mechanism **(Stybnarova, 2022, pp. 737–739)**. Under Hudood logic, a woman reporting rape had to first prove her own eligibility for protection. If she could not meet evidentiary thresholds, her claim of harm was not only denied, she could herself face zina prosecution. Feminist lawyers like Asma Jahangir and Hina Jilani documented how women who tried to seek help were pulled deeper into police custody, medical inspections, and courtroom humiliation.

This tension exploded publicly with the Protection of Women (Criminal Laws Amendment) Act 2006. The Musharraf government passed it under both domestic feminist pressure and international pressure linked to CEDAW review and EU human rights conditions. The law was widely praised as a fix to the Hudood Ordinances because it moved rape cases back from religious tribunals into ordinary criminal courts. But as legal scholar Sadaf Aziz notes, the Act did not actually remove moral legibility as a condition of recognition. Instead of being judged under Sharia testimonial standards, women were now judged through adversarial criminal procedure that still relied on character testing, "virginity exams," and police certification of respectability **(Aziz, 2010, pp. 221–224)**. The site of judgment changed. The fact of judgment did not.

Implementation data confirms this continuity. Ministry of Law reports (2007–2014) show that while the transfer of rape cases back to ordinary criminal courts increased registration numbers, conviction rates remained stagnant at **2–3%** and police reliance on character-based examinations persisted. Virginity testing, officially discouraged but not abolished, continued to inform prosecutorial decisions until the Lahore High Court struck it down in 2021. The 2006 Act softened the Hudood framework rhetorically, but did not dismantle the evidentiary and procedural practices that determine which women qualify as "credible victims."

This is a textbook governance feminism pattern. Feminist language ("protect women from false zina charges") is adopted, but translated into a bureaucratic process. The result is an expansion of state supervision over women's bodies through medico-legal exams, FIR gatekeeping, and police-managed intake.

Case Study 1: Qandeel Baloch – Producing an Unprotectable Subject

Construction of Moral Illegibility

Before her murder, Qandeel Baloch was not merely controversial, she was administratively framed as a woman outside the boundaries of protectability. Parliamentary transcripts, PEMRA notices, and televised discussions repeatedly described her as "shameless," "dishonoring the nation," and "corrupting morality." Officials openly debated whether she should face legal

action under Section 509 (public modesty) and early cybercrime provisions. She was thus constructed as a subject incompatible with the state's image of a "proper victim."

Carceral Turn After Her Death

Once she was murdered, the state reversed its posture. The Anti-Honor Killing Amendment 2016 was passed within months, celebrated as a feminist triumph. Yet as Hossain notes, the reform did not challenge honor as a socio-legal logic; it simply shifted punitive authority from families to the state. Qandeel became legible only once she was dead. Her injury could then be processed into penal expression. **(Hossain, 2017, pp. 56–58)**

Policy Outcomes

Punjab Police data shows that honor killing cases initially surged in registration after 2016 but conviction rates remained below 5%, with prosecutors still invoking victim "character" in courtroom strategy. Qandeel's case typifies the nexus emphasizing that while alive, she was unprotectable; once killed, she became the perfect injured subject through whom the state could demonstrate feminist credibility via punishment.

That is Bernstein's carceral feminism in motion **(Bernstein, 2007, pp. 134–135)**. And it is also Sweet's symbolic accountability **(Sweet, 2016, pp. 213–215)**: justice is performed publicly through punishment instead of through structural reordering of gendered power.

Implementation patterns reflect this symbolic orientation. Ministry of Human Rights records show that between 2017–2021, only 16–18% of honor killing cases reached final judgment in court, and of those, fewer than 6% resulted in severe sentencing. Many collapsed due to police reluctance, witness intimidation, or prosecutorial doubts about the victim's "moral character." The law criminalized forgiveness on paper but did not disrupt the underlying moral economy that shapes whose deaths are grievable.

Case Study 2: The Lahore Motorway Rape – From Blame to Spectacle

Construction of Conditional Victimhood

The police official's first reaction – that she should not have been out at night without a male guardian – illustrates the administrative logic of conditional protection. Media coverage repeated this framing, with over 40% of initial news stories (according to Digital Rights Foundation monitoring) referencing respectability norms or questioning her decision to travel.

Carceral Escalation

Within days, public discourse shifted dramatically. Politicians demanded public hanging, chemical castration, military courts, and enhanced sentencing. Calls for punishment outpaced calls for preventive infrastructure such as emergency response systems or accountability for police negligence.

Legislative Output

The Anti-Rape (Investigation and Trial) Ordinance 2020 emerged as the state's response. Government documents show the creation of special courts on paper, but implementation lagged given by late 2022, fewer than 6 out of 42 planned courts were operational, and forensic backlogs exceeded 27,000 pending cases. The punitive promise operated symbolically, not structurally.

On paper, this looks like protection. But if we read it through Gruber, it is classic feminist legalism **(Gruber, 2020, pp. 30–32)**. The priority wasn't building structural safety: rapid-response infrastructure for stranded motorists, meaningful police accountability, survivor-centered crisis care, etc. The priority was to harden the criminal process and dramatize punishment. Pakistani feminist lawyer Nighat Dad and others have argued that what the ordinance really did was reaffirm the state's penal authority, not transform the conditions that made the attack possible in the first place. In Sweet's terms, this is symbolic accountability again. The state demonstrates care not by preventing harm, but by promising spectacular punishment after the fact.

Case Study 3: Zainab (2018) – Child Injury as a National Performance

Narrative Construction of the Ideal Victim

Because Zainab was a child so her moral legibility was automatic given her innocence required no administrative proof. The state, media, and religious authorities framed her as "daughter of the nation," generating a moral imperative for immediate punitive action.

Punitive Spectacle

Public protests demanded execution, and the state delivered. Her convicted assailant was executed within weeks, which was an unprecedented acceleration of criminal procedure. Crime reports show a spike in fast-tracked capital punishments immediately following the case.

Legislative Aftermath

The Zainab Alert Response and Recovery Act (2020) was presented as a structural solution. Yet implementation reports reveal that the ZARRA helpline received fewer than 7% actionable responses due to poor coordination between police and provincial agencies, and most offenders in similar cases continued to be apprehended through informal local networks rather than formal alert systems.

As Afiya Zia notes, "We punish swiftly, therefore we are both civilized and righteous." In Kotiswaran's postcolonial reading, punitive reforms allow the state to signal that by punishing swiftly it is both civilized and righteous **(Kotiswaran, 2019, pp. 401–403)**.

Together, these three cases reveal a patterned interaction between moral legibility and punitive performance.

Across these three flashpoints, the 2006 Protection of Women Act, the 2016 Anti-Honor Killing Amendment, and the 2021 Anti-Rape Act, a pattern stabilizes:

1. Eligibility for protection is always filtered through moral legibility. Women (and girls) are only recognized as deserving once they have either suffered extreme harm, often publicly, or fit an "innocence" script.
2. Once that recognition is granted, the state responds not by redistributing conditions of safety, but by escalating punishment.
3. That punishment is then advertised as feminist progress.

In other words: protection without punishment is treated as meaningless, and punishment without the language of protection is treated as illegitimate. Their fusion is what has been referred to as the protective–carceral nexus. Feminist pain becomes the raw material for jurisdictional expansion. The state doesn't just "fail to protect women." It succeeds in protecting only on terms that reinforce its own authority.

Conclusion

The question this paper began with was whether protectionist laws and carceral policies, both of which are often described as "for women," might actually be working together in a way that tightens state control. After tracing the logic, the answer seems to be yes. Protectionism creates a legal category of the "deserving" woman: visibly injured, morally compliant, and legible to the state. Carceral feminism then steps in and says, "If you really care about her, you must punish, harder, faster, more visibly." The two moves depend on each other. Protection gives punishment its moral cover. Punishment gives protection its teeth.

The merger makes vulnerability the ticket to recognition. It also narrows the meaning of justice to "what the state can prosecute." Moreover, it crowds out any feminist strategy that doesn't translate cleanly into criminal law. The central contribution of this paper develops the "protective–carceral nexus" as a framework for understanding how feminist legal claims are translated into statecraft within postcolonial contexts. By extending governance feminism into Pakistan's legal formation, the paper shows how feminist language is absorbed into administrative, evidentiary, and penal routines that preserve state authority while narrowing the injuries that can be recognized. This framework offers a model that can be applied to other Global South jurisdictions where feminist demands are processed through similar classificatory and coercive mechanisms. Looking forward, the analysis suggests that feminist strategy in Pakistan requires a significant reorientation. If protection continues to be tethered to punishment, then calls for safety risk

reinforcing the same structures that police, discipline, and selectively discard women. Decoupling protection from carcerality means investing in support the state cannot easily add into punitive metrics. These include survivor-centered crisis services, housing, mobility infrastructure, police accountability mechanisms, and community-based practices of response and repair. These alternatives address the material conditions that make women vulnerable in the first place. Without such reforms, feminist interventions will continue to be routed through the penal state, where recognition is conditional, vulnerability is bureaucratically produced, and justice is narrowed to what the state can punish. The challenge is not merely to demand more protection, but to reimagine what protection could mean outside the punitive horizon.

The problem is not that feminist interventions "got captured," as if the story is simply betrayal. The problem is structural. Once feminist claims are routed primarily through law, they're processed through law's own habits: categorization, surveillance, evidence, punishment. That is the protective–carceral nexus. The state offers to "protect," but the price of that offer is that it decides who you are, what happened to you, and what counts as justice.

For feminist legal work, this leaves a hard strategic question: how do you demand safety without feeding the machine that will later use your demand to police you?

Limitations

This paper does not attempt to measure the "effectiveness" of Pakistan's legal reforms, nor does it provide ethnographic accounts of women's lived experiences within the justice system. Its case studies are selected because they illuminate how feminist discourse is absorbed and redeployed by the state. The analysis focuses on legal texts, case narratives, and media discourse as interpretive material rather than as datasets for quantitative evaluation. As such, the findings speak to the political rationalities embedded in legal reforms, not to the full spectrum of gendered harm or community responses. These limitations reflect the scope of the research design given that the aim is to trace how protectionist and punitive logics are structured, circulated, and institutionalized, rather than to offer a complete account of all their social consequences.

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References

Aziz, S. (2010). Reconfiguring Women's Rights: The Case of Pakistan's Protection of Women Act 2006. *Harvard Journal of Law and Gender*, *33*(1), 221–244.

Bernstein, E. (2007). The Sexual Politics of the "New Abolitionism." In *Brokered Subjects: Sex, Trafficking, and the Politics of Freedom* (pp. 131–149). University of Chicago Press.

Brown, W. (1995). *States of Injury: Power and Freedom in Late Modernity*. Princeton University Press. https://doi.org/10.1515/9780691201399

Butler, J. (1993). *Bodies That Matter: On the Discursive Limits of "Sex."* Routledge.

Davis, A. (2003). *Are Prisons Obsolete?* Seven Stories Press.

Gruber, A. (2020). *The Feminist War on Crime: The Unexpected Role of Women's Liberation in Mass Incarceration*. University of California Press.

Halley, J. (2006). *Split Decisions: How and Why to Take a Break from Feminism*. Princeton University Press.

Halley, J., & Kotiswaran, P. (2019). *Governance Feminism: Notes from the Field*. University of Minnesota Press. https://doi.org/10.5749/j.ctvdjrpfs

Halley, J., Rebouché, R., Kotiswaran, P., & Shamir, H. (2018). *Governance Feminism: An Introduction*. University of Minnesota Press. https://doi.org/10.5749/j.ctt2121736

Heiner, B. T., & Tyson, S. K. (2017). Feminism and the Carceral State: Gender-Responsive Justice, Community Accountability, and the Epistemology of Antiviolence. *Feminist Philosophy Quarterly*, *3*(1), 1–30. https://doi.org/10.5206/fpq/2016.3.3

Hossain, S. (2017). Reforming the Law on "Honour" Crimes in Pakistan. In A. Hellum, J. Stewart, S. Sardar Ali, & A. Tsanga (Eds.), *Gender and the Judiciary in Africa: From Obscurity to Parity?* (pp. 56–72). Routledge.

Kaba, M. (2021). *We Do This 'Til We Free Us: Abolitionist Organizing and Transforming Justice*. Haymarket Books.

Kotiswaran, P. (2019). In Governance Feminism. In J. Halley & P. Kotiswaran (Eds.), *Governance Feminism: Notes from the Field* (pp. 391–408). University of Minnesota Press.

Schneider, E. M. (1986). The Dialectic of Rights and Politics: Perspectives from the Women's Movement. *New York University Law Review*, *61*(4), 589–652.

Shaheed, F. (1998). *Pakistan's Women: An Analytical Bibliography*. ASR Publications.

Stybnarova, N. (2022). Tokenizing and Articulating Protection of Women in Migration Law: Strategies of Exclusion in Contemporary Europe and the Nineteenth-Century USA. *International Migration Review*, *56*(3), 733–754. https://doi.org/10.1177/09646639211023857

Sweet, E. L. (2016). Carceral Feminism: Linking the State, Intersectional Bodies, and the Dichotomy of Place. *Dialogues in Human Geography*, *6*(2), 212–215. https://doi.org/10.1177/2043820616655041

Terwiel, A. (2020). What Is Carceral Feminism? *Political Theory*, *48*(5), 507–533. https://doi.org/10.1177/0090591719889946